

THE USE OF FEDERAL ECONOMIC STIMULUS FUNDS FOR TRANSPORTATION

Wednesday, January 20th, 2010, 1:30 p.m.
State Capitol, Room 112

An Informational Hearing of
The Senate Transportation and Housing Committee

BACKGROUND

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA), a \$787 billion economic stimulus package developed with the goals to create new and save existing jobs and to invest in long-term economic growth. The federal government made available \$48 billion nationally for a variety of discretionary grant and formula-based transportation programs. Of the formula-based funds, California expects to receive \$2.57 billion for highways and \$1.1 billion for transit.

This hearing will examine the extent to which California's implementation of ARRA is maximizing job creation and economic development. To this end, the Senate Transportation and Housing Committee has invited representatives from transportation agencies at different levels of government across the state to testify about the status of obligating and awarding ARRA funds. The committee asks that, in addition to reporting on the status of funds, transportation agencies discuss any barriers they face in using funds quickly and how those barriers have been or could be overcome. Finally, in light of their experiences in implementing ARRA, the committee would like to hear any recommendations transportation agencies have to ensure that the implementation of any future federal stimulus program continues to maximize job creation while also meeting the mobility and environmental goals of the state.

Because the federal government has yet to award many of the grants available under discretionary programs and because the state did not have a role in implementing the formula-based transit funds, this hearing will focus primarily on the \$2.57 billion in formula-based highway funding.

American Recovery and Reinvestment Act (ARRA)

Under ARRA, state and local governments may use the formula-based funds for highway infrastructure investment for projects eligible under the federal Surface Transportation Program (STP). In selecting projects, ARRA provides that priority shall be given to projects that are projected to be completed within a three-year timeframe and are located within economically distressed areas of the state.

ARRA makes \$77 million for transportation enhancement (TE) activities, as defined in federal law. The TE program has 12 categories of eligible activities, including bicycle and pedestrian projects, landscaping, and historic preservation.

ARRA provides 70 percent of stimulus funds to the state, which would be administered by the California Department of Transportation (Caltrans), and 30 percent to regional transportation agencies within the state in accordance with the formula established by the STP.

Of the 70 percent of funds that Caltrans would administer, state law provides that federal funding be allocated first to the State Highway Operation and Protection Program (SHOPP) and, if funds remain available, second to the State Transportation Improvement Program (STIP). State law provides that 75 percent of STIP funds shall be programmed for projects selected by regions in their regional transportation improvement program (RTIP) and 25 percent of STIP funds shall be programmed for projects selected by Caltrans in its interregional transportation improvement program (ITIP).

“Use it or lose it.” ARRA provides deadlines for using the funds. The state must obligate fifty percent of its funds within 120 days of the U.S. Department of Transportation apportioning funds to the state (July 2, 2009). If the state fails to obligate those funds within 120 days, 50 percent of its funding minus any funds already obligated will be made available to other states. All remaining funds must be obligated within one year of apportionment or they will be made available to other states. (“Obligation” is a term used to represent the federal government’s commitment to provide its share of funds for a project.) Funds that have been obligated are available for expenditure until September 30, 2015.

Maintenance of effort. ARRA requires that the Governors of each state certify that the statement will maintain its effort with regard to funding projects funded by ARRA. In other words, federal funds may not be used to supplant state funds already planned to be used on transportation projects receiving funding under ARRA.

Reporting. ARRA requires that agencies receiving ARRA funds report to the appropriate agency within the federal government (in this case, the Federal Highways Administration) regarding the projects funded, and specifies several components that such reports must include. Reports must be submitted not later than 180 days, 1 year, 2 years, and 3 years after enactment of ARRA.

AB 20xxx (Bass), Chapter 21, Statutes of 2009

On March 27, 2009, Governor Schwarzenegger signed AB 20xxx (Bass), which established provisions for implementing the formula-based highway funds.

The bill provided that all projects using ARRA funds must meet the deadlines and requirements established by ARRA, but it changed how highway infrastructure funds are distributed to Caltrans and to regional transportation agencies and provided additional guidance on the use of Caltrans' portion of ARRA funds.

Most significantly, the bill provided that 100 percent of the money that California received for highway infrastructure investment under ARRA, not just 30 percent, be subject to the formula established by the STP such that Caltrans would receive 37.5 percent of the funds and regional transportation agencies would receive 62.5 percent. There appeared to be broad agreement among transportation stakeholders that regional transportation agencies, and the city and county agencies within their jurisdictions, had projects that were ready to go and were thus well-positioned to meet the timelines established by ARRA.

