



September 16, 2011

Last night, the US Senate approved an FAA/Surface Transportation extension bill, HR 2887 by a vote of 92 to 6. The House passed the identical bill earlier in the week, so the bill now goes to the President to sign which he is expected to do before tonight's midnight expiration of the FAA authorization. It was touch and go in the hours preceding the Senate vote when Senators Tom Coburn (R-OK) and Ron Paul (R-KY) threatened to offer amendments to the bill which, if passed, would alter the House-passed version thereby requiring the bill to go back to the House for a vote; however, the House had already adjourned for the week. The near crisis, which could have meant another furlough of FAA employees, was averted when the Senate leadership persuaded Senator Coburn to hold off on his amendment to permit states to opt out of FHWA's Transportation Enhancements program until the multi-year surface transportation bill is debated. It has been reported that Democratic leadership has in fact agreed to the inclusion of the provision in a future multi-year bill. Senator Paul offered his two amendments to significantly reduce the funding levels, but they were defeated.

The new extension bill, the 8th for the surface transportation programs and the 22nd for the FAA program, authorizes the surface programs for six months through March 31, 2012 and the aviation programs for four and a half months through January 31, 2012. All the programs are authorized at essentially current funding levels, a big victory given the much lower levels in the House Budget Resolution for FY'12. However, it remains to be seen if these higher authorization levels will be reflected in the yet to be passed FY'12 DOT Appropriations bill (see more below).

Multi-Year Authorization Bill

Now the attention moves to passing multi-year authorization bills. There appears to be a commitment in both the House and Senate to resolve the differences in the two versions of the FAA authorization bill this fall, which may be easier said than done. However, it appears likely that action on the surface transportation bill will slip into next year which could be a problem given the highly politicized nature and compressed schedule of a presidential and congressional election year. In the House, Majority Leader Eric Cantor (R-VA) did not include consideration of a surface transportation bill on his list of bills the House will consider this fall.

In the Senate, the Environment & Public Works Committee did not hold its planned September 15 mark-up of its draft two-year authorization bill. EPW Chair Barbara Boxer (D-CA) has not announced her plans for a longer-term bill now that the highway and transit programs have been extended until next March. October 1 will be the two-year anniversary of the original expiration of the SAFETEA-LU authorization.



FY'12 Appropriations

There is no schedule yet for the full House Appropriations Committee to consider the FY'12 THUD (DOT) Appropriations bill. It is possible that full committee mark-up may never occur as plans are developed for Congress to pass a seven-week Continuing Resolution (CR) (through November 18) to temporarily fund all federal government programs as of the October 1 start of the new fiscal year. Under the House version of the CR, domestic discretionary programs would be cut by 1.5 percent. This small reduction would be much less than the significant cuts in DOT programs recently passed by the subcommittee. For the seven-week period, highways would be funded at an annualized level of \$40.5B (a decrease of \$600M), transit at \$10.1B (a decrease of \$200M) and airports at \$3.4B (a decrease of \$50M).

Plans are also being developed to then roll most, if not all, of the individual federal agency funding bills into one large omnibus bill or several smaller "minibus" bills that would fund the agencies through the remainder of FY'12. House Appropriations Committee Chairman Hal Rogers (R-KY) said yesterday his goal is to have the omnibus completed by Thanksgiving. The Senate THUD Subcommittee may act on its version of the FY'12 DOT bill as early as next week.

American Jobs Act

The full text of President Obama's American Jobs Act bill has now been released and is available [here](#). It is still unclear if the congressional "Supercommittee" will identify sufficient revenues or spending cuts to pay for the \$447B cost or if Congress will seriously consider the President's proposals. However, the strong emphasis on infrastructure funding in the proposal (a total of \$60B) has raised the visibility of infrastructure investment on Capitol Hill.

Yesterday, in an address to the Washington DC Economic Club, House Speaker John Boehner (R-OH) said, "Another thing we can do (to help boost the economy and create jobs) is in the area of transportation and infrastructure. I am not opposed to responsible spending to repair and improve infrastructure. But if we want to do it in a way that truly supports long-term economic growth and job creation, let's link the next highway bill to an expansion of American-made energy production. Removing some of the unnecessary government barriers that prevent our country from utilizing its vast energy resources could create millions of new jobs. There's a natural link between the two: as we develop new sources of American energy, we're going to need modern infrastructure to bring that energy to the market." It appears the Speaker is referring to turning potential revenue from new oil and gas exploration into new revenue for the Highway Trust Fund.



FTA Capital Projects Management

On September 13, FTA issued a Notice of Proposed Rulemaking (NPRM) on Capital Projects Management in the Federal Register. This notice is a follow up to an Advanced NPRM issued in September 2009. Here is a [link](#) to the NPRM. If FTA ultimately adopts this proposed rule, its regulations for federal oversight and project management plans will change. Federal oversight would generally increase for transit projects that are deemed risky and use FTA formula or discretionary funding, although FTA would also consider the agency's technical capacity and capabilities when determining the level of risk.

Additional information and materials can be found on the PB Transportation Update website at www.PBTransportationUpdate.com
