

Holland & Knight

800 17th Street, NW, Suite 1100 Washington, DC 20006
T 202.955.3000 | F 202.955.5564

BROWARD COUNTY MPO FEDERAL UPDATE April 2014

Administration Releases Draft Transportation Bill: On April 29, the White House released its draft four-year, \$302 billion surface transportation reauthorization bill. The proposal, which is called the GROW AMERICA Act (Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America) does not offer specifics as to how its programs would be financed, but it does incorporate rail for the first time, though that idea has been rejected by Congress in the past.

The legislation provides \$199 billion for highways, \$72 billion for transit, \$13.6 billion for "critical immediate investments," \$4.8 billion for the Federal Railroad Administration (FRA), and \$1.3 billion for TIGER grants. Those figures stand in comparison to the \$80 billion for highways and \$21.3 billion for transit found in MAP-21, the current transportation reauthorization law that is only a two-year bill.

The Administration's proposal also includes several policy provisions. Among the notable changes is a requirement of the Department of Transportation (DOT) to set a schedule for the implementation of PTC (the FRA would be allowed to grant extensions in some cases). The bill would also allow railroads to petition for "alternative risk mitigation strategies" instead of PTC and seek "full rulemaking authority with respect to the hours of service of railroad employees presently subject to a new and complicated, but still deficient and unempirical statutory scheme."

Additionally, the measure would create a new \$1 billion grant program, to be called FAST and operate similar to TIGER, for "bold, innovative strategies and best practices" with long-term impact on "all projects across the transportation programs." 25 percent of FAST funds would be set aside for Metropolitan Planning Organizations.

The proposal would require DOT to encourage "pay for success contracting" and create a requirement that construction standards "shall" consider all modes of travel in highway design (including pedestrian, bicycle, and public transportation).

Congressional transportation leaders praised the Administration for sharing a legislative proposal for the transportation reauthorization. House Transportation and Infrastructure Committee Chairman Bill Shuster (R-Pa.) said that he appreciates the White House's effort to craft a bill but doubts that he would be in absolute agreement. "I respect that, for the first time, the Obama Administration has put forward a detailed surface transportation proposal. While I'm certain I won't agree with all the details, I look forward to reviewing it," he said.

Senator Jim Inhofe (R-Okla.), senior member of the Senate Environment and Public Works (EPW) Committee, praised Secretary of Transportation Anthony Foxx for presenting to Congress the GROW AMERICA. "Congress must pass a long-term surface transportation bill," said Inhofe. "While Secretary Foxx's proposal is not perfect, it launches a necessary discussion between the Obama Administration and Congress on the need to find a long-term, bipartisan solution to address the growing infrastructure crisis in our country. Among my initial concerns is the inclusion of Amtrak and the TIGER grant program into the Highway Trust Fund that will further diminish scarce transportation dollars without paying a single cent into the program.

The American Public Transportation Association (APTA) applauded the Administration's proposal, "This proposed legislation calls for much needed growth in federal surface transportation investment after years of flat funding. Like APTA's authorization recommendations, the Administration calls for substantial increases in federal transportation investment. We also applaud the proposal for including substantial investment in intercity passenger rail, a recommendation also made by APTA. The proposed legislation also recognizes the need to fix the impending shortfall in the Highway Trust Fund, including the Mass Transit Account, in a timely manner so critical transportation projects can continue. ... We are pleased that Secretary Foxx and the Administration developed a detailed legislative proposal that calls for increased investment in transportation and a significant increase in public transportation. GROW AMERICA reflects the Administration's commitment to the infrastructure that serves our nation and should advance the debate on this bill in Congress..."

Highway Trust Fund to Run out of Money in August: According to DOT, the Highway Trust Fund Highways account will enter insolvency on August 29. The fund's Mass Transit account is expected to have a balance of around \$1 billion at the end of FY 2014. Secretary Foxx said the numbers are "tracking very closely to what we've been saying for months, which is come August or September we're going to be in a hole. And it just reaffirms what we've been saying all along, which is that this is a serious problem."

Senate Commerce Committee's Plans for Transportation Reauthorization: The Senate Commerce, Science, and Transportation Committee, which oversees rail, highway safety, and inland commerce, will hold a hearing on May 7 entitled "Surface Transportation Reauthorization: Progress, Challenges, and Next Steps." Secretary Foxx is expected to testify. The hearing will focus on the reauthorization of surface transportation programs and a review of the Administration's surface transportation reauthorization proposal, the GROW AMERICA Act. In addition, the hearing will highlight the need to allocate more resources to underfunded areas of the nation's transportation system, including to programs that move freight, focus on safety, and concentrate on growing rail service.

The Senate Commerce Committee staff has stated that the Committee plans to begin drafting Passenger Rail Investment and Improvement Act (PRIIA) reauthorization and its sections of the surface transportation reauthorization bill soon. The Committee will most likely consider both measures during early summer.

