



PB Washington Update

PREPARED BY CATHY CONNOR
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November 4, 2010

November 2, 2010 was an historic election day for the Republican Party with huge wins in the House, a pickup of at least six seats in the Senate and many new governorships which will give the GOP a majority of state houses resulting in a dramatic shift in political power. Republicans also picked up a majority in at least 19 state legislatures. Democrats still retain the majority in the US Senate, although by a much smaller margin, and the presidency.

While the full impacts of the November 2 elections (and even some results) won't be fully known for some time, here is a brief summary of the election results and the potential impacts on the transportation/infrastructure industry.

While several races around the country are still too close to call, the most recent results indicate that the 112th Congress will include 239 Republicans and 185 Democrats in the House, with 11 races still undecided; and 52 Democrats and 47 Republicans in the Senate, with one race still undecided. With the Democratic incumbent slightly ahead in Washington state, the final Senate tally will likely be 53 Democrats to 47 Republicans, although neither party will have anywhere close to the 60 vote "super-majority" needed to pass most legislation.

National/Congressional Issues

Probably the biggest question is how the White House and Republican House choose to deal with each other: will they try to find some areas of compromise and agreement, or will they look to highlight differences and spend the next two years trying to cast each other as the problem heading into the 2012 elections?

A case can be made that the election results were less about embracing a particular ideology than they were about a condemnation of a lack of tangible results, specifically in reviving the economy and creating jobs. If this is the case, stalemate does not favor either side; newly-elected Republicans may be just as vulnerable as their Democratic predecessors if they don't show progress quickly. Democratic control of the Senate and the White House will hopefully lead all parties to find some areas of commonality.

This could bode well for infrastructure, and President Obama pointed to infrastructure investment in his post-election remarks yesterday as an area that should be of common interest and of benefit to the economy: "I think the proposal that I put forward with respect to infrastructure is one that historically we've had bipartisan agreement about. And we should be able to agree now that it makes no sense for China to have better rail systems than us, and Singapore having better airports than us. And we just learned that China now



has the fastest supercomputer on Earth -- that used to be us. They're making investments because they know those investments will pay off over the long term."

Similarly, Rep. John Mica (R-FL), who is in line to take over the chairmanship of the House Transportation and Infrastructure Committee, yesterday issued a statement stating that he will make infrastructure investment a priority, saying, "Among my top legislative priorities will be passing a long-term federal highways and transit reauthorization, a long-overdue Federal Aviation Administration reauthorization, a new water resources measure, and a long-term Coast Guard reauthorization." What is less clear is whether the House GOP leadership will control the agenda, or if committees will be given freedom to set their own priorities. Infrastructure investment was not part of the Republican leadership's campaign agenda.

The Republican position in taking over the House can be summed up in four words: more jobs, less government. An opportunity and challenge for the transportation/infrastructure industry will be to get the House Republicans to recognize that investment in infrastructure can help achieve both goals, by creating jobs in the private sector and spurring additional economic development. Other areas of focus for the House Republicans, such as the elimination of congressional earmarks, could tie in with the creation of a national infrastructure bank, or other non-traditional financing mechanisms.

Lame Duck Session

The current Congress will return to DC for a short session on November 15, recess for Thanksgiving and then potentially return for a week or so. The primary "must do" bills are all the FY'11 federal agency appropriations bills and extending the Bush Administration tax cuts. Of particular interest to the transportation industry, the short-term FAA and SAFETEA-LU authorization bills must be extended. We expect that they will be extended for another six months or so. Congress may opt to take up a long overdue tax extenders bill, which could include an extension of the popular Build America Bonds, the transit commuter tax benefit and the R&D tax credit. During the time they are in session, the bi-partisan Deficit Reduction Commission is scheduled to issue its report, although it not likely that Congress can agree on recommendations that are supported by 2/3 of the members.

Changes in Congressional Committee Leadership

In the Senate, Democrats will retain control, however with a much smaller majority. This will allow Democrats to keep their committee chairmanships. Senator Barbara Boxer (D-CA) is expected to continue to lead the Environment & Public Works Committee and be a strong leader in support of a robust surface transportation authorization bill. Given the negative impacts of cap and trade votes in the House elections, her commitment to legislation to combat global warming may be diminished. On the Senate Banking



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Committee, which has jurisdiction over transit issues, the current chair, Chris Dodd (D-CT) is retiring. Senator Tim Johnson (D-SD) is expected to take over the chairmanship. There is some concern that given his rural constituency, he may not be as forceful an advocate for transit as Dodd has been. On the Senate Commerce Committee, which has jurisdiction over aviation and rail issues, Senator Jay Rockefeller (D-WV) is expected to continue as chair.

On the Senate Appropriations Committee, Senator Inouye (D-HI) will remain chairman. The current chair of the DOT Appropriations Subcommittee, Senator Patty Murray (D-WA), is locked in a very tight race which has not been called yet.

