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

Broward Metropolitan Planning Organization
FEDERAL UPDATE
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House FY 2016 Transportation, Housing and Urban Development Appropriations: On June 9, the House passed H.R. 2577, the FY 2016 Transportation, Housing and Urban Development Appropriations bill by a narrow vote of 216 to 210, with 31 Republicans voting against the bill and three Democrats breaking rank to support the measure. Representative Mario Diaz-Balart (R-Fla.) was the only member of the Broward County House delegation to vote in favor of the measure, with Representatives Alcee Hastings (D-Fla.), Ted Deutch (D-Fla.), Lois Frankel (D-Fla.), Debbie Wasserman Schultz (D-Fla.), and Frederica Wilson (D-Fla.) all voting against passage.

Overall, the bill provides $55.3 billion in discretionary spending – $1.5 billion above fiscal year 2015 and $9.7 billion below the President's budget request. This increase in appropriations is almost completely negated by Department of Housing and Urban Development (HUD) inflation costs and lowered Federal Housing Authority (FHA) receipts, which equates to just $25 million above the current funding level. Specifically, the bill provides:

- $40.26 billion for federal highways – equal to FY 15 funding
- $15.9 billion for the Federal Aviation Administration (FAA) – $159 million above FY 15
- $1.4 billion for the Federal Railroad Administration (FRA) – $262 million below FY 15
  - $226 million for rail safety and research programs – equal to FY 15
- $1.9 billion for Capital Investment grants– $200 million below FY 15
  - $1.25 billion for existing Full Funding Grant Agreements (FFGA)
  - $250 million for new FFGAs with a cap of 50 percent for federal share
  - $40 million for Core Capacity
  - $353 million for Small Starts projects
- $8.595 million for transit formula grants – equal to FY 15 funding
- $837 million for the National Highway Traffic Safety Administration (NHTSA) – $6.5 million above FY 15
- $100 million for TIGER grants – $400 million below FY 15
  - Maximum grant is $15 million and minimum grant is $2 million

Rep. Bill Posey (R-Fla.) offered three amendments, which all failed by wide margins, to prevent All Aboard Florida passenger rail project from accessing federal funding. Other amendments were offered to narrow the scope of existing federal programs. While these amendments ultimately failed, it is important to note they failed on tight voting margins. For example, an amendment offered by Rep. Tom Emmer (R-Minn.) to prohibit any federal funding for "enrichment" (sidewalks, bike/pedestrian access etc.) activities in new starts projects failed by a vote of 212-214.

Finally, a motion to recommit offered by Representative John Delaney (D-Md.) would have increased capital and debt service grants to Amtrak by $6 million, which would have helped pay for the implementation of positive train control technology – however, that motion was rejected 181 to 244. The House also rejected an amendment offered by Representative Marsha Blackburn (R-Tenn.) to implement a one percent across-the-board cut to programs funded in the bill.

President Obama's veto threat still stands due to a stay of sequestration funding levels and the spending caps included in the budget resolution. The White House expressed additional concerns with other provisions, such as reductions to surface transportation programs, TIGER and Capital Investment Grants, rail safety programs, and others.

<u>Senate FY 2016 Transportation, Housing and Urban Development Appropriations</u>: This month, the Senate Appropriations Committee approved the Fiscal Year 2016 Transportation, Housing and Urban Development spending bill by a 20 to 10 vote. Overall, the bill provides $55.6 billion in discretionary dollars, which reflects a $1.88 billion increase above FY 2015 and a net total of $376 million above the House-passed bill. However, due to a decline in receipts for the various federal housing programs, this bill actually represents a $1.9 billion decrease from FY 15. Specifically, the bill provides:

- $40.26 billion for federal highways – equal to FY 15
    - And section 126 of the Senate bill contains language similar to what the Environment and Public Works Committee used in their DRIVE Act this week – an allowance for states to use "dead earmarks" (here defined as highway earmarks from either authorization or appropriations laws that are at least ten fiscal years old and still have money unspent.
- $16 billion for the FAA – $294 million above FY 15
- $1.68 billion for the FRA – approximately $18 million above FY 15
    - $288 million for rail safety and research programs – $12 million above FY 15
        - $50 million for rail safety grants implementation of Positive Train Control (PTC), rail safety technology grants, and highway-rail grade crossings grants
- $1.585 billion for Capital Investment Grants – $535 million below FY 15
    - Fully funds New Starts with existing FFGAs
    - $210 million for other potential New Starts
    - $5 million for the MAP-21 pilot innovative project delivery programs
    - $8.595 million for transit formula grants – equal to FY 15
    - $75 million for Core Capacity
- $825 million for NHTSA – $5.5 million below FY 15
- $500 million for TIGER discretionary grants – equal to FY 15

Democrat members continued to protest the inclusion of the automatic spending caps under sequestration. Several members proposed a number of amendments aimed at increasing spending in the event that Congress were to remove the caps under a new budget agreement, however those were blocked by Republicans. Senate Appropriations THUD Subcommittee Chairman Susan Collins (R-Maine) said, "I happen to believe that the BCA caps should be responsibly increased to a certain degree, but that requires Congress to act." She added, "until that time, our job as appropriators is to write bills within the budget caps, within the budget allocations established by law in order to avoid the mindless cuts triggered by sequestration and ensuring proper consideration for each and every program."

