PB Washington Update - Interim Report - January 2, 2013

For those of you who did not spend your New Year's holiday tracking the status of the "fiscal cliff" deliberations, here is an overview of what occurred with a primary focus on issues of interest to the transportation/engineering industry. For other details, see below.

The President is expected to shortly sign the "fiscal cliff" bill which passed yesterday in the Senate by a vote of 89 to 8 and in the House by a vote of 257 to 167. The bill includes a wide variety of tax and other measures. It does not include any revenue increases for the Highway Trust Fund. Most of the media attention has been on the changes to personal taxes, but in addition, the bill postpones the government-wide sequestration for two months (versus the year delay which Democrats had been urging). This sets up yet another "fiscal cliff" situation, in just a few weeks, when Congress will have to revisit the mandatory domestic and defense program cuts along with an overdue increase in the debt ceiling and the remaining six month of the FY'13 appropriations.

In some positive news, the bill includes a one-year increase (through December 2013) of the pre-tax transit benefit to $240 per month, the same as the 2013 parking benefit. The higher benefit is also retroactive for 2012, but it is not clear how that would be implemented. The higher benefit had expired on December 31, 2011.

The House did not take up the Senate-passed $60B Hurricane Sandy supplemental funding bill. In part because they ran out of time to amend the bill, but also because of strong Republican opposition to the funding levels, in particular, funding for Amtrak, the NY/NJ Gateway project and various mitigation efforts. Unfortunately, this means the Senate-passed bill is now dead since all bills die at the end of the session. Presumably, the plan is to reintroduce the previously passed Senate bill in the new Congress, but the Senate floor debate could be much more difficult this time around with the disaster not as fresh in people's minds.

At the last minute, the Senate approved final confirmation of a number of key US DOT and other transportation agency political appointments – Michael Huerta for a fixed five-year term as Administrator of the Federal Aviation Administration (FAA), Polly Trottenberg as US DOT Undersecretary for Policy (the number three position at US DOT), and Christopher Beall and Yvonne Burke as members of the Amtrak Board.

The new 113th Congress will be sworn into office at noon, tomorrow, January 3.

Other details of the final fiscal cliff bill include:

- Tax rates will permanently rise to Clinton-era levels for families with income above $450,000 and individuals above $400,000. All income below the threshold will permanently be taxed at Bush-era rates.
- The tax on capital gains and dividends will be permanently set at 20 percent for those with income above the $450,000/$400,000 threshold. It will remain at 15 percent for everyone else. (Clinton-era rates were 20 percent for capital gains and taxed dividends as ordinary income, with a top rate of 39.6 percent.)

- The estate tax will be set at 40 percent for those at the $450,000/$400,000 threshold, with a $5 million exemption.
- The sequester will be delayed for two months. Half of the delay will be offset by discretionary cuts, split between defense and non-defense. The other half will be offset by revenue raised by the voluntary transfer of traditional IRAs to Roth IRAs, which would tax retirement savings when they are moved over.
- The pay freeze on members of Congress, which Obama had lifted this week, will be re-imposed.
- The 2009 expansion of tax breaks for low-income Americans: the Earned Income Tax Credit, the Child Tax Credit, and the American Opportunity Tax Credit will be extended for five years.
- The Alternative Minimum Tax will be permanently patched to avoid raising taxes on the middle-class.
- The deal will not address the debt-ceiling, and the payroll tax holiday will be allowed to expire.
- Two limits on tax exemptions and deductions for higher-income Americans will be reimposed: Personal Exemption Phaseout (PEP) will be set at $250,000 and the itemized deduction limitation kicks in at $300,000.
- The full package of temporary business tax breaks — benefiting everything from R&D and wind energy to race-car track owners — will be extended for another year.
- Scheduled cuts to doctors under Medicare would be avoided for a year through spending cuts that haven't been specified.
- Federal unemployment insurance will be extended for another year, benefiting those unemployed for longer than 26 weeks. This $30 billion provision won't be off-set.