Senate EPW Leaders Map Out Path Forward for Reauthorization: The "big four" members of the Senate EPW Committee – full committee Chairwoman Barbara Boxer (D-CA) and Ranking

Member David Vitter (R-LA), along with Highways Subcommittee Chairman Tom Carper (D-DE) and Ranking Member John Barrasso (R-WY) – announced in early April that they have reached an agreement in principle for the next transportation reauthorization bill and hope to have legislative text ready soon. They suggested the plan would be a six-year bill that would provide for infrastructure spending at current levels plus inflation. However, the proposal is not expected to include any funding mechanism, leaving that task of finding a way to pay for the bill to the Senate Finance Committee.

The Senators said that they share the same broad goals for the legislation, including preference for a long-term bill as opposed to a short-term measure; better information sharing; leveraging local funding; expanded opportunities for rural areas; and maintaining the formula structure for several programs.

Senator Vitter indicated that the goal is to mark up legislation soon after the two-week April recess. Meanwhile, Senator Boxer has hinted that a transportation bill will likely not move until lawmakers finish up work on the Water Resources Development Act (WRDA) conference, which she noted should come to a close in the near future. "We should have an announcement [regarding WRDA] when we come back [from this month's recess]," she said.

Senate Finance Committee Schedules First Hearing This Year on Transportation Funding: The Senate Finance Committee, which oversees the Highway Trust Fund, has scheduled a hearing for May 6 to discuss transportation funding options. According to the Committee's announcement, "During the hearing, the committee will discuss funding options to support the HTF in the near-term and preserve the fund's long-term solvency, while also focusing on financing solutions including public-private partnerships and tax-preferred bonds to bring additional investment to infrastructure projects." The witnesses will include:

- Dr. Joseph Kile, Assistant Director for Microeconomic Studies Division, Congressional Budget Office (CBO)
- Mr. Aubrey L. Layne, Jr., Secretary of Transportation, State of Virginia
- Mr. Jayan Dhru, Managing Director, Corporate & Infrastructure Ratings, Standard & Poor's Ratings Services
- Ms. Samara Barend, Senior Vice President and P3 Development Director, AECOM Capital
- Mr. Chris Edwards, Director, Tax Policy Studies, Cato Institute

Pedestrian Safety Bill Introduced: Representatives Joe Crowley (D-CT) and Frank LoBiondo (R-NJ) have introduced legislation that would require states to include pedestrian death and injury statistics in the safety plans they submit to the federal government. The states would also be required to show how they will address the increase in pedestrian deaths. Additionally, the bill would change the handbook state agencies use when collecting safety data.

Rail Safety Bill Coming: Members of Congress from New York and Connecticut, who have parts of Metro-North service in their districts, have announced that they are planning to introduce a rail safety bill sometime soon. The bill would reportedly mandate the implementation of a railroad safety risk reduction program; require safety "alerters" that sound an alarm in Metro-North cars; and "require a timeline" for positive train control. No legislative text has been

revealed yet. "Sadly, my district is no stranger to traffic-related deaths and we need a comprehensive approach if we are to reverse the alarming trend of pedestrian fatalities we are seeing in New York and across the country," Crowley said. LoBiondo added, "We must take proactive steps to ensure safety on our roadways for both drivers and pedestrians, rather than simply reacting after a tragic event has occurred."

Foxx Goes on Infrastructure Tour: Secretary of Transportation Anthony Foxx departed on April 14 for a week-long bus tour of large infrastructure projects throughout the South and Midwest. Along the way, Foxx stressed the need for economic growth through infrastructure and the importance of a long-term surface transportation bill. "I'll be visiting projects that are helping people build better lives, and other projects that still need to be built," he said. He also urged Congress to take action in order to prevent a shortfall in the Highway Trust Fund, which is projected to occur sometime this summer. In all, Foxx visited eight states (Ohio, Kentucky, Tennessee, Georgia, Alabama, Louisiana, Mississippi, and Texas).

Fiscal Year 2015 Appropriations Update: The House recently passed two of the twelve appropriations bills--the Military Construction-Veterans Affairs and Legislative Branch Appropriations bills. Both measures were noncontroversial and passed with large, bipartisan majorities.

Next week, the House Appropriations Subcommittee on Transportation, Housing, and Urban Development (THUD) will mark up its bill, and the full Appropriations Committee would take up the bill soon after the mid-May recess which is May 12-16.

Across the Capitol, Senate Appropriations Committee Chairwoman Barbara Mikulski (D-Md.) confirmed that her panel would hold its first mark up on May 22. At that time, the committee will consider the Military Construction-Veterans Affairs bill. At this time, the Committee has not indicated the timeline for consideration for the Senate THUD Appropriations bill.

TIGER: On April 28th, the MPO submitted its TIGER VI grant application requesting \$20,275,000 for the Florida East Coast Railway Crossings Safety Improvement project. Senator Bill Nelson sent a support letter to DOT Secretary Foxx on April 25th. Rep. Frankel, Wasserman Schultz, Hastings, Deutch, and Wilson sent a joint letter of support on May 2nd.