



Metro

**Los Angeles County
Metropolitan Transportation Authority**

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June 14, 2013

Honorable Dianne Feinstein
U.S. Senate
331 Hart Senate Office Building
Washington, DC 20510

Dear Senator Feinstein:

I am writing to provide an update on a serious situation that is endangering the free flow of federal transportation grant funds to the Los Angeles County Metropolitan Transportation Authority (Metro) and other transportation agencies across the State of California.

Last year the California State Legislature adopted the California Public Employees' Pension Reform Act of 2013 (PEPRA), legislation that was signed into law by Governor Jerry Brown on September 12, 2012. A number of labor unions have objected to provisions of this new state law, arguing that it conflicts with federal transit law, Section 13(c). This provision in federal law requires that employee protections, commonly referred to as "protective arrangements" or "Section 13(c) arrangements" must be in place and certified by the U.S. Department of Labor (USDOL) before federal transit funds can be released to a mass transit agency, like Metro.

Since the adoption of PEPRA, some labor unions have objected to the certification of a number of federal grants designated to benefit Metro's mobility efforts in Los Angeles County. These labor unions have argued to the USDOL that PEPRA conflicts with 13(c) requirements. The USDOL has, to date, withheld certification of federal grants designated for our agency. Thus far, approximately \$112 million in Metro grant funds are on hold due to this unresolved issue and a total of over \$500 million will be at risk by the end of calendar year 2013.

It is Metro's position that PEPRA does not conflict with Metro's legal ability to comply with its 13(c) obligations. PEPRA does not affect the pension plans of our employees hired before January 1, 2013, but makes certain changes, prospectively and in accordance with the state's clear statutory authority to regulate public retirement systems, on the defined benefit pensions of employees hired after that date. Metro is prepared to negotiate over new defined benefit pension plan provisions for employees hired on or after January 1, 2013.

After the unions objected to the U.S. Department of Labor's certification of Metro grants, staff and our attorneys argued to the USDOL that while PEPRA places some limits on a defined benefit pension for new employees, PEPRA does not impact existing employees or affect other retirement benefits that may be provided to new employees. Metro has been ready and willing to negotiate the effects of PEPRA, including possible improvements to our defined contribution plans. The USDOL still accepted the union's objection and in January 2013 directed the parties to exchange proposals for addressing

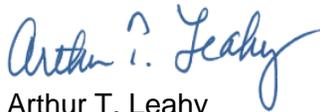
these issues. Despite our efforts to negotiate the issues, the transit unions refused to negotiate and asked that we support their efforts to be exempted from PEPRA. The USDOL has received legal briefs from both parties on the issues in dispute, but has yet to make a final decision.

Legislation has been introduced, in the California State Legislature, AB 160 (Alejo) which would exempt, from PEPRA, the pension plans of all employees whose collective bargaining agreements fall under Section 13(c), should the USDOL determine that PEPRA conflicts with federal law. Metro's Board of Directors adopted a "neutral – work with author" position on this bill. As I mentioned earlier, we do not believe that PEPRA violates or conflicts with federal law but we ask that this potential conflict between state and federal law be resolved quickly.

The impact of the PEPRA/13(c) issue is significant. The immediate risk involves the potential delay in receiving federal preventative maintenance funds and potential delays in securing federal funds for our major new transit capital projects, including multi-billion dollar federal grant agreements we are seeking to conclude with the federal government for the Purple Line Extension and the Regional Connector later this year. For your review, I have attached a list of federal grants for LACMTA that are currently either on hold or being jeopardized by the current impasse.

Please know that we will keep you informed as this matter is further considered by the U.S. Department of Labor and the California State Legislature.

Sincerely,

A handwritten signature in blue ink that reads "Arthur T. Leahy". The signature is written in a cursive style with a small flourish above the 'y'.

Arthur T. Leahy
Chief Executive Officer

cc: Metro Board of Directors

Enclosure

LACMTA Fiscal Yr. & Calendar Yr. 2013 FTA Grant Applications for U.S. Dept. of Labor (DOL) Review

Grant	Federal Amount	Type of Federal Funds	Project Description	Received Objection Letter(s)
Submitted				
CA-95-X042-02	\$8,633,000	CMAQ	Acquisition of up to 16 40-ft buses (part of 550 base order)	ATU, UTU
CA-04-0232-01	\$10,000,000	Section 5309 State of Good Repair	Acquisition of up to 22 40-ft buses (part of 550 base order)	ATU, TCU
CA-04-0261	\$10,000,000	Section 5309 Livability Initiative	Construction of underground pedestrian passage between MOL and North Hollywood MRL	ATU, TCU
CA-90-Y717-07	\$5,111,239	FY12 Section 5307	FY2013 bus preventive maintenance	ATU, UTU, TCU, AFSCME
CA-90-Z054	\$76,132,160	FY13 Section 5307	FY2013 bus preventive maintenance	UTU
CA-05-0273-02	\$2,879,547	FY12 Section 5309	FY2013 rail preventive maintenance	
Subtotal	\$112,755,946			
To Be Submitted				
	\$26,593,000	CMAQ	Operating assistance for Expo I	
	\$80,132,224	FY13 Section 5307 (estimated)	FY2013 bus preventive maintenance	
	\$50,000,000	FY13 Section 5309 New Starts (based on LRTP)	Westside Subway Extension	
	\$31,000,000	FY13 Section 5309 New Starts (based on LRTP)	Regional Connector	
	\$7,100,000	FY13 Section 5340 Growing States (estimated)	FY2013 rail preventive maintenance	
	\$80,000,000	FY13 Section 5337 State of Good Repair (estimated)	FY2013 & FY2014 rail preventive maintenance	
	\$15,000,000	FY13 Section 5339 Bus & Bus Facilities (estimated)	Bus capital projects	
	\$766,524	FY11 Section 5307 (from other UZA's)	FY2013 bus preventive maintenance	
	\$886,256	FY12 Section 5307 (from other UZA's)	FY2013 bus preventive maintenance	
	\$1,010,000	CMAQ	LA Trade Tech College Pedestrian Enhancements	
	\$1,986,000	CMAQ	LA City College Pedestrian Enhancements	
	\$3,650,000	CMAQ	City of Glendale CNG Facility	
	\$1,500,000	CMAQ	City of Glendale Acquisition of Buses	
	\$1,941,000	CMAQ	City of Pasadena Acquisition of Buses	
	\$2,400,000	FY12 Ferry Boat Discretionary	City of Avalon Cabrillo Mole Ferry Terminal Rehab	
	\$160,000	CMAQ	City of Cerritos Transit Amenities	
	\$257,000	RSTP	City of Malibu Bus Stop Improvements	
	\$64,000,000	CMAQ	Regional Connector	
	\$100,000,000	RSTP (\$70 mil) & CMAQ (\$30 mil)	LRV (\$41.786 mil RSTP); Crenshaw (\$28.214 mil RSTP); Crenshaw (\$30mil CMAQ)	
Subtotal	\$468,382,004			
Total Grants for DOL Review	\$581,137,950			