

## California Transportation Funding Is Running Out of Gas

### LEGISLATIVE REPORT



*Elizabeth L. Cousins (Partner, Nossaman LLP, WTS Los Angeles Legislative Chair), Photo © John Livzey, 2016*

The more things change, the more I wish they would stay the same. But with transportation infrastructure, that's rarely the case. Infrastructure needs to be maintained and upgraded, and that requires funding. If regular maintenance and improvements are delayed or neglected, they can get more expensive. California already faces a very serious infrastructure dilemma. Previously I wrote of Governor Brown's estimate that deferral of highway maintenance in California alone will cost the state \$59 billion. Sadly, things have gone from bad to worse. But solutions exist that can make a real difference. Now it is time that we looked at them seriously.

The cuts are practically unprecedented in recent decades. In his article, "California's falling gas tax revenue leads to massive cut in transit project funding," (*Los Angeles Times*, 1/22/16) reporter Patrick McGreevy explains that, "Faced with plummeting gasoline tax revenue, state transportation officials have announced plans to cut funding for road and transit projects by \$754 million over the next five years, the greatest reduction in two decades. The 38% decrease was approved by the California Transportation Commission on Thursday, the same day that Gov. Jerry Brown used his State of the State address to call on the Legislature to end the gridlock in negotiations over new taxes and fees for transportation projects.

"What this means is that almost every county in California that relies on this source of funding for projects that improve traffic and air quality will have to cut or delay projects indefinitely," said Lucy Dunn, chairwoman of the commission."

This is serious: \$754 million over the next five years lost, a 38% decrease in funding. Los Angeles County projects will lose about \$191 million. These cuts not only affect planning for future projects, but also funding for existing and committed projects. In addition, this will have a chilling knock-on effect on jobs related to these projects. As if that wasn't bad enough, more "draconian cuts" are promised if lawmakers take no decisive action.

But lawmakers face a very difficult political question. How do we stabilize transportation revenue and maintain infrastructure spending in a world where our current source of funding is linked to an ever-dwindling gas tax? There is no one simple answer, but there are choices. And lawmakers would be wise to consider all of them seriously.

## **Increase the Piece**

Politicians often talk about increasing the gas tax, but it rarely goes much farther than talk. Never a palatable option politically, raising the gas tax is no panacea practically either. With fewer people driving and more efficient automobiles—including cars that don't use gas at all—the gas tax will never return to its prominence as a funding source. Increasing it can provide additional revenue, but it will likely never make up the funding gap that exists. So while a gas-tax increase can help, it can't be the only solution.

## **Another Taxing Option**

Adding new taxes or restructuring existing taxes also presents possibilities. For example, legislators could try to increase or introduce new local transit taxes. Creating a user-based tax system is a more intriguing possibility. Right now there is a small pilot program in Oregon, OreGo, where 5,000 vehicles are paying 1.5 cents per mile, while receiving a rebate for fuel taxes. There is also a vehicle-miles-traveled (VMT) tax for trucks in Illinois. Personally, I think user-based fees make sense, as that is how we handle other utilities. If you drive, you pay. But its popularity and effectiveness are yet to be determined. Internationally, many countries have some form of VMTs. Yet, it, too, is no panacea, and would require significant payment/accounting infrastructure for broad scale implementation. Again, this could be part of an answer.

## **Alternative Financing**

Innovative ways to structure and finance projects are another interesting option for lawmakers. P3s have been used with some success in California on projects including the Presidio Parkway, but have not been fully embraced in the US. They could be, as they have proved to be an extremely valuable project-delivery tool around the world for properly assessed projects. But in addition to legislative hurdles, public perception and policy issues prevent more widespread use in California. Desperate need could however spur legislators to further investigate P3s where they represent value for money to the public sector.

The more things change, the more I wish they would stay the same. But transportation infrastructure doesn't work that way. It needs to change and to do that it needs funding. With recent severe budget cuts and promised future ones, legislators and transportation professionals must get creative and find innovative solutions that make a very real difference. And they must do it now.