



**Metro**

Los Angeles County  
Metropolitan Transportation Authority

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**54**

**REGULAR BOARD MEETING  
JUNE 26, 2008**

**SUBJECT: SALES TAX MEASURE**

**ACTION: RECEIVE AND FILE**

**RECOMMENDATION**

Introduce:

- A. Draft ordinance to implement a transportation sales tax measure contained in Attachment A; and
- B. Draft expenditure plan contained in Attachment B.

**ISSUE**

At the April 2008 Board meeting, two motions were approved regarding the development of a countywide sales tax measure for the November ballot. Specifically, the Board directed staff to: research the requirements of putting a half percent sales tax measure on the November 2008 ballot; develop an expenditure plan; develop draft ballot measure language; initiate efforts to help inform the Board on such a measure; return in June 2008 to consider requesting that the County Board of Supervisors place a measure on the November ballot; and to secure input from local interests such as Council of Governments (COG) and the cities. In order to place a measure on the November ballot, the Board must first introduce and then approve an ordinance upon which the ballot language is based. This report outlines the process to place a measure on the ballot, introduces draft ordinance language and an expenditure plan and provides a summary of poll results from a survey conducted in early June, 2008 regarding this issue.

**DISCUSSION**

**Funding Challenges**

The traffic relief and transportation needs of Los Angeles County greatly exceed available resources. Deficit projections range as high as \$60 billion in terms of what is needed to address traffic congestion and what funds are available. The greatest barrier to bridging this gap is finding a viable ongoing funding source. State and federal funding is in decline or limited at best. Other financial options such as public-private partnerships, congestion pricing and carbon and use fees are being explored, however, are not without challenges in

terms of support, applicability and potential revenue generation. What is needed is a reliable new funding source that meets the demands of Los Angeles County.

The public has demonstrated its strong desire for increased transportation funding through the overwhelming approvals of Prop 1A (a Prop 42 or state transportation funding fix) and Prop 1B (a transportation bond measure) last November.

### Public Support

Staff has continually monitored the public's demand for more transportation solutions and their willingness to pay for these improvements through various taxing mechanisms. In 2005 and 2007, studies were conducted to gauge demand and evaluate taxing alternatives. Support for a sales tax to fund transportation improvements exceeded 60% on both surveys, highs of 61% and 69% respectively. Given that a tax of this nature requires a 2/3 (67%) vote it was determined to maintain status quo and continue to monitor public demand. A key difference between the 2005 and 2007 study was that support grew. In June 2008, a third poll was conducted. Early results show support above the two-thirds vote necessary to pass a sales tax ballot measure with a high of 73%. A summary of these poll results are contained in Attachment C. Top line results of the poll were transmitted to the Board via Board Box on June 17, 2008 along with other background information on the proposed sale tax measure.

Record voter turnout is projected for the November 2008 election. This presents an opportunity to capitalize on strong public demand for improved transportation and gauge whether two-thirds of Los Angeles County voters support taxing themselves to improve local transportation.

### Sales Tax Authority

Authority exists to place sales tax measures on the ballot assuming certain requirements are met. Existing authority is limited to either public transit purposes under Public Utilities Code (P.U.C.) section 130350 or to a particular list of projects under P.U.C. section 130350.5 (Murray bill). A sales tax under 130350 is subject to a 2% cap on local taxes. With our ½ percent Prop A and Prop C sales taxes plus the recently approved 1% sales tax in South Gate, the 2% cap has been reached for purposes of any new countywide sales tax. Therefore, the only viable method for placing a measure on the November ballot is to utilize a bill currently advancing through the legislative process, AB 2321 (Feuer). This legislation proposes to amend P.U.C. section 130350.5 which exempts a proposed sales tax from the 2% cap on combined tax rate allowed under the Transactions and Use Tax Law; has a sunset of 6 1/2 years; and only funds a specific list of projects. If AB 2321 is approved, P.U.C. 130350.5 would be amended to extend the term of a sales tax to 30 years and update the draft project expenditure plan based on the Draft 2008 LRTP. The legislation requires an expenditure plan.

The key challenge to AB 2321 is timing. If the bill advances under the regular legislative schedule, the active date of the legislation would follow a November election. Therefore the ordinance includes a retroactive clause that would allow a November ballot initiative to contain the provisions of AB 2321.

