



BIPARTISAN INFRASTRUCTURE LAW
SECTION-BY-SECTION ANALYSIS OF THE PUBLIC TRANSIT PROVISIONS
OF THE INFRASTRUCTURE INVESTMENT AND JOBS ACT (P.L. 117-58)
January 1, 2022

Division C – Transit

Sec. 30001. Definitions.

- Amends 49 U.S.C. § 5302 (Definitions) to add a definition of “assault on a transit worker”.
- Adds “technology to fuel a zero-emission vehicle” to the definition of “capital project”. For a joint development project, requires that, if equipment to fuel privately owned zero-emission cars is installed, the public transit agency shall collect fees to recover the costs of construction, maintenance, and operation of the equipment.

Sec. 30002. Metropolitan Transportation Planning.

- Amends 49 U.S.C. § 5303 (Metropolitan Transportation Planning) to provide that it is in the national interest to encourage and promote resilient surface transportation systems that “better connect housing and employment” to the list of national policy objectives.
- Adds “affordable housing organizations” to the list of interested parties that Metropolitan Planning Organizations (MPOs) must provide a reasonable opportunity to comment on the metropolitan transportation plan.
- Requires the metropolitan planning process to provide for consideration of projects and strategies that will promote consistency between transportation improvements and housing.
- Authorizes the metropolitan planning process of an MPO serving a Transportation Management Area (TMA) to address the integration of housing, transportation, and economic development strategies through a process that provides for effective integration of new and existing surface transportation facilities.
- Authorizes an MPO serving a TMA to develop a housing coordination plan that includes projects and strategies that may be considered in the metropolitan transportation plan.
- Requires an MPO serving a TMA, in designating local officials for the first time, to consider equitable and proportional representation of the population of the metropolitan planning area.

- If more than one MPO is designated within an urbanized area, requires the MPOs to ensure the consistency of any data used in the planning process, including information used in forecasting travel demand. Nothing in this subsection requires MPOs within a single urbanized area to jointly develop planning documents, including a unified long-range transportation plan or unified Transportation Improvement Program (TIP).
- Authorizes the use of social media and other web-based tools to encourage public participation and solicit public feedback during the transportation planning process.

Sec. 30003. Statewide and Nonmetropolitan Transportation Planning.

- Amends 49 U.S.C. § 5304 (Statewide and Nonmetropolitan Transportation Planning) to authorize the use of social media and other web-based tools to encourage public participation and solicit public feedback during the transportation planning process.

Sec. 30004. Planning Programs.

- Amends 49 U.S.C. § 5305 (Planning Programs) to authorize a federal share greater than 80 percent for metropolitan and state planning.
- Requires a federal share of at least 90 percent for an activity that assists parts of an urbanized area or rural area with lower population density or lower average income levels compared to the area or an adjoining area. This section requires the state or MPO to report to the Secretary of Transportation (Secretary) how the increased federal share benefits commuting and other essential travel in the area with lower population density or lower average income levels.

Sec. 30005. Fixed Guideway Capital Investment Grants.

Capital Investment Grant (CIG) Project Eligibility

- Amends 49 U.S.C. § 5309 (Fixed Guideway Capital Investment Grants) and § 3005(b) of the FAST Act (P.L. 114-94) (Expedited Project Delivery for Capital Investment Grants Pilot Program) to change the definition of “small start project” to increase the CIG limitation from \$100 million to \$150 million and the total estimated net capital cost limitation from \$300 million to \$400 million.
- Extends the time period for a Core Capacity project to be projected to be over capacity from five years to 10 years (without regard to any temporary measures to increase short-term capacity within the next 10 years).

CIG Requirements and Review Process

- Requires the Secretary to determine that the CIG applicant has made progress toward meeting the applicant's Transit Asset Management (TAM) performance targets (49 U.S.C. § 5326(c)(2)).
- Expands the authority of the Secretary to use special warrants for making a project justification determination for a New Start or Core Capacity project by striking the requirement that the cost of the project not exceed \$100 million.
- Strikes the programs of interrelated projects subsection and inserts a new project bundling subsection allowing an applicant to submit a letter to the Secretary requesting entry of a project into project development, and authorizes the application to include a description of other projects for consideration for immediate or future funding.
- For a project bundling request, requires the:
 - request to include the amount of funding requested (and proposed federal share) for each additional project and the estimated capital cost of each project;
 - other projects to be in the metropolitan transportation plan and ready to enter project development within five years of initial project submission;
 - bundling of projects to enhance or increase the capacity of the total transportation system and streamline procurements or enable time or cost savings for the projects;
 - additional project(s) to meet the CIG evaluation criteria for the project type (i.e., new starts, core capacity, or small starts);
 - projects to be carried out through a Full Funding Grant Agreement (FFGA) or other grant agreement, as applicable.
- Decreases the required period of notification to Congress from 30 days to 15 days before issuing a letter of intent, entering into a Full Funding Grant Agreement (FFGA), or entering into an early systems work agreement.
- Strikes the specific requirement of a Before and After Study and the U.S. Department of Transportation (DOT) report on Before and After Studies. Requires the Government Accountability Office biennial review to assess the:
 - impacts of the projects on public transportation services and ridership;
 - consistency of predicted and actual benefits and costs of the innovative project development and delivery methods (or innovative financing) of the projects; and
 - reasons for any differences between predicted and actual outcomes for the projects.
- Requires the Secretary to provide full and fair consideration to projects that seek an updated CIG project rating after a period of inactivity following an earlier rating and evaluation.

