

PLATINUM | ADVISORS

October 17, 2023

TO: Joel Young, President, AC Transit Board of Directors
Members of the AC Transit Board of Directors
Michael Hursh, General Manager
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FR: Steve Wallauch
Platinum Advisors

RE: **Legislative Update**

Revenue: *The IRS announced on October 16th that the filing deadline will be extended to November 16th. This will impact the expected revenue projections for October if the state Franchise Tax Board decides to conform with this new deadline.*

With the deadline to file taxes currently set for October 16th this year, October revenues will be a critical test for the state's fiscal outlook. Normally in the month of October revenues total about \$2 billion. With the extended filing deadline, the budget forecast expects revenue for the month to total \$52.3 billion. This total includes all revenue sources, and in particular an expected receipt of \$42.7 billion in personal income tax and corporate tax revenue.

Revenues so far this month are exceeding projections. As of October 13th, revenues totaled \$5.37 billion, which is almost three times the amount normally collected for the first two weeks of October. With the filing deadline extended, it is uncertain what impact this will have on October receipts.

LAO Report: The Legislative Analyst's Office (LAO) released its overview of the 2023-24 transportation budget. While LAO reports usually include an analysis of the spending priorities along with spending and policy recommendations for the legislature to consider, this report is a simple summary of the transportation budget and merely highlights the significant changes as compared to the prior year's budget.

The budget package provides a total of \$33.2 billion for transportation-related programs in 2023-24. According to the LAO this amount is equal to the prior spending, but the 2023-24 budget includes significant changes in funding sources primarily due to shifting fund source from the general fund to the State Highway Account and the addition of new federal funds. The primary funding changes include the following:

- **Population-Based Transit and Intercity Rail Capital Program (TIRCP).** While the budget package provides the same amount as originally planned for in previous agreements—\$4

billion—it expands the allowable uses for this funding to include operational expenditures, as we discuss in more detail below.

- **Active Transportation Program.** The budget shifts a portion of the funding—\$300 million—for the Active Transportation Program from the General Fund to SHA.
- **Local Climate Adaptation Programs.** The budget shifts the full amount of funding—\$200 million—for local climate adaptation programs from the General Fund to SHA.
- **Grade Separation Projects Within TIRCP.** The spending plan delays the full amount of funding—\$350 million—intended for grade separation projects through TIRCP from 2022-23 to 2025-26.
- **Port and Freight Infrastructure Program.** The budget delays a portion of the \$600 million that had originally been scheduled for the program in 2023-24 by instead planning to provide \$200 million annually from 2023-24 to 2025-26. The budget also shifts a portion of the 2023-24 funding—\$150 million—from the General Fund to SHA.

The LAO report can be found at the following link: <https://lao.ca.gov/Publications/Report/4804>

End of Session Update to the Update: The California Legislature wrapped up its 2023 session just moments before midnight on September 14th. The Legislature is now on pause until January 3rd.

The closing week was marked by the customary flurry of activity and tight deadlines at the State Capitol Building but was absent the usual fireworks and acrimony present during previous end of session sprints. The mundane end of session was primarily due to the 72-hour in print rule that has put an end to end of session amendments on last minute deals.

The shadow of a new Assembly Speaker, Robert Rivas, loomed large. His ascent to one of California's most influential positions, after a tumultuous year-long struggle, marked a significant shift in the state's political landscape. It is rumored Speaker Rivas used his new position to ensure passage of SB 253 (Wiener) in the Assembly. Last year's attempt to require large corporations to provide detailed reports on carbon emissions narrowly failed on the Assembly floor. This year SB 253 was approved with the minimum votes needed for passage.

As the session concluded, Governor Newsom found himself with a desk laden with 1,046 bills awaiting his decision. The Governor completed his review of these bills on October 13th. He signed 890 bills into law, and vetoed 156 bills, for a veto rate of 14.9%. This is on par with veto rates from prior years.

The following highlights some of the major measures sent to the Governor for consideration:

Climate & Energy Issues

AB 1373 – Renewable Energy: Governor Newsom signed into law **AB 1373 (Garcia – D)**, which enables California to procure offshore wind, geothermal, and other long lead-time energy resources that are foundational to our clean energy future, all while creating tens of thousands of California jobs. The bill authorizes the Department of Water Resources (DWR) to serve as a

central procurement entity to procure energy resources to help the state meet its renewable and zero-carbon energy resources and reliability goals should the California Public Utilities Commission (CPUC) identify a specific procurement need and make a request of DWR.