Although projects and programs are identified in AB 2321 and the accompanying ordinance and expenditure plan, the projects and programs may be modified under certain circumstances. AB 2321 allows for changes: (a) to provide for the use of additional federal, state, and local funds, (b) to account for unexpected revenues, or (c) to take into consideration unforeseen circumstances (including but not limited to revenue shortfall) and the results of any environmental review of individual specific projects required under the California Environmental Quality Act. To make such changes, AB 2321 requires a public hearing, notice to the Los Angeles County Board of Supervisors and the city council of each city in the county, and a vote of approval by the Metro Board of Directors.

AB 2321 also clarifies that adoption of the sales tax measure ordinance by the Board of Directors, and placement of the measure on the ballot by the Los Angeles County Board of Supervisors, are exempt from environmental review under CEQA under existing exemptions. The existing exemptions deemed applicable include exemptions for regional transportation improvement programs, government funding mechanisms and, with respect to the County Board of Supervisors' action, ministerial acts.

AB 2321 does not exempt individual proposed specific projects to be developed with the tax revenues from later environmental review under the California Environmental Quality Act, prior to approval of any contract award for construction. A draft of AB 2321 was transmitted to the Board in the June 17<sup>th</sup> Board Box item.

#### Sales Tax Measure Ordinance

To place a measure on the ballot, there are several local processes that will need to be followed on a very tight timeframe. First the Board of Directors must introduce and then approve an ordinance to allow the agency to levy a sales tax by July 2008. At the time of ordinance approval, the Board must also request that the Board of Supervisors place a measure on the November 2008 ballot. The Board of Supervisors must approve the placement of the measure on the ballot by August 8, 2008.

County Counsel retained the law firm of Reed and Davidson to provide specialized legal advice regarding the proposed sales tax measure and assisting in drafting a sale tax ordinance (Attachment A). Because it will not be known at the time the ordinance would be adopted by the Board whether AB 2321 will become law, the ordinance is drafted to take effect on January 2, 2009, one day after the effective date of AB 2321. The draft ordinance allocates certain portions of the revenue to specific rail and transit projects and will create general categories of highway improvements that the sales tax can be used toward funding as match to other fund sources. The ballot language, which is limited to 75 words in length, as contained in the ordinance.

#### Expenditure Plan

The most critical component of this effort is the expenditure plan (Attachment B which will be provided under separate cover) for the sales tax measure. A 1/2-cent sales tax is projected to raise approximately \$40 billion over 30 years. The Plan, which is an extension of the Draft 2008 LRTP, would accelerate schedules of some of the currently funded projects, and advance Strategic Plan Tier 1 LRTP projects and Tier II Trade Corridor Improvement Fund projects.

### Economic Impacts

The Los Angeles Economic Development Corporation (LAEDC) was commissioned to assess the impacts of the revenue that would be collected as a result of a new sales tax. The LAEDC estimates that each resident would pay an additional \$25 per year (or \$80/household) if the proposed measure is implemented. The LAEDC also estimated the economic impacts of the construction projects in terms of output, jobs and wages that would be funded by the new sales tax. They determined that the \$15 billion in construction projects over the 30-year period will generate an additional \$32 billion in economic output. They also estimated that 211,000 jobs would be generated and \$8.7 billion in total earnings would be realized as a result of the new projects. These two reports were transmitted to the Board in the June 17th Board Box item.

### Outreach to Stakeholders

Per the direction of the Board, the County of Los Angeles, City of Los Angeles and the Council of Governments (COGs) were asked to provide input on the list of projects that should be funded by the proposed sales tax. To date we have received nine responses which were transmitted to the Board in a June 18th Board Box item. The general theme of the comments supported inclusion of a Local Return element to fund projects such as shuttles, road maintenance, left-turn lanes and signal synchronization projects. Interest was also expressed in the Local Return element being flexible and allowing fund trades between jurisdictions. The comments also noted support for projects particular to their respective areas, many of which are on the Tier I and Tier II strategic lists of the Draft 2008 LRTP. This general sentiment was also expressed when staff made presentations at the Bus Operations Subcommittee and the Technical Advisory Committee.

