

Holland & Knight

800 17th Street, N.W., Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

Broward MPO Federal Update October 2016

CONGRESSIONAL UPDATE

House Schedule: Last week, a tentative three month [work schedule](#) for the House of Representatives was circulated. The schedule details timing of leadership elections, GOP Steering Committee meetings and the voting schedule for November and December. It also provides projected plans for convening in January and announcing committee chairs.

Lame-Duck Session: Lawmakers return for legislative business after the November 8 election, with the House in session on Monday, November 14, and the Senate returning the following day. The House is scheduled to be in session for 16 legislative days and the Senate will be in session for 20 days. Depending on the election, top Republican leaders are advocating for passing a series of small "minibus" packages to complete this year's appropriations work during the lame-duck session, instead of one large omnibus appropriations bill.

The full list of possible lame-duck legislation includes:

- Merrick Garland's nomination to the U.S. Supreme Court
- Water Resources Development Act (WRDA) conference report
- Export-Import Bank financing authority
- Energy tax extenders
- Energy bill conference report
- 21st Century Cures Act
- Trans-Pacific Partnership (TTP)
- Mental Health Reform Act of 2016
- Additional funding for opioid epidemic
- Criminal justice reform, including the Sentencing Reform and Corrections Act of 2015

ADMINISTRATION UPDATE

Hoboken Crash Ignites Questions over Positive Train Control Technology: Following the commuter train [crash](#) in Hoboken, N.J. on September 29 that killed one woman and injured more than 100 when it smashed into a transit station, federal investigators are questioning whether Positive Train Control (PTC) could have prevented the accident. Eye witnesses reported that the train never slowed down nearing the station.

None of NJ Transit's trains contain full PTC functionality. NJ's Transit petitioned the Federal Railroad Administration (FRA) to be exempted from PTC requirements for the Hoboken terminal in 2010, and federal officials granted the request. The law allows railroads to ask for exemptions from PTC installation mandates on certain track segments. To be exempted, railroads must show that trains moving through passenger terminals will not travel more than 20 miles per hour in the area, and that onboard PTC equipment will control for speed despite the absence of wayside signals. Railroads also have to demonstrate that trains will not share tracks with freight operations and will abide by interlocking rules that forbid reverse movements without approval from signals or dispatchers.

Amtrak Accountable for Up to \$350 Million PTC Burden: An [Amtrak Inspector General report](#) released on October 6 notes that Amtrak may be accountable for up to \$350 million to install and maintain positive train control (PTC) on some tracks owned by freight railroads. Amtrak and states responsible for subsidizing passenger service are in negotiations with freight railroads to reduce the price tag. The Federal Railroad Administration (FRA) may grant a "limited operations exception," which Amtrak and freight railroads could use to avoid PTC costs. Amtrak has resolved at least one case regarding a quarrel with a railroad corporation over its PTC burden. In July 2015, the Kansas City Terminal Railway and the state of Missouri cut a deal with Amtrak after the partially government-funded passenger railroad service threatened to reroute or cut service on two passenger lines in the state.

DOT Issues New Vehicle Cyber Guidance: On October 24, the U.S. Department of Transportation's (DOT) National Highway Traffic Safety Administration (NHTSA) released a proposed [guidance](#) on vehicle cybersecurity. The guidance covers cyber issues for all motor vehicles. NHTSA's guidance takes a four-pronged approach to protecting the vehicle's electronic architecture against potential attacks: 1) build upon risk-based prioritized identification and protection of safety-critical vehicle control systems, 2) provide for timely detection and rapid response to cyber incidents, 3) design-in methods and measures to facilitate rapid recovery from incidents when they occur, and 4) institutionalize methods for accelerated adoption of lessons learned across the industry through information sharing. NHTSA also recommends that stakeholders perform cyber gap assessments, develop implementation roadmaps, and integrate controls into vehicle systems and business operations. Furthermore, the guidance highlights the importance of reporting and monitoring progress.

GRANTS

New Round of FASTLANE Grants: The DOT also [announced](#) last week, that the Build America Bureau is now accepting applications for up to \$850 million in Fostering Advancements in Shipping and Transportation for the Long-term Achievement of National Efficiencies (FASTLANE) grants. This will be the second call for applications this year. Last month, the DOT [announced](#) 18 projects had been selected to receive \$759 million in FY 2016 FASTLANE funding. Applications are due on December 15, 2016.

Transit-Oriented Development (TOD) Planning Grants: On October 11, the DOT [announced](#) \$14.7 million in funding from the Transit-Oriented Development (TOD) Planning Pilot Program to 16 communities that are developing new or expanded mass transit systems. **Broward...**

LEAP Pilot Program: The Federal Highway Administration (FHWA) recently announced it was accepting applications for a new pilot program, the [Local Empowerment for Accelerating Projects](#) (LEAP) program that was created in the FAST Act. Designed to improve project delivery and help to eliminate red tape cause delays, the LEAP program will allow for direct funding from the federal government to five local public agencies (LPAs) over a period of five years. Selected LPAs will need to enter into agreements with their respective State DOTs and FHWA, but the State DOT will be relived of direct oversight and accountability for projects funded under the LEAP pilot program. The deadline for applications is November 25, 2016.

DOE Advanced Research Projects Agency Grant: On November 2, the U.S. Department of Energy (DOE) [announced](#) up to \$32 million in funding for 10 projects to improve connected and automated vehicle efficiency. This grant opportunity is part of DOE's newest program: Next-Generation Energy Technologies for Connected and Autonomous On-Road Vehicles (NEXTCAR). NEXTCAR's primary goal is to reduce individual vehicle energy usage by 20 percent.