At this time, all appropriations bills are on hold in the Senate due to Democratic members' concerns with the spending caps. Recently, the Democrats filibustered the consideration of the FY 2016 defense appropriations bills on the Senate floor.

Senate Unveils Six-Year Surface Transportation Reauthorization Legislation: On June 23, a bipartisan group of Senators introduced S. 1647, the Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act. The bill was introduced by Senate Environment and Public Works (EPW) Committee Chairman Jim Inhofe (R-Okla.), EPW Ranking Member Barbara Boxer (D-Calif.), EPW Subcommittee on Transportation and Infrastructure Chairman David Vitter (R-La.), and EPW Committee member Senator Tom Carper (D-Del.).

Overall, the bill would provide $278 billion for the Highway Trust Fund over a six-year period (FY 2016 – 2021). It provides a 3-percent annual average growth increase over this period when compared to the funding levels in the Moving Ahead for Progress in the 21st Century Act (MAP-21). Specifically, the DRIVE Act authorizes the following programs over six years:

- Federal-aid Highway Program – $257.539 billion
    - National Highway Performance Program – $143.471 billion
    - Surface Transportation Program – $64.456 billion
    - Highway Safety Improvement Program – $11.986 billion
    - Railway-Highway Crossings – $1.320 billion
    - Congestion Mitigation and Air Quality – $14.649 billion
    - Metropolitan Planning – $2.141 billion
    - National Freight Program – $13.385 billion
    - Transportation Alternatives Program – $5.1 billion
- TIFIA Program – $4.05 billion
- Tribal Transportation Program – $2.910 billion
- Federal Lands Transportation Program – $1.905 billion
- Assistance for Major Projects (AMP) – $2.4 billion
- Highway Research and Development Program – $810 million
- Technology and Innovation Deployment – $375 million
- FHWA Administrative Expenses – $2.871 billion

The legislation maintains the existing formula program structure and increases the amounts each state will receive each fiscal year. According to the Committee summary, the bill also prioritizes funding for bridges and provides new funds for large, nationally-important projects through a competitive grant program known as the Assistance for Major Projects (AMP) program. AMP would provide between $300 and $450 million per year for this program, administered by the Federal Highway Administration (FHWA). Section 1014 of the bill also creates a new freight program aimed at establishing a national highway freight network to consist of "the primary highway freight system, critical rural freight corridors, critical urban freight corridors, and any part of the Interstate system not designed as part of the primary highway freight system."

On June 24, the EPW Committee voted 20-0 to approve the measure, sending it to the Senate floor for consideration regardless of the lack of funding sources. If the Senate Finance Committee fails to fully fund the measure, the EPW Committee will need to revise the legislation to reflect a reduction in annual funding or shorter reauthorization period. Senator Boxer said, "The clock is ticking, and action in the EPW Committee is a major first step – the other committees also need to act."

Finance Committee Chairman Orrin Hatch (R-Utah) said, "I doubt that we'll get to six years, it's going to be pretty hard to do that." He added, "I'm just hoping for multi-years."

Highway Trust Fund Hearings in House and Senate: On June 17, the House Ways and Means Committee held a hearing to consider potential funding solutions for the Highway Trust Fund (HTF). During the hearing, the committee members discussed many of the same ideas that have already been floated, such as repatriating foreign dollars, consideration of a "Vehicle-Miles Traveled" user fee, a general fund transfer, or raising the federal gas tax. However, House Ways and Means Committee Chairman Paul Ryan (R-Wis.) discounted the possibility of raising the gas tax and instead believes that a general fund transfer is "unavoidable" over the summer.

House Ways and Means Subcommittee on Select Revenue Measures Chairman David Reichert (R-Wash.) also held a hearing on June 24 regarding the taxation of the repatriation of foreign earnings as a funding mechanism for the HTF. The hearing featured witnesses from the Joint Committee on Taxation (JCT), The Heritage Foundation, the Congressional Research Service (CRS), and Covington & Burling. CRS questioned the viability of repatriation, calling it "transitory" and unlikely to yield sufficient revenue. The JCT also estimated that voluntarily repatriated foreign corporate earnings under Senators Rand Paul (R-KY) and Barbara Boxer's (D-CA) plan (S. 981) would result in a negative fiscal impact of $117.9 billion in lost revenue during a period 2015-2025.

