



March 18, 2011

Congress wraps up its work today in advance of a week-long recess next week. They have been unable to make any progress on the Continuing Resolution (HR 1) which would fund all federal agencies through the remainder of the fiscal year. As of March 31, the FY'11 fiscal year is half over, leaving only six short months in which to try to cram in the \$61B in domestic discretionary cuts that House Republicans insist be included in the CR.

FY'11 Appropriations

The House previously passed HR 1, a Continuing Resolution (CR) to fund all federal agencies through September 30. The funding cuts and rescissions included in HR 1 would reduce FY'11 funding by \$100B below the President's FY'11 budget request or \$61B below FY'10 enacted levels. However, the Senate has been unable to pass a companion bill to provide year-long funding. They were unable to muster even a simple majority of votes in support of either the House bill or a Senate Democrat-drafted bill which included significantly fewer funding cuts. As a result, Congress had to pass a short-term, two-week CR through March 18. At the insistence of House Republicans, the "mini" CR included \$4B in program cuts, the equivalent of \$2B per week.

With no action to date on the larger CR and March 18 looming, this week Congress was forced to pass another short-term CR in order to avoid a government shut-down. The newest CR extends for three weeks, through April 8, since Congress will be on recess for a week. Under intense pressure from House Republicans, this new CR includes \$6B in cuts below FY'10 funding levels. Fortunately, the cuts in transportation programs are very modest and only \$50M in FRA Positive Train Control (PTC) grants are cut, which the Administration had already proposed to cut.

A number of key House Republican leaders are saying that they will not support another short-term CR. The margin of support for the three-week CR was significantly lower than for its two-week predecessor. It is unclear how the House and Senate can resolve their disagreements and pass the longer CR, much less how they will be able to agree on an FY'12 Budget Resolution, which they must begin working on after the recess, or on passage of the highly controversial, but critical debt ceiling increase.

SAFETEA-LU Reauthorization

As previously reported, both the House and Senate passed another extension of the SAFETEA-LU highway and transit authorization law through September 30 with no changes in funding levels or program authorizations. This is the 7th such extension since the



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authorization expired on September 30, 2009. House T&I Committee Chairman John Mica (R-FL) held another listening session in Florida earlier this week and plans to do one or two more sessions/field hearings. He also indicated he will likely hold two hearings in Washington DC – one for industry group stakeholders and one for members of Congress. He then plans to spend the month of April writing a bill with the intent of moving it very quickly through the T&I Committee and the full House with the hope that the Senate is also planning to move a bill quickly. Mica would then flesh out the bill and sort out the differences in conference with the Senate. Chairman Mica continues to insist that he will write a six-year bill despite the very limited revenues available in the Highway Trust Fund. He plans to “do more with less” by utilizing such tools as public-private partnerships, tolling and project delivery streamlining.

The Administration revealed a general framework of its reauthorization proposal as part of its FY'12 Budget Request, but no additional details or legislative language has been forthcoming.

FAA Authorization

Earlier this session, Congress made significant progress on a much delayed, multi-year reauthorization of FAA revenues and programs. The full Senate quickly passed a bill (S. 223) and the House T&I Committee approved its version of a bill (HR 658) in mid-February. However, progress then stalled. The bill has not yet come to the House floor, but is expected to be debated the week of March 28 now that the revenue title was approved this week by the House Ways & Means Committee and the House Science and Technology Committee approved its portion of the bill which includes an extension of the Aviation Cooperative Research Program.

In the meantime, the March 31 expiration of the short-term extension is quickly approaching. Therefore earlier this week, the House T&I Committee passed yet another short-term extension (the 18th), at existing funding levels, through May 31. This 60-day extension may reflect the reality of how long it will take to get a bill through conference with the Senate and to the President for signature.

High-Speed Intercity Passenger Rail Funds

On March 16, US DOT issued a Notice of Funding Availability (NOFA) for the \$2.4B in High-Speed Intercity Passenger Rail (HSIPR) funds which the Governor of Florida recently “returned” to the federal government after pulling the plug on the Orlando to Tampa high-speed rail line over concerns about the state’s liability for any cost overruns and operating expenses. The funding is comprised of \$1.288B in ARRA stimulus funds (which does not require a local match), \$800M in FY'10 appropriated funds (which requires a minimum of a



20% local match) and \$342M in ARRA funds that were reallocated to Florida when Ohio and Wisconsin previously turned back their high-speed rail awards to US DOT.

Here is a [link](#) to the NOFA. The process is on an accelerated timeframe with applications due to FRA by April 4. Here is a [link](#) to general FRA information about applying for HSIPR funds including application forms [and](#) instructions. FRA is under tremendous pressure to reallocate the Florida funds as quickly as possible since HR 1, the House-passed version of the long-term CR, would rescind all unobligated high-speed rail funds.

FRA officials have indicated that readiness is the key factor for projects considering applying for the funds. They expect that final design/construction projects will have completed the NEPA process or at least submitted the documents to FRA, have finalized any freight service agreements or be close to completion, and have defined a work statement including scope, schedule and budget. FRA also emphasized the desirability for a strong local match even though the ARRA funds technically do not require a match. Outside the Northeast Corridor, it is expected that the majority of applicants will be projects which previously applied for high-speed funds and did not make earlier cuts.

Also this week, US DOT officially designated Amtrak's Northeast Corridor (NEC) as the 11th federally designated high-speed rail corridor making the Corridor and Amtrak eligible to compete for the Florida funds.

Other News

This week Senators Kerry (D-MA), Hutchison (R-TX) and Warner (D-VA) introduced a bill to establish a national infrastructure bank, the Building and Upgrading Infrastructure for Long-term Development (BUILD) Act, to provide loans and guarantees for a broad array of infrastructure projects, not just transportation projects. Here is a [link](#) to a summary of the bill. The Senators were joined at a press conference by the [presidents](#) of the US Chamber of Commerce and the AFL-CIO who support the bill. In addition, Senator Wyden (D-OR) plans to introduce a bill to authorize a modified version of the now expired Build America Bonds to be called Transportation and Regional Infrastructure Project (TRIP) municipal bonds.

It is unlikely that either of these proposals will pass as stand-alone bills, but rather will be considered as part of the debate on reauthorization of the highway and transit programs. There remains considerable opposition to these bills from rural state members of Congress who feel they cannot adequately utilize these financing tools, in particular Senator Baucus (D-MT), the chair of the Senate Finance Committee which has jurisdiction over the Highway Trust Fund revenues.

Additional information and documents are available on the PB Transportation Update website at www.PBTransportationUpdate.com