In the House, there will be major changes in committee leadership as Republicans take control of all the committees. On the House Transportation & Infrastructure Committee, the Ranking Republican, Rep. John Mica (R-FL) is expected to become chairman. While Mica has some different priorities than the current leadership, he is a strong supporter of infrastructure investment, particularly through public-private partnerships. He has indicated he wants to pass a multi-year SAFETEA-LU bill early next year, although he does not support a gas tax increase. In a very surprising development, the current T&I Committee chairman, Rep. Jim Oberstar (D-MN), lost his race and will not be returning to Congress. It is likely that Rep. Nick Rahall (D-WV) will become the Ranking Democrat.

On the House Appropriations Committee, Rep. Jerry Lewis (R-CA) is in line to become the new chairman however, he has already served three terms as either chair or ranking member and according to House Republican Conference rules he is not allowed to serve any longer. He and several other potential Republican committee chairmen who face the same problem, such as Rep. Joe Barton (R-TX) on the Energy & Commerce Committee, are likely to seek waivers to the rule which may or may not be granted. If Lewis does not gain a waiver, the full committee chair could go to Hal Rogers (R-KY), who was a major critic of transit investment when he previously chaired the Transportation Subcommittee. On the DOT Appropriations Subcommittee, Rep. Tom Latham (R-IA) will likely become chairman. Latham is very close to Rep. John Boehner (R-OH), the likely new House Speaker. Latham is not viewed as being a particularly strong transit advocate.

In addition to Chairman Oberstar, several other prominent Democratic chairmen lost their elections, including Rep. John Spratt (D-SC) of the House Budget Committee and Rep. Ike Skelton (D-MO) of the House Armed Services Committee.

State and Local Impacts

Republicans made big gains in governors' races, winning at least ten Democratic seats (IA, KS, ME, MI, NM, OH, OK, PA, TN and WI), while Democrats picked up two Republican states (CA and HI). With a few races still undecided, at least 29 states will now have Republican governors. New governors in many states also means new, politically appointed heads of state DOTs. This will mean a period of transition and uncertainty, changes in other personnel, and potentially new policies and priorities. Newly elected governors will also



have significant influence on the 2011 congressional redistricting process and on political positioning for the 2012 presidential election.

Ballot Initiatives

Ballot measures, particularly in the West, are becoming an increasingly important means of funding infrastructure programs and projects. There were a number of infrastructure-related ballot initiatives around the country, including a number that PB supported financially. The results are mixed, but given the mood of the electorate against new taxes and government spending, the outcome could have been much worse. The Center for Transportation Excellence reports that 77% of all transportation measures nationwide were approved in this election cycle, which likely will lead to continued growth in their use. Here is a [link](#) to the CFTA website with information about 2010 measures. Key initiatives include:

California

Proposition 22 – Protection of Transportation and Local Government Funds from diversion—Won, 61% Yes vote.

San Francisco Measure A—Seismic Retrofit Bonds—Lost, 64% Yes, but a 2/3 vote is required

Riverside County Measure K—Transportation Bonds—Won, 62% Yes.

Seven individual county measures for \$10 per vehicle registration fee; 5 out of 7 counties won with margins ranging from 65% to 52% Yes (San Francisco, Alameda, San Mateo, Santa Clara, Marin), and 2 counties lost (Sonoma, Contra Costa). However, it is possible that the winning measures may be challenged in litigation, as a result of yet another winning statewide ballot proposition (Prop 26) that makes a tighter definition of what is a “fee” and what is a “tax”.

Colorado

Anti-infrastructure Amendments 60, 61, and Proposition 101 were defeated. In combination these measures would have repealed the FASTER legislation supporting CDOT’s bridge program and limited borrowing by preventing any governmental entity from issuing debt longer than 10 years and taxing property like the Denver Airport, E-470, etc (tax would then be used to reduce individual property tax).

Florida

Hillsborough County Tax Referendum was defeated by a margin of 58 to 42 percent.

Osceola County sales tax for local bridges and roads from 7% to 8% failed with about 75% of the vote opposed.



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Hawaii

The general referendum to establish a transit authority to oversee the construction and operation of Honolulu's new light rail system was approved by the voters.

North Carolina

Charlotte voters approved three bond packages totaling nearly \$204M for transportation (\$157M), neighborhood improvements and affordable housing.

South Carolina

Richland County voters defeated a one cent sales tax to support a \$1.02B infrastructure improvement package.

Kershaw County voters defeated a sales tax increase for capital improvements.

Orangeburg County voters renewed a one cent sales tax for an \$84M capital improvement program.

Aiken County voters approved a one cent sales tax for capital improvements.

Charleston County voters approved a one cent sales tax for the renovation of 17 schools.

Horry County voters approved a local tax referendum to provide dedicated funding of the Coast RTA.

Newberry County voters approved a one cent sales tax for a \$15M capital improvement program.

Virginia

Arlington County voters approved bonds for METRO (\$34M); parks and recreation (\$6M); community infrastructure (\$18M) and public schools (\$120M).

Fairfax County voters approved bonds for METRO (\$120M).

James City County voters defeated a measure to sell bonds to support a \$30M storm water management program.