Among the public submissions for the record, outside business groups objected to the idea of repatriation, calling on repatriation to only be done as part of comprehensive tax reform. The Business Roundtable said that "Using revenue from this tax to support stand-alone, unrelated new spending would imperil the ability to achieve meaningful tax reform." Ways and Means Committee Member Tom Reed (R-N.Y.) said that this level stakeholder opposition will make consideration of repatriation difficult. Committee Member Pat Tiberi (R-OH) responded to those stakeholder complaints saying, "We don't live in a perfect world … this is probably the best option right now."

The Senate Finance Committee held a hearing on June 18 regarding long-term funding measures, titled "Dead End, No Turn Around, Danger Ahead: Challenges to the Future of Highway Funding." The panel featured former DOT Secretary Ray LaHood, Mr. Steven Moore from the conservative Heritage Foundation, and Dr. Joseph Kile from the Congressional Budget Office (CBO). According to Mr. Kile, funding for the HTF could be shored up for another 10 years if Congress were to increase the federal gas tax by just 10 cents per gallon. Conversely, the CBO also informed Congress that the HTF highway account would fall to approximately $2 billion, while the transit account would drop to roughly $1 billion, as early as the end of September. Absent congressional action, the Department of Transportation (DOT) would be expected to begin slowing or halting payments to states for transportation projects.

Senate Democrats Detail New Benchmarks for Long-Term Highway Funding: In a letter to Senate Majority Leader Mitch McConnell (R-KY), Senate Democratic Leaders – including Senate Democratic Leader Harry Reid (D-NV) and others –laid out a new set of benchmarks to map out a path forward on long-term surface transportation reauthorization. Specifically, members are calling for:

- By June 23 – hearings in each authorizing committee
- By July 10 – bipartisan markups in all authorizing committees that include "robust increases for highway, transit, passenger rail, and safety programs"
- By July 20 – floor consideration of a long-term bill in Senate

The letter states, "We reluctantly supported [a] short-term extension of the HTF to prevent the disruption of important, ongoing construction projects that are needed to repair and rebuild our roads, bridges, and public transportation systems … However, it is well past time to enact a long-term surface transportation reauthorization bill."

Other cosigners on the letter include: Assistant Minority Leader Richard Durbin (D-IL); Conference Vice Chairman and Democratic Policy Committee Chairman Charles Schumer (D-NY); Senate EPW Committee Ranking Member Barbara Boxer (D-CA); Senate Finance Committee Ranking Member Ron Wyden (D-OR); Senate Commerce, Science, and Transportation Committee Ranking Member Bill Nelson (D-FL); Senator Patty Murray (D-WA); and Senate Banking Committee Ranking Member Sherrod Brown (D-OH).

BRIDGE Act Reintroduced in Senate: On June 16, Senators Mark Warner (D-VA) and Roy Blunt (R-MO) introduced S. 1589, the Building and Renewing Infrastructure for Development and Growth in Employment (BRIDGE) Act. The bill, a version of which was introduced during the 113th Congress, would establish a new and independent infrastructure financing authority aimed at assisting states and localities with obtaining and leveraging private investment in infrastructure projects. Under the legislation, projects through this authority would be limited to financing of no more than 49 percent of the total project costs, and projects must be at least $50 million in size to become eligible. Furthermore, the bill would create an Office of Technical and Rural Assistance (OTRA) as well as regional infrastructure accelerator programs to identify projects that are eligible for financing and promote a new pipeline of project.

The bill is cosponsored by Senators Kirsten Gillibrand (D-NY), Lindsey Graham (R-SC), Amy Klobuchar (D-MN), Mark Kirk (R-IL), Claire McCaskill (D-MO), Roger Wicker (R-MS), Chris Coons (D-DE), Thom Tillis (R-NC), and Richard Blumenthal (D-CT). The bill also has support from outside organizations such as the American Society of Civil Engineers, the American Trucking Association, and the American Association of Port Authorities.

Senate Commerce Committee Advances Legislation to Enhance Passenger Rail Safety: On June 25, the Senate Committee on Commerce, Science, and Transportation approved passenger rail authorization legislation, the Railroad Reform, Enhancement, and Efficiency Act (S. 1626) by voice vote. The bill, which was introduced by Senators Roger Wicker (R-Miss.) and Cory Booker (D-N.J.), authorizes Amtrak at $1.65 billion per year, and $570 million in grant funding, for the next four years. Competitive grants are aimed at PTC implementation, capital improvements, rail congestion, grade crossing safety, and other safety and infrastructure projects. Holland and Knight assisted Broward MPO with drafting and sending a letter to Senate Commerce Committee Chairman John Thune (R-SD) and Ranking Member Nelson urging for the inclusion of a highway grade crossing grant program in the Passenger Rail Reform and Investment Act. Specifically, the bill:

