



Meeting of April 22, 2022

To: Gerald Cochran, Chair, Governmental Affairs and Public Information Committee  
 Michael Theriault, President, Board of Directors  
 Denis J. Mulligan, General Manager

From: Platinum Advisors, LLC

RE: **STATE UPDATE FROM THE DISTRICT’S LEGISLATIVE ADVOCATES, PLATINUM ADVISORS, LLC**

**Spring Break:** The Legislature has adjourned for spring recess, returning April 18 for a busy couple of months both in terms of legislation as well as the budget. The deadline for fiscal bills is April 29 and for non-fiscal bills May 6. The governor must release his May Revision on or before May 10 at which time the budget subcommittees will ramp up voting on the governor’s and their own proposals. The Legislature must pass the 2022-23 Budget Act on or before June 15. Trailer bills and additional budget bills may follow until the end of session August 31.

**February General Fund Revenues:** The Department of Finance (DOF) and State Controller released reports on February’s General Fund revenues in comparison to the 2022-23 governor’s budget forecast.

<b>Tax Revenues</b>	<b>DOF February</b>	<b>DOF Fiscal YTD</b>	<b>Controller Fiscal YTD</b>
<b>Corporation</b>	\$119 million above forecast	\$8.12 billion above forecast	\$8.07 billion above forecast
<b>Personal Income</b>	\$947 million above forecast	\$10.02 billion above forecast	\$10.7 billion above forecast
<b>Sales and Use</b>	\$1.52 billion above forecast	\$1.3 billion above forecast	\$1.32 billion above forecast
<b>Total Revenues</b>	\$1.68 billion above forecast	\$17.53 billion above forecast	\$18.16 billion above forecast

\$6.265 billion of the total additional revenue is due to higher-than-expected Pass-Through Entity elective tax payments under the corporation tax, a 2021 state tax change designed to allow some taxpayers to reduce their allowable federal tax liability starting with their 2021 tax returns. It is reasonable to assume that a portion of the \$6.3 billion may overstate the amount of overall revenues.

***Gann Limit/State Appropriations Limit:*** In a little over a month, Governor Newsom will present the May Revision to his January budget proposal. The May Revision is an opportunity for the administration to update revenue numbers, present new budget proposals, and amend existing proposals which may have changed since January based on input from stakeholders, the Legislature, or other factors.

This year's May Revision is likely to be focused on the Gann limit, also referred to as the state appropriations limit. The Gann limit is a constitutional limit on the amount of tax money that state and local governments, including school districts, can legally spend. The limit applies a formula designed to keep spending below 1978-79 levels adjusted for a number of factors, including population growth and inflation.

When the state exceeds the Gann limit over two consecutive years, the Constitution requires the state to split the excess between taxpayer rebates and additional spending on schools. Spending that does not count toward the Gann limit includes infrastructure spending and emergency spending dedicated to an account for expenditures relating to that emergency.

In January, the Administration estimated that the Gann limit was likely to be exceeded in both 2020-21 and 2021-22 by a total of \$2.6 billion, and stated that they would update the numbers as part of the May Revision. Revenue numbers continue to be positive, and the Legislative Analyst's Office (LAO) recently released their updated analysis (<https://lao.ca.gov/reports/2022/4583/SAL-Implications-033022.pdf>) regarding how the Gann limit will impact ongoing budget numbers.

The LAO's analysis is likely to dampen some excitement about high revenue numbers, as there are numerous stakeholder requests as well as member requests for legislators' districts which are reliant on a large surplus of flexible revenues. The bottom line, according to the LAO, is that the governor's budget is unsustainable whether revenues increase or decrease. The Legislature will have to determine both short-term and long-term how to approach the Gann limit as it will impact the budget enormously.

***Fuel Relief:*** Following up on Governor Newsom's announcement to allocate \$11 billion to provide Californians some relief from soaring fuel prices, the Department of Finance has posted the draft budget trailer bill language. This proposal will be subject to legislative review and negotiations as part of the budget process.

