APTA

LEGISLATIVE Update

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

October 1, 2010

Congress Adjourns for Elections after Passing Continuing Resolution for Appropriations- Many Issues Remain Unresolved

On September 30, Congress enacted a continuing resolution (CR) to fund the federal government through December 3. The CR was required because Congress failed to enact any of the Fiscal Year (FY) 2011 appropriations bills prior the start of the 2011 fiscal year on October 1. The CR provides funds for all Department of Transportation (DOT) programs, including transit, passenger rail and security programs, through December 3, at FY 2010 levels.

Immediately after passage of the CR, Congress adjourned until after the November elections. Both the U.S. House of Representatives and the Senate are expected to return for a “lame duck” session on November 15 to continue consideration of the unfinished FY 2011 appropriations bills. Congress must also further extend current surface transportation authorizing law, which expires on December 31, during the lame duck session.

Prior to the August district work session, the House of Representatives passed its version of the FY 2011 Transportation, Housing and Urban Development and Related Agencies (THUD) appropriations bill with a total Federal Transit Administration (FTA) budget authority of $11.31 billion, an increase of $574.89 million over FY 2010 funding levels. Of this total, $8.96 billion is provided for Formula and Bus programs. However, Congress will be required to enact future authorization legislation to expand the contract authority for FTA programs to fund most of the increased amount.

The Senate bill, which was approved by the full Appropriations Committee, provides $10.8 billion for FTA programs. A detailed breakdown and analysis of the House and Senate bills can be found APTA’s July 23, 2010’s Legislative Alert here. The chart from this alert is reprinted here for your reference.

APTA members are urged to contact their members of Congress and ask them to support final passage of THUD legislation during the lame duck session containing the higher House-passed funding levels.

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

Fiscal Year 2011 Transportation Budget Request Comparison

Program	FY 2010 Enacted (Millions)	FY 2011 Administration Request (Millions)	FY 2011 House Appropriations Bill (Millions)	FY 2011 Senate Appropriations Bill (Millions)
Total New Budget Authority All FTA Programs	10,730.8	10,799.5	11,307.4	
Formula Programs Total[1]	8,343.2	8,271.7	8,961.4	8,361.0
Livable Communities Initiative[2]	0.0	306.9	[306.9]	[306.9]
Energy Efficiency/Greenhouse Gas Reduction (TIGGER)	0.0	52.7	0.0	100.0
New Starts/Small Starts	1,998.0	1.822.1	2,000.0	2,000.0

National Research and Technology / Research and University Research Centers	65.7	29.7	65.4	
Technical Assistance and Workforce Development	0.0	28.6	0.0	
FTA Operations	98.9	113.6	130.7	
Rail Transit Safety Oversight	0.0	24.1	0.0[3]	5.0
WMATA Preventive Maintenance and Capital[4]	150.0	150.0	150.0	150.0
Federal Railroad Administration				
High Speed and Intercity Passenger Rail	2,500.0	1,000.0	1,400.0	1,000.0
Amtrak Operating Grants	563.0	563.0	563.0	563.0
Amtrak Capital and Debt Service	1,001.6	1,005.2	1,203.5	1,400.0
Positive Train Control	50.0	0.0	75.0	150.0
Office of the Secretary of Transportation				
National Infrastructure Innovation and Finance Fund	0.0	4,000.0	0.0	0.0
Livable Communities	0.0	20.0	20.0	
National Infrastructure Investments (TIGER)	600.0	0.0	400.0	800.0

[1] A program-by-program breakdown is not yet available

[2] Includes Jobs Access and Reverse Commute, Alternatives Analysis, and Planning Activities

[3] Funding for Rail Transit Safety Oversight is included in the amount provided for FTA operations, contingent on enactment of rail safety authorizing legislation

[4] Funds separately authorized under the Passenger Rail Investment and Improvement Act of 2008

Alternative Fuels (CNG/LNG) Tax Credit Legislation Still Pending

On December 31, 2009, the federal excise tax credit for alternative fuels and alternative fueling infrastructure expired. Under the provision, transit operators who utilize alternative fuels, including compressed natural gas (CNG) and liquid natural gas (LNG) were eligible for a 50 cent per gallon equivalent tax credit. This tax credit is an important source of revenue for many public transportation agencies that utilize natural gas for a portion or all of their fleet fueling needs. APTA supports the retroactive extension of this credit and also the permanent extension of the credit as embodied in the New Alternative Transportation to Give Americans Solutions Act of 2009 (NAT GAS Act -- H.R.1835/S.1408).

Over the past few months, several attempts have been made to pass a retroactive extension of the alternative fuels tax credit refund in the House and Senate as part of a larger package of expiring tax provisions referred to as “tax extenders” legislation. However, attempts to add the tax extenders legislation to different bills have fallen short over objections to the additional cost of these tax expenditures to the federal government. While many in Congress support both the natural gas tax credits and other tax extenders, it is unclear whether Congress will consider another tax bill this year. Congressional leaders have indicated that they may take up legislation to extend expiring tax cuts during the lame duck session, which may provide an additional opportunity to enact the alternative fuels tax credit.

Transit agencies should urge their congressional delegations to support passage of a retroactive extension of the tax credit for calendar year 2010. They should ask their Senators to co-sponsor S. 1408 which would extend through 2019 the 50 cent per gasoline gallon equivalent (gge) tax credit for natural gas (both CNG and LNG), and ask their Representatives to cosponsor H.R. 1835 which would extend the credit through 2027.

