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Broward Metropolitan Planning Organization Federal Update November 2014

Holland & Knight Visits Broward to Meet with Board Members: On November 12-13, representatives from Holland and Knight (H&K) traveled to Broward to meet with and present to the board a federal legislative report. H&K discussed the policies the board should be advocating for in its federal agenda. H&K also presented an overview of the midterm elections, what to expect in the lame duck session, and an outlook for the upcoming 114th Congress. H&K also toured various projects that are on the MPO's priorities list including the WAVE Streetcar. H&K also met with board members and city representatives from the cities of Hollywood & Ft. Lauderdale and the town of Hillsboro to discuss their transportation initiatives and how they align with the board's federal policy.

Republicans Take Control in Senate and Retain House Majority During Midterm Election: The midterm elections provided sweeping gains for the Republican party, and Republicans now control both chambers in Congress. In the House, with five races still undecided, the balance of power is 244 Republicans to 186 Democrats. By comparison, during the 113th Congress, there were 233 Republicans and 199 Democrats in the House.

In the Senate, Republicans have recaptured the majority from Democrats, which means that leadership positions and committee assignments will now transition. After the election, Republicans will control 53 seats, while Democrats control roughly 44 seats and two independents will also caucus with Senate Democrats. The exact margin of control will not be known until December 6 due to a runoff election in Louisiana between incumbent Senator Mary Landrieu (D) and Bill Cassidy (R).

Appropriations Update: With the conclusion of the November midterm elections, Congress has now turned to FY 2015 appropriations during the lame-duck session. The current continuing resolution to keep the federal government funded will expire on December 11, 2014. The House Appropriations Committee has indicated that an omnibus spending bill will be released the week of December 8, 2014.

One potential outcome includes consideration of an omnibus measure containing the seven appropriations bills already passed in the House, combined with a continuing resolution for the remaining bills until a compromise can be reached. Reportedly, some more conservative members within the Republican party are pushing for a short-term CR until sometime next year, allowing Congress to consider any appropriations measures with Republican majorities in both the House and Senate. However, the latest rumors circulating are pointing to an omnibus measure that encompasses eleven out of the twelve appropriations bills, with the exception of

homeland security appropriations bill so that Congress will have more leverage when deciding the fate of immigration reform.

Earlier this month, President Obama announced executive actions aimed at stemming illegal immigration in the absence of comprehensive legislation. Several members of Congress have been staunchly opposed to the President's actions, and have expressed concern that the executive actions would create further obstacles during the appropriations process.

OMB Publishes Fall 2014 Unified Agenda of Federal Regulatory and Deregulatory Actions: The White House Office of Management and Budget (OMB) has published its Fall 2014 Unified Agenda of Federal Regulatory and Deregulatory Actions across the administration. The Unified Agenda provides clarification and insight into the regulations that the federal government is considering for review. According to the White House Office of Information and Regulatory Affairs (OIRA), the Unified Agenda and Regulatory Plan are "preliminary statements of regulatory and deregulatory policies and priorities under consideration." It is important to note that while this lays out plans for the various federal agencies, the list also contains rules that agencies may not issue in the coming year as priorities shift. Among the key priorities listed in the plan, the Department of Transportation has identified several regulations such as enhanced tank car standards for high-hazard flammable trains and a proposed rule for train crew staffing.

House Committee Chairman and Ranking Member Positions Announced: Following the November elections, both Republicans and Democrats in the House announced their chairman and ranking member selections for the various committees. For the House Committee on Transportation and Infrastructure, Congressman Bill Shuster (R-Penn.) will remain the committee's chairman, while Representative Peter DeFazio (D-Ore.) will replace Congressman Nick Rahall (D-W.V.) as ranking member. Representative Rahall lost his seat during the midterm election. Congressman DeFazio has served in Congress since 1987.

In the House Appropriations Committee, Congressman Hal Rogers (R-Ky.) will remain the full committee chair, while Congresswoman Nita Lowey (D-N.Y.) will remain ranking member. However, Congressman Mario Diaz-Balart (R-Fla.) will take over the gavel on the House Appropriations Transportation, Housing and Urban Development (THUD) Subcommittee, after Chairman Tom Latham (R-Iowa) retires. THUD Subcommittee Ranking Member Congressman Ed Pastor (D-Ariz.) will also retire at the end of the 113th Congress, but Democrats have not yet named the next ranking member.

Senate Banking Committee Approves Therese McMillan as FTA Administrator: On November 19, the Senate Banking, Housing and Urban Affairs Committee approved the nomination of Therese McMillan to serve as administrator of the Federal Transit Administration (FTA). Following committee approval, the full Senate will now need to act on her confirmation. While an exact date for when the vote might occur is unclear, it is increasingly possible that her nomination will be considered before the end of the year. Ms. McMillan currently serves as acting administrator of the FTA. She succeeds Peter Rogoff, who is now Under Secretary for Policy at the Department of Transportation. Prior to joining FTA, Therese McMillan worked for the San Francisco Bay Area Region's Metropolitan Transportation Commission.

Representatives Earl Blumenauer and Jim McGovern Advocate Commuter Tax Parity: During a November 12 press conference, Representatives Earl Blumenauer (D-Ore.) and Jim McGovern (D-Mass.) called on Congress to revise existing tax benefits for commuter parking and transit to be more comparable to one another. Currently, drivers are entitled to \$250 per month in pre-tax benefits, while public transit commuters only receive \$130. According to the Joint Committee on Taxation, lowering parking benefits to \$235 per month and raising transit benefits to the same level could potentially save the federal government nearly \$131 million over ten years. In 2013, Representative Michael Grimm (R-N.Y.) introduced legislation that would make similar changes to the existing law, although the legislation has since remained stuck in committee.