### Costs of placing an Ordinance on the November 2008 ballot

According to County Register Recorder's Office, the cost of placing the ordinance on the November 4, 2008 ballot is \$7.3 million (\$1.75 per registered voter x 4.2 million registered voters). Staff believes this estimate to be high and is researching costs. Additionally the cost to provide required information to each household is estimated to run approximately \$4.1 million (\$1.25 per household x 3.3 million households). This is the cost of printing information and mailing that information to each household in Los Angeles County. If this initiative were to move forward \$11.4 million would be required to be added to the FY09 budget.

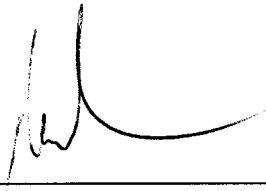
### **NEXT STEPS**

Staff will present final ordinance language and expenditure plan for approval at the July 2008 Board meeting. We will also continue to work with legislative staff, monitor the progress of AB 2321 and provide a status at the July meeting.

### **ATTACHMENTS**

- A. Draft Ordinance Language
- B. Expenditure Plan
- C. June 2008 Poll Results

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Chief Communications Officer



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Roger Snoble  
Chief Executive Officer

**Ordinance #\_\_**  
**[Name of Ordinance]**

**SECTION 1. TITLE**

This Ordinance shall be known and may be cited as [TITLE]. The word “Ordinance,” as used herein, shall include Attachment A entitled “Expenditure Plan,” which is attached hereto and incorporated by reference as if fully set forth herein.

**SECTION 2. SUMMARY**

This Ordinance provides for the establishment and implementation of a retail transactions and use tax at the rate of one-half of one percent (.5%) for a period of thirty (30) years, the authority to issue bonds secured by such taxes, and an expenditure plan.

**SECTION 3. DEFINITIONS**

The following words, whenever used in this Ordinance, shall have the meanings as set forth below:

“Gross Sales Tax” means the amount of sales taxes collected by the Board of Equalization pursuant to this Ordinance.

“Interest” means interest and other earnings on cash balances. Interest may be allocated to any stated purpose of this ordinance at the discretion of Metro.

“Metro” means the Los Angeles County Metropolitan Transportation Authority or any successor entity.

“Net Revenues” means Sales Tax Revenues minus any amount expended on administrative costs pursuant to Section 11.

“Sales Tax” means a retail transactions and use tax.

“Sales Tax Revenues” means the Gross Sales Tax minus any fees imposed by the Board of Equalization for the performance of functions incident to the administration and operation of this Ordinance.

“State Board of Equalization” means the California State Board of Equalization.

#### SECTION 4. STATUTORY AUTHORITY

This ordinance is enacted, in part, pursuant to:

- A. Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code;
- B. Division 12 (commencing with Section 130000) of the California Public Utilities Code;
- C. Proposed amendments to Section 130350.5 of the California Public Utilities Code substantially similar to those contained in Assembly Bill 2321 of the 2007-2008 legislative session as of the date of the adoption of this Ordinance by the Board of Directors of Metro.

#### SECTION 5. IMPOSITION OF RETAIL TRANSACTIONS AND USE TAX

- A. Subject to approval of the same by the electors, Metro hereby imposes, in the incorporated and unincorporated territories of Los Angeles County, the Sales Tax at the rate of one-half of one percent (.5%) for a period of thirty (30) years beginning on the first day of the first calendar quarter commencing not less than 180 days after the adoption of the ordinance by the voters.
- B. This tax shall be in addition to any other taxes authorized by law, including any existing or future state or local sales tax or transactions and use tax. The imposition, administration and collection of the tax shall be in accordance with all applicable statutes, laws, and rules and regulations prescribed and adopted by the State Board of Equalization.
- C. Pursuant to proposed amended Section 130350.5(d) of the Public Utilities Code, the tax rate authorized by this section shall not be considered for purposes of the combined rate limit established by Section 7251.1 of the Revenue and Taxation Code.
- D. Pursuant to the provisions of Section 7262.2 of the Revenue and Taxation Code, the required provisions of Sections 7261 and 7262 of that Code as now in effect or as later amended are adopted by reference in this Ordinance.

#### SECTION 6. AGREEMENT WITH STATE BOARD OF EQUALIZATION

Prior to the imposition of the sales tax pursuant to Section 4 of this Ordinance, the Authority shall contract with the State Board of Equalization to perform functions incident to the administration and operation of this Ordinance.