SB 253 – Climate Corporate Data Accountability Act: SB 253 (Wiener –D) was also signed into law. This bill would require large U.S.-based companies doing business in California to publicly report their annual greenhouse gas emissions. Proponents claim that the goal is to discourage corporate greenwashing, or marketing that falsely portrays a company's efforts to reduce climate-warming emissions. During Climate Week events in New York, Governor Newsom stated his intention to sign this measure, but he also indicated he would seek clean-up changes to the bill.

In his signing letter, Governor Newsom stated, *"the implementation deadlines in this bill are likely infeasible, and the reporting protocol specified could result in inconsistent reporting across businesses subject to the measure. I am directing my Administration to work with the bill's author and the Legislature next year to address these issues. Additionally, I am concerned about the overall financial impact of this bill on businesses, so I am instructing CARB to closely monitor the cost impact as it implements this new bill and to make recommendations to streamline the program."*

Constitutional Amendments

A pair of constitutional amendments aimed at the 2024 ballot would lower or preempt barriers to raising revenue, sparking a clash between Labor and cities on one side and business and real estate groups on the other. Constitutional amendments do not require the Governor's approval, and are sent directly to the ballot upon approval by the legislature.

Lowering the Threshold: ACA 1 (Aguiar-Curry – D) would lower the voter threshold to 55% for the approval of local levies intended to take on bonded debt or to introduce specific special taxes. These funds would be earmarked for capital projects such as affordable housing, permanent supportive housing, or public infrastructure, including public transit projects. Presently, a supermajority—often at least two-thirds—is mandated for many such proposals.

Countering Supermajorities: ACA 13 (Ward – D) comes as a counter to a 2024 ballot proposition put forth by the California Business Roundtable. The Roundtable's proposition seeks to mandate a two-thirds vote for all tax hikes at both the state and local levels. In a strategic move, Democrats countered this with ACA 13, which would necessitate a two-thirds vote for any proposal aiming to increase a voter threshold. This is a direct challenge to the Roundtable's initiative.

Labor Issues:

AB 316 --Autonomous Vehicles: In a move that underscores the tension between safety and technological advancement, Labor-backed **AB 316 (Aguiar-Curry – D)** requires human drivers to remain behind the wheel of autonomous vehicle greater than 10,000 pounds on state highways for a minimum of five years.

Governor Newsom wasted little time in vetoing this measure. While the Legislature cites safety concerns as the driving force behind the bill, Newsom's office raised alarms about potential

stifling of innovation. The Governor's veto message stated, *"Assembly Bill 316 is unnecessary for the regulation and oversight of heavy-duty autonomous vehicle technology in California, as existing law provides sufficient authority to create the appropriate regulatory framework."*

However, Governor Newsom signed into law AB 96 (Kalra), which would require a public transit employer to provide written notice to an exclusive representative of the workforce affected by autonomous transit vehicle technology, and that collective bargaining commence within a certain timeframe.

SB 799 – Unemployment Insurance for Striking Workers: In a move inspired by California's summer of strikes, **SB 799 (Portantino – D)** emerged as a last-minute legislative effort to grant unemployment benefits to workers on strike after a two-week wait period. While states like New York and New Jersey have adopted similar measures, California's current stance restricts those who leave work due to a "trade dispute" from accessing unemployment benefits, which are financed by a business payroll tax.

In a major departure with California's labor groups, Governor Newsom vetoed SB 799. In his veto message he stated, *"Any expansion of eligibility for UI benefits could increase California's outstanding federal UI debt projected to be nearly \$20 billion by the end of the year and could jeopardize California's Benefit Cost Ratio add-on waiver application, significantly increasing taxes on employers. Furthermore, the state is responsible for the interest payments on the federal UI loan and to date has paid \$362.7 million in interest with another \$302 million due this month. Now is not the time to increase costs or incur this sizable debt."*

SB 553 – Workplace violence prevention program -- Governor Newsom signed into law SB 553 (Cortese), which adds to the required elements of an employer's injury prevention program a workplace violence prevention plan (WVPP), subject to review at least annually. The bill requires employers to record information in a violent incident log about every workplace violence incident and provide effective training on the plan. SB 553 authorizes collective bargaining representatives to seek a temporary restraining order (TRO) and order after hearing on behalf of an employee who has suffered unlawful violence or a credible threat of violence from any individual.

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