Tax Extenders Proposal Includes Mass Transit and Parking Benefits: As Congress negotiates legislation to extend a series of tax breaks that are scheduled to expire on December 31, 2014, legislators have managed to include language that would retroactively extend mass transit benefits for commuters. Under the commuter tax benefit, employers were able to provide up to \$245 in tax free transit benefits per month. However, this temporary boost expired at the end of 2012 and the commuter tax benefits reverted back to their original amounts. The language included in the latest tax package extends the deadline by one year to December 31, 2014 which makes the benefit retroactive but unusable by transit users since employers have no way of reaching back in time to provide the benefits. According to the Joint Committee on Taxation, this particular benefit reduces federal revenues by approximately \$5 billion per year. Still, Congressman Blumenauer was one member of Congress who was disappointed by the inclusion, saying: “Though I welcome the inclusion of the transit provisions, I am deeply disappointed that Congress has failed to act until now. This step comes too late in the year to benefit most people in any significant way because it will only apply to these closing weeks of 2014.”

Secretary Foxx Urges States to Pressure Congress on Long-Term Reauthorization: This month, Department of Transportation (DOT) Secretary Anthony Foxx urged states to put additional pressure on Congress to pass a long-term transportation reauthorization bill. In a blog posting on the DOT website, Secretary said, “It’s not that Congress can’t pass a long-term bill,” he said. “It’s that they think they don’t have to. They think that as long as they approve level funding in a short-term patch, states and communities will be happy.”

Secretary Foxx criticized Congress for taking so long to pass a new reauthorization bill after SAFETEA-LU expired in 2009, and then MAP-21 in 2014. No indication has yet to emerge on whether or not Congress will consider any transportation reauthorization legislation in the near future; although it is highly unlikely given that the current temporary extension is slated to last through May 2015.

Federal Railroad Administration Issues Safety Advisory on Roadway Worker Authority Limits: On November 25, the Federal Railroad Administration (FRA) issued a safety advisory that underscored the need for railroads to ensure that redundant safety measures are in place to protect railroad workers who fail to comply with existing rules and procedures. According to the advisory, the FRA is asking railroads to: (1) increase monitoring of their employees for compliance; (2) examine existing systems, rules, and procedures to ensure safety redundancies are in place; and (3) in cases where those safety measures are not in place, to adopt electronic technology to provide the appropriate level of safety for workers. The FRA specifically notes

that Positive Train Control is one such system that could be used to enhance safety, and that its use would have prevented certain accidents that have already occurred. Secretary Foxx added, "Clear communication is critical to keeping employees out of harm's way. I want railway workers to return home safely to their families after their shift and it is the responsibility of the railroads and their employees to keep the work environment as safe as possible."

However, Senator Richard Blumenthal (D-Conn.) criticized the FRA, saying the advisory is too weak to bring about any real change: "After years of inexplicable delay and inexcusable foot-dragging in failing to mandate life-saving redundant signal technology, the FRA has issued an anemic advisory devoid of any real teeth or substance." FRA Administrator Joseph Szabo responded by saying that the advisory is "an interim step" in the right direction.

President Obama Announces Tighter EPA Ozone Regulations: On November 25, President Obama and the Environmental Protection Agency (EPA) officially announced a proposed rule that seeks to tighten the restrictions on National Ambient Air Quality Standards (NAAQS) for ground-level ozone to a level within the range of 0.065 to 0.070 ppm. The current standard is set at a level of 0.075 ppm, which was last set in 2008 under President George W. Bush. Among the proposed rule's key provisions, the EPA plans to:

- revise the eight-hour primary standard to a level within the range of 0.065 to 0.070 ppm
- revise the secondary standard regarding vegetation-related effects to a level within the range of 0.065 to 0.070 ppm, defined in terms of the seasonal W126 Index averaged over three years
- issue guidance to assist areas with implementation within one year after the final standards are published
- make attainment/nonattainment designations for revised standards by October 2017, likely based on 2014-2016 air quality data; states with nonattainment areas would have until 2020 to late 2037 to meet the proposed health standard

In addition to the proposed regulations, the EPA issued an anticipated timeline for making area designations under the revised standards:

- **By October 1, 2016** – States recommend the designation for all areas of the state. The EPA will update the designations guidance to assist with the process.
- **By June 1, 2017** – The EPA responds to state recommendations and identifies where the agency intends to modify them.
- **By October 1, 2017** – The EPA issues final area designations, likely based on 2014-2016 air quality data.
- **2020 to 2021** – States complete implementation plans, outlining how they will reduce pollution to meet revised standards.
- **2020 to 2037** – States are required to meet primary health standard, with varying deadlines depending on severity.

The agency is accepting public comments on the proposed regulations for 90 days. Furthermore, the EPA is also soliciting public comments on alternative standards at levels below 0.065 ppm, and as low as 0.060 ppm, although this level was not included in the proposed rule "because of increasing uncertainty in the scientific evidence at lower ozone concentrations."

According to the EPA, meeting the new standards will yield "significant health benefits" valued at between \$6.4 billion and \$13 billion annually in 2025 under the new standard of 0.070 ppm. Under a tighter 0.065 ppm standard, that number increases to between \$19 billion and \$38 billion annually in 2025. Significant health benefits are defined as avoiding asthma attacks, heart attacks, missed school days and premature deaths, among other qualifications.

The agency plans to make its final designations for states under the new regulations by October 1, 2017. States will then have until 2020 (relative to 2012 levels) to submit their implementation plans to the agency, outlining how they will reduce their pollution to meet the more stringent standards.