AB 20xxx also required that all of the state's portion be programmed for projects in the State Highway Operations and Protection Program (SHOPP). The rationale for prioritizing SHOPP projects was that the state had been experiencing a significant backlog of rehabilitation projects. Furthermore, maintenance and rehabilitation projects can be awarded more quickly than larger capacity-enhancing projects and they are located throughout the state.

At the time AB 20xxx was developed, the state was unable to issue general obligation bonds and several Proposition 1B projects risked delay. To address this problem, the bill established a process whereby Caltrans may advance up to \$310 million from the SHOPP to support Proposition 1B projects that have been halted or delayed, provided that the contracts for those projects will be awarded within 180 days of federal apportionment and that the projects otherwise meet the requirements of ARRA.

Additionally, cities and counties expressed concern that regional transportation agencies that received funds would not fund projects administered by cities and counties. Cities and counties argued that they had projects that were "shovel ready." To ensure that projects, and thus job creation, were distributed throughout the state and that funds were expended quickly, AB 20xxx stated the Legislature's intent that at least 40 percent of funds apportioned to regional transportation entities be available for suballocation to cities and counties for projects that meet the requirements of ARRA.

Finally, AB 20xxx specified the distribution and use of funds for TE activities. In doing so, the bill required that in the selection of TE projects, priority shall first be given to projects that utilize the services of a community conservation corps or the California Conservation Corps and second to projects for bicycle and pedestrian facilities. After all such projects have been selected, TE funds may be used for any activity permitted under the federal program. The

community conservation corps and the California Conservation Corps assist in employing young adults by providing opportunities to work on public works projects. Prioritizing projects that utilize a community conservation corps or the California Conservation Corps furthered the objective of ARRA to create jobs.

Legislative Analyst's Office (LAO) Report

On November 23, 2009, the Legislative Analysts's Office (LAO) issued a report, *Using Federal Economic Stimulus Funds for Transportation*, assessing the implementation and use of ARRA funds, and recommended that the Legislature conduct hearings to increase oversight of the ARRA program. What follows is an excerpt from the report summarizing the LAO's principal findings.

We reviewed the progress of the California Department of Transportation (Caltrans), local road agencies, and transit operators in their use of ARRA funds in the months since the enactment of the federal stimulus programs and found the following:

- *Caltrans* has made good progress in the use of almost \$1 billion made available to the department, already putting out to bid contracts for 92 percent of the funds.
- *Local road agencies* have been slower to use their obligated ARRA transportation funds, with contracts for only one-third of their funds out to bid.
- The progress of *transit system operators* is unclear due to a lack of complete information. From the data we were able to compile, however, the operators appear to be making good progress.

The full report may be accessed at:

http://www.lao.ca.gov/2009/trns/trans_stimulus/trans_stimulus_112309.pdf.

“STIM 2,” H.R. 2847, Jobs for Main Street Act, 2010

Congress is currently debating a second economic stimulus package, referred to as “STIM 2.” In December the House of Representatives passed H.R. 2847, the “Jobs for Main Street Act, 2010,” and the Senate is expected to begin hearing this bill or possibly introduce its own version in the coming weeks. Information about the bill may be found on the House Transportation and Infrastructure Committee's website: <http://transportation.house.gov>.

According to information provided by Caltrans, California would receive approximately \$2.55 billion in formula-based highway funds and \$1.14 in formula-based transit funds under the House bill.

Many of the requirements of STIM 2 are likely to be similar, if not the same, as ARRA with one important exception. The main milestone in ARRA was that 50 percent of funds must be obligated with 120 days, with remaining funds obligated within 1 year. As noted previously, funds must be expended by September 20, 2015. “Obligation” refers to a *commitment* to spend funds, but until a contract is awarded and construction begins, no jobs are created. To ensure

that a second round of stimulus funds results in immediate job creation, the House bill requires that contracts be awarded for at least 50 percent of funds within 90 days of apportionment, with the remaining under contract within 1 year. This timeline is much shorter and will require that projects funded by STIM 2 are in fact “shovel ready.”

Questions for the Hearing

- What was the agency’s role in implementing ARRA and what are the steps involved at the state and federal levels to award funds to projects?
- What was the process the agency used to allocate funds?
- What is the status of obligating and awarding funds? How many jobs have been created or saved thus far?
- What types of projects have been funded (*e.g.*, capacity enhancing, rehabilitation, transit)? Do some types of projects generate more jobs than other types?
- What barriers did agencies face in obligating and awarding stimulus funds in a timely manner? How were or could those barriers be overcome?
- Based on experience with ARRA, does the agency have any recommendations for the state to improve the implementation of future federal economic stimulus funds?
- Does the agency have projects ready to go that could meet the timeline specified in H.R. 2847?