



February 1, 2016

Despite months of inaction last year, Congress passed a flurry of critical infrastructure related legislation in December right before adjourning for the year. Successful legislation included passage of the five-year FAST ACT surface transportation bill, a major tax extenders bill which made many popular tax credits permanent such as the transit commuter benefit parity with parking, and an omnibus FY'16 appropriations bill. Despite 2016 being a presidential election year with an abbreviated congressional schedule and heightened political activity, there are several important infrastructure bills on the agenda for action early in the year. Key bills include FAA reauthorization, Corps of Engineers water bill (WRRDA), FY'17 agency appropriations bills, and potentially a major energy bill.

Congress will only be in session for a limited amount of time in 2016. Not only are they expected to adjourn no later than October 1 in order to return home to campaign (all 435 House members and one third of the Senate are up for election on November 8), their summer recess has been extended since the two party conventions will be held in late July rather than in August.

The final budget request of the Obama Administration will be released on February 9. Congress will take the Administration's recommendations into consideration (or not) as they draft their FY'17 appropriations bills this spring. Unlike in many years when Congress does not complete all the annual funding bills by the October 1 start of the new fiscal year, this year Congress hopes to complete the FY'17 appropriations bills on time. This is in large part because last fall's major budget deal reached agreement on top line spending for both FY'16 and FY'17. However, given the tight timeframe of the condensed schedule and the political distractions of the elections, Congress could miss the October 1 deadline and be forced to pass a Continuing Resolution (CR) until after the elections.

FAST Act

With legislative action completed on the five-year FAST Act, the focus now turns to implementation. US DOT is in the process of reviewing the Act and will begin to issue Notices of Proposed Rulemakings (NPRMs) for the public to comment on key provisions and Notices of Funding Availability (NOFAs) for discretionary grant programs.

The FAST Act reauthorizes several discretionary grant programs and creates several new ones, such as a Bus and Bus Facility program (\$268M in FY'16) and a freight/mega project program (\$800M in FY'16). US DOT is expected to release NOFAs for these programs, as well as the popular FY'16 TIGER grant program (\$500M in FY'16), in the next month or so with accelerated application due dates.



In addition to a variety of information on the FAST ACT posted on the [WSP | Parsons Brinckerhoff Washington Update website](#), AASHTO has set up a [website](#) with information on the Act including a comprehensive summary of the bill and numerous funding tables, such as program authorization tables and state by state apportionment tables.

FHWA Earmarks

The FY'16 omnibus appropriations bill, which Congress passed in mid-December, included a provision in the US DOT section reallocating highway project earmarks that are over ten years old and for which no more than ten percent of the original earmark for a specific project has been obligated. Historically, funding for highway earmarks remained available "until expended." The latest estimate is that the unused earmarks total more than \$2B from about 1,300 projects. FHWA is in the process of developing procedures for reallocating the funds back to state DOTs.

Here is a [link](#) to a chart prepared by AASHTO which lists the affected projects. The states with the largest amount of unexpended earmarks are New York with \$221M, Georgia with \$164M and California with \$124M, according to an Eno analysis. Almost all states have some level of money with the smallest being Colorado with only \$10,000. The reallocated funds must be used within 50 miles of the original project and must be spent within three years.

In addition, the provision will let state DOTs capture any leftover funds from decades-old earmarks under which projects were completed at less than the amount provided by the original congressional earmark.

FAA Reauthorization

Authorization for Federal Aviation Administration (FAA) programs originally expired last fall and a short-term extension expires on March 31. House T&I Committee Chairman Bill Shuster has indicated that he wants to draft a transformational bill that will remove the Air Traffic Control (ATC) system from direct government control and transfer it to an independent agency in an effort to protect it from future government shutdowns, budget constraints, and bureaucratic red tape. However, the plan has met with considerable opposition from many House Democrats and various aviation stakeholders. FAA drone safety oversight is another hot-button issue that may be considered as part of the authorization bill negotiations.

Chairman Shuster may introduce his version of an FAA authorization bill as early as this week and there are tentative plans to mark up the bill on February 11 in an effort to pass it before the March expiration. Senator John Thune (R-SD), Chairman of the Senate



Washington Update

PREPARED BY CATHY CONNOR
MANAGER OF GOVERNMENT AFFAIRS



Commerce Committee, has said that the Senate will likely wait for the House to pass an FAA bill before introducing a bill of its own.

Two key issues of interest to the engineering and construction industry – an increase in funding for the Airport Improvement Program (AIP) and an increase in the Passenger Facility Charge (PFC) used to fund local infrastructure projects - do not seem to be gaining any traction in Congress and appear unlikely to be included in the bill. Here is a [link](#) to a letter the Transportation Construction Coalition (TCC) recently sent to the T&I Committee leadership urging an increase in AIP funding and the PFC cap.

Additional information and materials, including archived Washington Updates, are located on the new WSP | Parsons Brinckerhoff *Federal Briefing* website at www.federalbriefing.com . This is a new URL and title for the website previously named *PB Transportation Update*. The old website URL will automatically redirect to the new website, but please bookmark this new address for future reference.