- Authorizes grants and prioritizes loan applications to support PTC implementation
- Requires all passenger railroads to install inward-facing cameras to monitor train crews
- Requires grade crossing action plans and speed limit enforcement
- Streamlines permitting around rail improvements
- Encourages faster railroad rehabilitation and improvement financing through the FRA's Rehabilitation and Improvement Financing Program (RRIF)
- Requires thermal blankets under crude-by-rail tank car jackets
- Requires new study and testing of electronically-controlled pneumatic (ECP) brakes by the National Academies and the Government Accountability Office (GAO)

Ranking Member Bill Nelson (D-FL) offered an amendment on behalf of Senator Joe Manchin (D-WV), repealing DOT's new ECP brake requirement. The amendment was immediately withdrawn. According to Senator Nelson, Senator Manchin wanted to offer and withdraw the amendment and will offer it again when the legislation reaches the floor.

For the complete bill text of S. 1626, as well as a complete list of adopted amendments, please visit this link.

FRA Issues Safety Recommendations for Passenger Railroads: On June 9, the FRA issued a safety advisory with new recommendations aimed at passenger railroads to prevent trains from speeding. The advisory was issued in light of recent derailments involving Amtrak and the New York Metro-North Commuter train. The FRA recommends that railroads:

- Identify areas where a reduction of 20 MPH or more is required approaching a curve or bridge
- Modify Automatic Train Control (ATC) systems to ensure compliance with speed limits
- In the absence of ATC, ensure that all train movements through such zones be made with a second crew member in the controlling locomotive and an additional crewmember in the body of the train
- Install additional wayside signage

Acting FRA Administrator Sarah Feinberg said the agency "full expects passenger railroads to take immediate action and implement these recommendations." The complete FRA safety advisory can be viewed here.

House Committee Holds Hearing on PTC Implementation: On June 24, the House Transportation and Infrastructure Committee held a hearing entitled, "The State of Positive Train Control Implementation in the United States." The hearing featured Acting FRA Administrator Sarah Feinberg, as well as representatives from the Federal Communications Commission (FCC), CSX Transportation, Metra Commuter Railroad, and Metrolink/AECOM.

During the hearing, Administrator Feinberg said that the FTA is still finalizing the penalties for railroads that fail to meet the December 31 deadline for PTC implementation. Feinberg remained firm on the deadline, saying "The deadline is the deadline." She added, "If Congress instructs us to enter negotiations like that, we would do that. But again, my concern would be entering into brand new negotiations with each railroad based on what they would like their new deadline to be."

Treasury Department Issues Intention to Procure Report on Infrastructure Investment: This month, the Department of the Treasury issued a solicitation for an independent report to identify the most significant transportation and water infrastructure projects – including those that are stalled due to lack of funding or consensus – that are under consideration across the county based on their potential economic impact. The report is being pursued as part of the Build America Investment Initiative announced by President Obama last year. The projects identified must be "practical in nature and potentially feasible from the standpoint of demand, engineering/construction, permits/approvals, and overall cost, and will ideally have been proposed or considered by a federal, state, or local government body or authority." Accordingly, Treasury is looking to identify 50 major projects in the report, however that scope may be expanded or reduced dependent on factors such as timing or feasibility. The solicitation closes on July 14. The completed report will ultimately be reviewed by the Build America Interagency Working Group.

ARTBA Publishes Report on Gas Tax Increase Impact on Fuel Prices: This month, the American Road and Transportation Builders Association (ARTBA) published a report entitled "How a Gas Tax Increase Affects the Retail Pump Price," which considers the impact on fuel costs of actual market impact gas tax increases in Massachusetts, Maryland, Pennsylvania, Vermont, and Wyoming.

In essence, the report found – with "a high degree of certainty" – that the impact of a 15 cent per gallon increase in the federal motor fuel tax would result in a 5.9 cents-per-gallon increase in retail fuel costs during the week of enactment, plus an additional 2.4 cents-per-gallon increase within the four weeks of enactment. However, the report adds: "the impact of a 15 cent increase in the federal gas tax would likely be 'lost' in the week-to-week price fluctuation that has occurred at the gas pump for the last 10 years."

The report also found that market forces – such as the price of crude oil, refining costs, retail and distribution costs, and taxes – are the main drivers behind retail prices. According to the U.S. Energy Information Administration, the most variability in retail gas prices is due to fluctuations in crude oil prices, refining costs and profit margins – not taxes. ARTBA finished by saying, "If the concern is that there will be voter backlash caused by an increase in the price they pay for gasoline resulting from a modest gas tax increase, our research of what actually happens in the marketplace shows that would likely not be the case."