

PB Washington Update - February 8, 2012 - Interim Report

In the good news department, Monday night the Senate approved the final FAA authorization bill, HR 658, by a vote of 72 to 20. The House approved the bill earlier in the week. The bill now goes to the President and he is expected to sign it shortly. The bill is a four-year bill – FY'12 through FY'16. Unfortunately, it does not increase the Passenger Facility Charge (PFC) and only authorizes the Airport Improvement Program (AIP) at a flat \$3.35B a year which is lower than the FY'11 level of \$3.5B and significantly lower than some early proposals to increase it to as much as \$5B per year.

In the Senate yesterday, the Finance Committee marked up and approved the revenue title of the surface transportation authorization bill by a vote of 17 to 6 to 1. Four Republicans joined all the Democrats to pass the bill which is estimated to total \$10.49B in additional revenues into the Highway Trust Fund. The bill is comprised of a variety of miscellaneous offsets to fund the two-year surface transportation program including \$4.5B from existing tariffs on certain imported cars, a \$3B transfer of surplus Leaking Underground Storage Tank (LUST) Trust Fund revenues, a \$685M transfer of a portion of the gas tax going to the LUST Fund, \$1.58B from changing the tax treatment of "black liquor" and a \$697M transfer of an existing "gas guzzler" tax to the Highway Trust Fund – a total of \$5.6B to the Highway Account, \$2.8B to the Mass Transit Account and \$2.1B to a new "Solvency Account" that would support the other accounts when needed.

Finance Chairman Max Baucus (D-MT) agreed to include language to restore transit's parity with the parking tax break for the remainder of 2012, AMT tax relief on private activity bonds and a new transportation bond program. The Committee voted to approve an amendment to lift the volume cap on private activity bonds for water and wastewater infrastructure projects. An amendment to index the gas tax to inflation was offered and then withdrawn.

Senate Majority Leader Harry Reid plans to bring the full bill to the Senate floor starting tomorrow, February 9. After the cloture vote at 2:00pm, the next critical vote will be on the motion to proceed which needs 60 votes to pass. On a call to stakeholders today, EPW Chair Barbara Boxer expressed concern about the Senate Commerce Committee pieces of the bill. The Committee released its rail title over the weekend leaving no time to markup the bill in committee so it will likely be brought straight to the floor. The freight railroads and US DOT have serious concerns about various provisions. In addition, an earlier markup of highway safety provisions included a new freight grant program which a number of Committee Republicans opposed and which could cause problems on the floor.

In the House, the Energy and Commerce Committee approved a bill yesterday that would shift permitting authority for the controversial Keystone XL pipeline from the State Department to the Federal Energy Regulatory Commission (FERC) and specify that no presidential permits would be required for the construction, operation and maintenance of the pipeline. The House Republican leadership plans to attach this provision to the surface transportation authorization bill, HR 7, on the House floor – yet another lightning rod issue to contend with.

House leadership plans to bring HR 7 to the Rules Committee on Monday and to the floor beginning next Tuesday, February 14 with the goal of completing it by February 17 when they will recess for a week.

It is very likely that no Democrats will vote for HR 7 on the House floor. That means the Republican leadership will have to depend solely on fellow Republicans to come up with the 218 votes needed to pass the bill. However, a number of Republicans aligned with the tea party oppose the bill because of

concerns about the offsets and the size federal funding. The conservative Club for Growth recently announced its opposition to HR 7 and said they would “score” members on this vote.