



November 16, 2012

Following last week's election, Congress came back to town this week for a short session primarily to hold elections for party leadership positions. They will be on recess next week for the Thanksgiving holiday and then return to DC to complete the post-election Lame Duck session. How long that session will last is unclear as Congress and the Administration grapple with the magnitude of all the issues that comprise the looming "fiscal cliff" – sequestration, the expiration of the Bush tax cuts and other key tax provisions, the debt ceiling, extension of unemployment benefits, etc. If Congress opts to simply postpone and/or extend many of these issues into next year, it could be a very short session. However, if they opt to start to make some hard decisions, agree to put tax increases and spending cuts on the table and work on a bi-partisan basis to find compromise with the White House, something could be accomplished.

There is talk of a possible grand deal with everything put on the table for consideration, but it is hard to see how a deal of that magnitude could be accomplished in such a short period of time despite President Obama's reelection honeymoon and Speaker Boehner's recent comments about being willing to consider additional tax revenues. Many observers suggest that the 2010 Simpson Bowles Commission deficit reduction proposal serve as the framework for a deal. That would be an interesting opportunity for the transportation industry because the Commission's plan included a 15-cent gas tax increase plus indexing with the revenue going into the Highway Trust Fund. The proposal's argument was that by assuring the fiscal health of the Trust Fund (at least in the short term) and precluding any more bailouts by the General Fund, a gas tax increase could actually be considered a deficit reduction measure.

Also potentially part of a comprehensive fiscal deal is the inclusion of supplemental Emergency Relief funding for FEMA and other federal agencies dealing with the aftermath of hurricane Sandy. The clean-up/rebuilding costs will be in the tens of billions and an influx of federal funding could serve as a mini stimulus for the engineering and construction industry.

Another issue that may be addressed in the Lame Duck session is the FY'13 appropriations bills. Although the current Continuing Resolution (CR) provides six months of funding to all federal agencies through March 27, it appears that congressional leaders don't plan to wait until the last minute to pass bills funding the remainder of the fiscal year. Appropriations staff have been instructed to start negotiating final bills. While it may be overly optimistic to think the funding bills would be completed before the end of 2012, they could be finalized in early 2013, well before the expiration of the CR. Unfortunately, a major reason for the push to accelerate consideration of the FY'13 funding bills is to identify program cuts that can be used to reduce the deficit.



Congressional and Committee Leadership

Although Republicans will remain in control of the House and the Democrats, the Senate, there will be a number of significant changes in committee leadership in the new 113th Congress. In the Senate, the Democrats had a net gain of two seats resulting in a new party ratio of 55 Democrats to 45 Republicans with the two Independents - Sanders (VT) and King (ME) caucusing with the Democrats. The Democratic Chairmen of the four key infrastructure committees are expected to remain the same – Boxer/EPW, Rockefeller/Commerce, Johnson/Banking, and Murray/DOT Appropriations. However, Senate Republican Caucus rules will force several of the key Republican Ranking Members to move to other positions. In most cases they will remain committee members.

On EPW (highways), Senator Jim Inhofe (OK) will be replaced by Senator David Vitter (LA). Vitter was one of the “Big Four” who negotiated the MAP-21 deal. On Banking (transit), Senator Richard Shelby (AL) will become the Ranking Member of the full Senate Appropriations Committee. He will be replaced on Banking by Senator Mike Crapo (ID). While there is not a lot of transit in Idaho, Crapo has been supportive of transit funding and is a supporter of a proposed streetcar project in Boise. On Commerce (rail, aviation, safety), Senator Kay Bailey Hutchison (TX) is retiring and will be replaced by Senator Jim DeMint (SC). DeMint is a prominent member of the tea party who is opposed to increased government spending and has voted against most of the surface transportation authorization bills, including MAP-21.

In the House, while Republicans held onto their majority, they lost a net of 8 to 9 seats depending on a few recounts still underway. Party elections were held this week and there were no changes in the current Republican and Democratic top party leaders - Republicans (Boehner, Cantor and McCarthy) and Democrats (Pelosi, Hoyer and Clyburn). Committee assignments will not be made until January, but Rep. Bill Shuster (R-PA) has formally announced his candidacy to be chairman of the House T&I Committee despite the fact that the current chairman, John Mica, who is term limited, is still seeking a waiver to remain as the chair. Yesterday, the House Republican Caucus defeated an amendment to redefine the term limits which would have allowed Mica to stay on as chairman. It is widely assumed Shuster will be named the T&I chairman. There is some speculation that Mica may opt to fill Shuster’s current position as Chair of the Railroad Subcommittee.