For more information, contact Brian Tynan at (202) 496-4897 or email btynan@apta.com.

Transit Commuter Benefits Set to Expire at Year-End, Action Needed!

The American Reinvestment and Recovery Act (ARRA) contained an important provision that created temporary parity between parking and transit/vanpool commuter tax benefits in the Internal Revenue Code. Before passage of ARRA, employers could offer their employees an up to $230 per month in pre-tax parking benefits and/ or $120 per month in pre-tax transit/vanpool benefits. Under ARRA, the transit/vanpool portion of the benefit was increased to $230 per month, treating each mode of transportation as equal. This provision is set to expire on December 31, 2010, and without an extension, the transit tax benefit would be reduced by more than half to the previous $120 per month amount. It is essential that Congress pass legislation during the lame duck session to either extend the higher commuter tax benefit contained in ARRA, or to permanently equalize the transit benefit and parking benefit.

APTA members are urged to contact their Representatives and Senators and urge them to extend and make permanent the parity between the Parking and Transit Commuter Benefits. When you talk to your member of Congress, please explain the following:

• Explain that federal tax law on transportation fringe benefits should treat both transit and parking equally.

• Tell them that failure to extend the commuter benefit will effectively raise taxes on participating transit riders and employers at a time when we should be encouraging transit ridership for the environmental, energy, economic, and quality of life benefits it provides.

For more information, contact Brian Tynan at (202) 496-4897 or btynan@apta.com.

Legislation Introduced to Change Buy America Waivers

In late July, Representative John Garamendi (D-CA) introduced H.R. 5791, the "Buses, Rail Cars, Ferryboats: Make it in America Act of 2010" to promote domestic manufacturing in the transit sector. The current version of the legislation proposes the following changes to "Buy America" waivers:

• Increases the 60 percent domestic content requirement for the transit rolling stock waiver (including train control, communication, and traction power equipment) under the following schedule:

- 60 percent until October 1, 2011
- 70 percent starting October 1, 2011
- 80 percent starting October 1, 2012
- 90 percent starting October 1, 2013
- 100 percent on or after October 1, 2015

• Eliminates the "public interest" waiver;
• Retains the "non-availability" waiver;
• Retains the waiver for purchases in which product that is compliant with "Buy America" costs 25 percent more than a non-compliant product;
• Requires a detailed written justification by FTA for all waivers, including non-availability waivers.

APTA does not support changes to the current Buy America requirements and waivers. While it is very unlikely that H.R. 5791 will be considered further this year, the House Committee on Transportation and Infrastructure has requested information from APTA on how changes to "Buy America" rules would affect the transit industry. Separately, U.S. DOT leaders have expressed interest in possible changes to "Buy America" rules in an authorization bill. APTA is currently gathering information from its members on how changes to "Buy America" rules would affect their companies.

For more information, contact Homer Carlisle at (202) 496-4810 or email hcarlisle@apta.com.

Bill Introduced to Raise Passenger Rail Liability Cap

On September 16, Representative Elton Gallegly (R-CA) introduced legislation (H.R. 6150) that would raise the limit on liability for passenger rail accidents for rail operators from $200 to $500 million. The legislation would apply retroactively to cover the Metrolink accident in Chatsworth, California in 2008. Many of the victims of the Chatsworth crash were residents of Representative Gallegly's district. The legislation is co-sponsored by 14 other representatives, most of whom are from California. The legislation would also allow annual adjustments to the cap based on fluctuations in the Consumer Price Index.

APTA has written a letter to Representative Gallegly opposing this legislation. 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 reduce service, or divert funds from critical infrastructure maintenance. To view the letter, click here.

APTA members should contact their members of Congress and express opposition to any changes in the passenger rail liability cap. When you talk to your member of Congress, please explain the following:

• Increases in the passenger rail liability cap will significantly raise insurance premiums for rail operators, which could lead to service reductions, fare increases, or even the discontinuation of service.

• Higher insurance premiums could serve to prevent the new passenger rail service.

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

Transit Safety Legislation

Legislation to grant transit safety oversight authority to the federal government has not advanced in Congress. On July 22, 2010, Senate Banking Committee Chairman Chris Dodd, (D-CT) and Ranking Member Richard Shelby (R-AL) introduced the "Public Transportation Safety Act of 2010" (S.3638). This bill was based on an earlier proposal by the Obama Administration, but makes a number of key changes. This Senate legislation would provide authority to the Secretary of the Department of Transportation to develop and enforce safety standards and regulations for all transit operations and equipment. In addition, the legislation would enhance State Safety Oversight Agencies and give them the authority to implement and enforce standards for rail transit systems. The legislation would require all transit systems to develop an annual safety plan and to implement an asset management program.

A draft version of legislation was marked-up by the Senate Banking Committee in late June. However, a "hold" was placed on the bill by Senator James Coburn (R-OK) over objections to its cost and expansion of federal powers. The "hold" on the bill prevented further consideration the Senate floor. At this time, it is not likely the legislation will receive further consideration this year. However there remains strong interest in Congress to regulate transit safety, so it is likely this issue will continue to be debated into the next session. APTA has worked closely with the Senate Banking Committee and the House Transportation and Infrastructure Committee to ensure that our positions are reflected in the bill. To view a side-by-side comparison of the Administration's proposal, the Senate bill, and APTA's positions, click here.

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