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LEGISLATIVE Alert

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION



December 7, 2010

Lame Duck Congress Continues to Work on Tax Legislation – Extensions of Alternative Fuels Credit and Commuter Benefits Still Under Consideration – Immediate Action Needed!

Today, the Obama Administration and Republican negotiators announced they have reached a deal in principle on legislation to extend for two years expiring tax cuts for individuals that were originally enacted in 2001 and 2003. The deal, if approved by the full Congress, would extend tax cuts for all individuals, regardless of income level, and extend expiring unemployment benefits for 13 months. The full details of the package still need to be worked out in the Senate, and it is unclear whether there will be enough votes to pass the negotiated bill because many Democrats believe the tax cuts should be extended only for individuals earning less than \$200,000 per year and families earning less than \$250,000 per year.

As part of the negotiations, Congress will decide whether to add a package of tax extenders that includes an extension of the alternative fuels tax credit for transit vehicles, which expired at the end of 2009. In addition, a proposal to extend the commuter tax benefit to provide parity with the parking tax benefit is under consideration. The commuter tax benefit was raised to \$230 per month under the American Recovery and Reinvestment Act last year. This provision expires on December 31 of this year, and if it is not extended, would revert back to its previous level of \$120 per month. Supporters of these provisions in both the House and Senate have continued to push to include these important tax provisions in the final bill. Both provisions were approved earlier this year by both Houses of Congress in different tax packages, but eventually dropped out.

Late last week, Senate Finance Committee Chairman Max Baucus (D-MT) attempted to add a large package of tax credits and benefits, including the alternative fuels tax credit and the commuter tax benefit, to an earlier version of the tax bill. This attempt was unsuccessful. However, there is still an opportunity to add these provisions to the new tax package currently under negotiation. It is critical for APTA members to contact their members of Congress and urge them to support the inclusion of the alternative fuels tax credit and the commuter tax benefit in the final tax package.

Action Alert

When you speak to your members or staff, please urge the following:

- Ask them to support the addition of the alternative fuels tax credit and the commuter tax benefit in the final tax package.
- Ask them to contact key negotiators and urge them to accept those provisions in the final package. These negotiators are Senators Max Baucus (D-MT) and John Kyl (R-AZ) and Representatives Dave Camp (R-MI) and Chris Van Hollen (D-MD).
- Explain how important these tax credits are for your operating budgets and for commuters who use your service.

For more information, contact Paul Dean at (202) 496-4887 or email pdean@apta.com.

Congress Passes Continuing Resolution for Appropriations Through December 18; SAFETEA-LU Extension Still Under Negotiation

Last week, Congress enacted another short-term Continuing Resolution (CR) for Fiscal Year (FY) 2011 Appropriations, which will fund federal programs through December 18. This bill extends funding for all federal programs, including public transportation programs, for another two weeks. The CR was necessary because the FY 2011 appropriations bills were not enacted by the beginning of the fiscal year on October 1, and more time is needed to complete these spending bills.

This week, the House is expected to enact a one-year CR that would fund the government at FY 2010 levels, with some minor changes. Senate Appropriators have indicated that they may attempt to substitute a full omnibus appropriations bill for the CR, which could contain modest increases over FY 2010 levels. As the assumed last action before adjournment, the omnibus would be the vehicle carrying any other last-minute compromise deals. It is not clear at this time whether there will be sufficient votes to enact the full FY 2011 Appropriations Omnibus. If not, the Congress must decide to either enact a short term CR to extend spending into early next year, or a long term CR, which will allow spending at FY 2010 levels through the end of FY 2011.

On December 31, the most recent extension to the Safe, Accountable, Flexible, Equity Act: A Legacy for Users (SAFETEA-LU) will expire. The length of the next extension is under negotiation. Senate leaders and current Transportation and Infrastructure Committee Chairman Jim Oberstar favor a longer 9 month extension. Incoming Transportation and Infrastructure Committee Chairman John Mica (R-FL) has expressed a preference for an extension that would keep the pressure on Congress to approve a new, long-term authorization as early as possible next year.

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Legislation Introduced to Raise the Railroad Liability Cap; APTA Expresses Strong Opposition

Representative Elton Gallegly (R-CA) and Senator Dianne Feinstein (D-CA) have introduced legislation to retroactively raise the limit on liability for passenger rail accidents for rail operators from \$200 to \$500 million. The bill would retroactively apply to the Metrolink accident in Chatsworth, CA, that occurred in 2008. The legislation would also set annual adjustments to the cap based on fluctuations in the Consumer Price Index (CPI).

APTA has written a letter expressing its opposition to the legislation, which can be found [here](#). The proposed changes to the liability cap would raise the cost of insurance for passenger rail operators to unsustainable levels. In addition, it is uncertain whether this level of liability insurance would be available for passenger rail operators. The prohibitive price of insurance would make it extremely difficult for new operators to start service, and force existing operators either to limit service, or divert funds from critical infrastructure maintenance.

For more information, contact Paul Dean at (202) 496-4887 or email pdean@apta.com.