## SECTION 7. PURPOSES

All of the Net Revenues generated from the Sales Tax plus any interest or other earnings thereon, minus any funds necessary for satisfaction of debt service requirements of all bonds issued pursuant to the Ordinance that are not satisfied out of separate allocations, shall be allocated solely for the transportation purposes described in the Ordinance.

## SECTION 8. SAFEGUARDS OF USE OF REVENUES

The following safeguards are hereby established to ensure strict adherence to the limitations on the use of Sales Tax Revenues:

A. Metro shall establish and administer a Capital Project Development Fund with appropriate subfunds to account for the allocation categories described in Attachment A, including administrative costs and Interest. All Sales Tax Revenues shall be credited to the appropriate subfunds.

B. The moneys in the fund shall be available to Metro to meet expenditure and cashflow needs of the capital projects and capital programs described in Attachment A and for any other purposes set forth in this Ordinance. In the event that there are Sales Tax Revenues in excess of the necessary amounts as set forth in Attachment A to complete the projects and programs listed therein, the excess revenues may simultaneously be used to complete other projects and programs in Attachment A, including the replacement of federal or state funds if the amount of those federal or state funds received by Metro is less than anticipated in Attachment A. If other funds become available and are allocated to complete capital projects or capital programs described in Attachment A, Metro may expend the surplus tax revenue on other projects or programs described in Attachment A.

C. To the extent that funds are returned to local jurisdictions for transportation purposes, the receipt, maintenance and expenditure of such funds shall be distinguishable in each jurisdiction's accounting records from other funding sources, and expenditures of such funds shall be distinguishable by program or project. Interest earned on funds allocated pursuant to the Ordinance shall be expended only for those purposes for which the funds were allocated.

D. No Net Revenues shall be used by a jurisdiction for other than transportation purposes. Any jurisdiction which violates this provision must fully reimburse Metro, including Interest thereon, for the Net Revenues misspent and shall be deemed ineligible to receive Net Revenues for a period of \_\_\_\_ ( ) years.

E. Commencing with the 2009-2010 fiscal year, and in accordance with Section 8(E)(i) of this Ordinance, Metro shall contract for an annual audit, to be completed within six months after the end of the fiscal year being audited, for the purpose of determining compliance by Metro with the provisions of this Ordinance relating to the receipt and expenditure of Sales Tax Revenues during such fiscal year. Such audits shall be conducted in conjunction with those audits performed pursuant to Section 3-15-050(B) of the Los Angeles County Metropolitan Transportation Authority Administrative Code (“Administrative Code”).

i. The independent auditing firm selected pursuant to Section 3-15-050(C) of the Administrative Code shall also perform any audit required under Section 8(E) of this Ordinance. Any solicitation for bids conducted pursuant to Section 3-15-050(C) of the Administrative Code shall include any audit required under Section 8(E) of this ordinance. Notwithstanding any other provision of law, the cost of performing and publishing any audit required under Section 8(E) of this ordinance shall be paid from Sales Tax Revenues.

F. Metro shall propose the projects and programs in Attachment A for inclusion in a new Long Range Transportation Plan, subject to the provisions of Section 12 below.

#### SECTION 9. INDEPENDENT CITIZENS' ADVISORY AND OVERSIGHT COMMITTEE

A. The Independent Citizens' Advisory and Oversight Committee of the MTA, as established in Section 3-15-060(A) of the Administrative Code (the “Committee”), shall provide advice and oversight to Metro regarding this Ordinance. The Committee shall meet at least twice each year to carry out the its duties under this Ordinance. The Committee shall function in accordance with Section 3-15-060 of the Administrative Code.

B. The independent auditing firm referenced in Section 8(E) shall present the results of each audit to the Committee which shall cause a summary of the audit to be published in local newspapers and the entire audit to be made available to every library located within Los Angeles County for public review. The Committee shall hold a public hearing on each audit and report the comments of the public to Metro. Within 60 days of receipt of the report from the Committee, Metro shall prepare a report containing its response to the audit and to the public comments thereon. The Committee and Metro shall perform their duties under this Section in conjunction with those duties required under Section 3-15-060(E) of the Administrative Code.