The timing to enact this package is tight. The proposal to suspend the inflation adjustment on gasoline and diesel excise taxes, as well as the suspension of a portion of the diesel sales tax must be enacted by the end of April in order to provide sufficient time to enact the changes and inform retailers. While the free transit proposal and the tax rebate can wait until the June budget package, it is unclear if there will be an agreement to enact all proposals by the end of the month.

***Free Transit:*** The draft language for the free transit proposal would appropriate \$750 million to provide grants to transit operators, both bus and rail, to offset the cost of providing 3 consecutive months of free fares. The language includes the following elements:

- \$750 is appropriated to CalSTA to allocate as grants to transit operators.

- The language does not mandate transit operators to participate in the free transit program.
- Grant amounts would be based on the operator's proportional share of overall fare revenue collected in the 2019-20 fiscal year. This would be based on the information contained in the annual Controller's report. If that data is not available, transit operators shall submit evidence of fare revenue for 2019-20 within 30 days after the enactment of this measure.
- To receive a grant, transit operators shall commit to providing 3 months of consecutive free transit service, which must commence within 60 days of the effective date of this measure.
- The grant funds shall be used for free transit service, which includes, but is not limited to, foregone fare revenue, administrative costs, and increased operating costs needed to provide sufficient capacity.

While the proposed language is rather straightforward, it does raise some questions:

- Given the impact of the pandemic on transit operations, is the 2019-20 fiscal year the most equitable base year to determine fare revenue percentage?
- Should the fare revenue calculation also include paratransit services? If an operator must provide 3 months of free fixed route service, then paratransit service must also be free.
- Assuming the free transit proposal is enacted at the end of April, the language would require the free transit service begin within 60 days, or approximately July 1<sup>st</sup>. Should the start of free transit window be moved to the end of summer when it would have greater public benefit?

***Tax Rebate:*** Another piece of the Governor's proposal is to provide a \$400 rebate to each registered vehicle owner, with a limit of two rebates per person. The Governor's proposal called for a \$9 billion appropriation to fund this program. However, the draft language leaves room for negotiations with the legislature, which has proposed its own relief /rebate proposal that would be based income levels.

- The draft language does not specify a rebate amount or an appropriation amount. This is intended to leave this open for negotiations with the legislature.
- Vehicles eligible for a rebate include any vehicle that is validly registered to operate, except for a lengthy list of other vehicles, such as construction equipment, fleet vehicles, trucks, buses, motorized bikes, etc.
- Vehicles with a value exceeding an unspecified amount would also not be eligible for the rebate.

***Tax Suspension:*** The final piece of the Governor's proposal is to suspend, for one year, the inflation adjustment to the excise tax on gasoline and diesel fuel. In addition, a separate trailer bill proposal would suspend, for one year, a portion of the sales tax on diesel fuel. The sales tax suspension proposal would only suspend the 2.5% of the sales tax that is deposited into the General Fund. The remaining 10.5% diesel sales tax would continue to be collected and used to fund the State Transit Assistance Program and other transportation programs.

This lost revenue would be backfilled using General Fund and other sources. The cost to backfill the diesel sales tax exemption is estimated to cost \$600 million, and backfill for suspending the inflation adjustment totals approximately \$523 million.

## **LEGISLATION**

***ZEV Funding for Ferries:*** Assemblywoman Mia Bonta has introduced AB 2807, which would include public transit ferries as eligible recipients for all state funded zero-emission funding programs. AB 2807 is co-sponsored by WETA and the Bridge District.

The State Air Resources Board adopted regulations requiring public transit providers to transition their fleets to zero-emission technology and the state has made available some funding to offset the cost. Unfortunately, these funding programs, which tend to focus on bus and rail, often inadvertently exclude ferry vessels. AB 2807 will ensure that state funding programs explicitly include public transportation ferry vessels as being eligible to participate. These funding programs include LCTOP fuel credits, Clean Transportation Program funds for fueling infrastructure and demonstration programs, and Cap & Trade funded programs.