Given the large number of retirements, runs for other office and election losses, there will be at least 13 vacancies on the T&I Committee. On House Appropriations, current DOT Subcommittee chairman, Tom Latham (R-IA), won his incumbent vs incumbent race (a result of redistricting) and will remain as chair. The ranking Democrat, Rep. John Olver (MA), did not run for reelection and likely will be replaced by the next most senior Democrat on the subcommittee, Rep. Ed Pastor (AZ), a strong transportation supporter.



In some congressional staff personnel news (with more likely coming), several longtime transportation committee staffers are leaving the Hill including: Joyce Rose from the House T&I Committee who will become the Executive Director of Operation Lifesaver, a rail safety organization; Jim Coons, the House T&I Republican Staff Director, who is moving to the National Air Transportation Association; and Ruth Van Mark, Senator Inhofe's EPW Staff Director, who is retiring. It is a loss of many decades of legislative expertise.

In other industry personnel news, at this week's AASHTO Annual Meeting, Bud Wright is expected to be approved by the Board as the new Executive Director of AASHTO replacing the retiring John Horsley. Wright recently retired from FHWA after serving in many capacities most recently as Executive Director, the most senior career position.

US DOT Leadership

Despite no formal announcement from US DOT Secretary Ray LaHood about his future tenure as Secretary, the rumors have been swirling about potential replacements for him ever since he signaled last year that he might not stay for a second Obama term. Some of the people who the press and industry insiders have been speculating about as a potential replacement include: Los Angeles Mayor Antonio Villaraigosa, NTSB Chair Debbie Hersman, Deputy Secretary John Porcari, FTA Administrator Peter Rogoff, North Carolina DOT Secretary Gene Conti and San Francisco MTC Executive Director Steve Heminger. At this point there is no indication that any of the US DOT modal administrators plan to leave, at least in the short term. Acting FAA Administrator Michael Huerta is still waiting for Senate confirmation to a fixed five-year term as Administrator.

Water Resources Development Act

One important bill that was not completed before the election and may be debated during the Lame Duck session is the Corps of Engineers authorization bill, the Water Resources Development Act (WRDA). The need for additional Corps funding in the aftermath of hurricane Sandy is a strong incentive for Congress to move a WRDA bill quickly. Last week the bi-partisan leadership of the Senate EPW Committee introduced a draft WRDA bill and held a hearing on it on November 15. One issue that is complicating the development of a bill is the current congressional prohibition against earmarks. In past WRDA bills, hundreds of Corps projects were authorized to receive earmarked funding which helped to attract the votes needed for passage. Yesterday, the House Republican Caucus had on its agenda an amendment to permit consideration of certain project earmarks, but it was withdrawn. It is unlikely the earmark ban will be revisited until the "fiscal cliff" issues are resolved. Here is a [link](#) to the Senate EPW discussion draft and a [link](#) to the hearing materials including [the](#) witness testimony from the first WRDA [hearing](#) held on September 20 and a [link](#) to the November 15 hearing documents.

While yesterday's hearing primarily focused on flood control and coastal protection, Senator Vitter (R-LA), the soon to be EPW Ranking Member, called for a stronger provision and permanent fix to ensure full use of the Harbor Maintenance and Inland Waterway Trust



Funds. Senator Boxer has announced that she will schedule a third WRDA hearing to focus on the problems caused by Hurricane Sandy and possible provisions needed in the WRDA bill to address those concerns. At this point the House T&I Committee has not shown any inclination to move a WRDA bill in the House before next year.

MAP-21 Implementation

FHWA has published interim [guidance](#) on the new Transportation Alternatives Program which replaced the Transportation Enhancements (TE) program.

FHWA will be holding a webinar on November 28 on MAP-21 Freight Provisions. Here is a [link](#) to more information.

FHWA held a webinar on October 25 on Traffic Congestion and MAP-21 NHS Performance measures. Here is a [link](#) to the presentation slides.

Additional information including MAP-21 information and materials can be found on the PB Transportation Update website at www.PBTransportationUpdate.com