***Transit Recovery:*** Assemblywoman Laura Friedman introduced AB 1938, which directs CalSTA to create the Transit Recovery Task Force. The Task Force would be comprised of representatives from the University of California, local governments, MPOs, transit operators, labor, bike and pedestrian groups, and transportation advocacy groups.

The goal is for the Task Force to submit a report to the Legislature by January 1, 2025, that includes a detailed analysis of existing funding sources, existing transit performance metrics, and overall transit service provided. The report must also include recommendations on improving transit procurement efficiencies, replacing the fare box recovery ratios, and whether the state should create a new funding source for transit operations.

The bill also requires the report to include recommendations on topics that would be difficult to craft on a statewide basis. These topics include recommendations on how to grow transit, fare coordination or single fare payments systems within zones, transit consolidation and/or having a network manager to coordinate routes, and how to improve transit frequency and reliability.

***Free Transit Passes:*** Assemblyman Chris Holden has amended AB 1919 to require all transit operators to provide free passes to all persons 25 years old and younger in order to be eligible for STA and other funding programs. The amendments include a funding program to offset the cost of this mandate, but the appropriation of funds is not tied to the mandated free passes. However, amendments were accepted in the Assembly Transportation Committee hearing to add language to tie the mandate to a finding that sufficient funding is available. In addition, Assemblyman Holden proposed adding a \$115 million appropriation to the bill to cover the lost farebox revenue, but these amendments are not in print yet.

The language that was added would void the mandate to provide free transit if the State Controller makes a determination that the funding provided in the bill, coupled with existing funding from local authorities, school districts, and colleges is not sufficient to cover the lost farebox revenue.

In addition, the amendments would require local authorities, school districts and colleges to maintain their funding for free or reduced fare transit as provided in the 2018-2019 fiscal year. While this change is a step toward protecting public transit funding, the mandate for those public entities that have partnered with public transit to provide free passes is likely unenforceable. This creates a situation where AB 1919 would undermine existing agreements by eliminating any incentive for schools, universities, etc. to continue their transit pass programs when AB 1919 provides them the same service for free.

These amendments are step in the right direction, but \$115 million would be woefully inadequate to offset the cost of this program. In addition, it is unclear if Caltrans is capable of efficiently administering this program without requiring the submission of extensive accounting data and allocate funds in a timely manner.

***Integrated Transit Fare Structure:*** In early February, Senator Josh Becker introduced SB 917, which would require transit agencies in the region to work together to develop an integrated transit fare structure, create a Connected Network Plan to support schedule coordination and service standards, and develop a single regional transit map and standardized wayfinding system.

The integrated fare structure must include no-cost local-local and local-regional transfers across the same and multiple transit agencies – ending the current “transfer penalty” that results when people end up paying for double or triple fares no matter the length of their respective trip segments.

SB 917 would further require the design of a single regional transit map, standardized wayfinding mechanisms, and reporting of real-time transit data across the region. The bill would also direct MTC and transit agencies to create a Connected Network Plan to identify a network of regional and local corridors that need service-level standards and improvements. This Connected Network Plan would eventually support creation of a regional bus rapid transit system.

The bill is sponsored by Seamless Bay Area, the Bay Area Council, and TransForm.

SB 917 will be heard in the Senate Transportation Committee on April 26.

***Toll Payments:*** Assemblymember Phil Ting recently introduced AB 2594, aimed at streamlining the toll payment process. Specifically, it:

- Mandates all California toll agencies offer a cash-payment option with no additional fees.
- Requires toll agencies to set up payment plans for fines/penalties.
- Caps fines for toll violations and late payments.
- Requires the DMV to notify people of the process for address change for car registration when changing a driver's license address.
- Sets minimum time periods to pay fines before car registration is suspended.
- Requires rental car agencies to notify people of their ability to register their plates for tolling purposes rather than paying the rental car agency for tolls and responders.

The bill will be heard in the Assembly Transportation Committee on April 25.

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