CIG Dashboard

- Requires the Secretary to establish a publicly available CIG Dashboard on the DOT website containing specific information for each project seeking a grant agreement, including the dates of requests to the Federal Transit Administration (FTA), such as the date on which a Letter of No Prejudice or updated ratings were requested. This section requires the Secretary to update the Dashboard information at least monthly.

Sec. 30006. Formula Grants for Rural Areas.

- Amends 49 U.S.C. § 5311 (Formula Grants for Rural Areas) to change the apportionment formula to require that the Secretary apportion five percent of § 5311 funds for Public Transportation for Indian Reservations and three percent of funds for the Appalachian Development Public Transportation Assistance program.
- Requires that the Secretary apportion 80 percent of funds for Public Transportation for Indian Reservations by formula and 20 percent on a competitive basis.

Sec. 30007. Public Transportation Innovation.

- Amends 49 U.S.C. § 5312 (Public Transportation Innovation) to require the annual report on research to include an evaluation of each project that received funding during the preceding fiscal year and a strategic research roadmap proposal for allocations of § 5312 funding for the current and subsequent fiscal year, including anticipated work areas, proposed demonstrations, and strategic partnership opportunities. This section requires the Secretary to update the information quarterly and encourages the Secretary to develop long-range research plans.
- Authorizes a federal share greater than 80 percent if there is a substantial public interest or benefit.
- Requires FTA to establish and implement a program to promote and deploy advanced digital construction management systems, best practices, and training.
- Authorizes the institution(s) of higher education conducting low or no emission vehicle component assessments to conduct directed technology research and use funds for capital projects and equipment related to testing low or no emission vehicle components.

Sec. 30008. Bus Testing Facilities.

- Amends 49 U.S.C. § 5318 (Bus Testing Facility) to authorize the use of funds for the acquisition of equipment and capital projects related to testing new bus models.

Sec. 30009. Transit-Oriented Development.

- Amends § 20005(b) of MAP-21 (P.L. 112-141) (Pilot Program for Transit-Oriented Development) to authorize grants for site-specific planning associated with a New Start or Core Capacity project.

Sec. 30010. General Provisions.

- Amends 49 U.S.C. § 5323(u) (General Provisions; Limitation on Certain Rolling Stock Procurements) to provide that the term “otherwise related legally or financially” does not include a relationship with or investment in a subsidiary, joint venture, or other entity based in China that does not export rolling stock or components of rolling stock for use in the United States.

Sec. 30011. Public Transportation Emergency Relief Program.

- Amends 49 U.S.C. § 5324 (Public Transportation Emergency Relief Program) to require that an applicant submit to the Secretary documentation demonstrating proof of insurance required under federal law for all structures related to the grant application and certify that the applicant has insurance required under state law for all structures related to the grant application.

Sec. 30012. Public Transportation Safety Program.

National Public Transportation Safety Plan

- Amends 49 U.S.C. § 5329 (Public Transportation Safety Program) to require that the national public transportation safety plan include:
 - for § 5307 recipients serving an urbanized area of 200,000 or more (large urbanized area), safety performance measures for all modes of transportation (including measures related to the risk reduction program for transit operations);
 - minimum safety performance standards for public transportation vehicles that take into consideration innovations in driver assistance technologies and driver protection infrastructure, where appropriate, and a reduction of visibility impairments that contribute to pedestrian fatalities;
 - in consultation with the Secretary of Health and Human Services, precautionary and reactive actions required to ensure public and personnel safety and health during an emergency (as defined in 49 U.S.C. § 5324(a)); and
 - consideration, where appropriate, of performance-based and risk-based methodologies.

Requires FTA to update the national public transportation safety plan as necessary with respect to § 5307 recipients that serve a large urbanized area.

Public Transportation Agency Safety Plan

- Requires that the public transportation agency safety plan be consistent with guidelines of the Centers for Disease Control and Prevention or a state health authority, and include strategies to minimize exposure to infectious diseases.
- *For § 5307 recipients that serve an urbanized area of fewer than 200,000 people (small urbanized area),* requires that the agency safety plan be developed in cooperation with frontline employee representatives.
- *For § 5307 recipients that serve a large urbanized area,* requires the agency to:
 - Establish a safety committee that is:
 - convened by a joint labor-management process;
 - consists of an equal number of frontline employee representatives (selected by a labor organization) and management representatives;
 - required to establish performance targets for the risk reduction program using a three-year rolling average of National Transit Database (NTD) data;
 - has responsibility for identifying and recommending risk-based mitigations and strategies necessary to reduce the likelihood and severity of consequences identified through the agency's safety risk assessment; and
 - required to approve the agency safety plan or any updates to it.
 - Adopt safety performance measures established under the national public transportation safety plan.
 - Develop a comprehensive safety training program for the operations and maintenance personnel that includes safety training, continuing safety education and training, and de-escalation training.
 - Develop a risk reduction program for transit operations to improve safety by reducing the number and rates of accidents, injuries, and assaults on transit workers based on data submitted to the NTD, including a reduction of vehicular and pedestrian accidents involving buses that include measures to reduce visibility impairments for bus operators and the mitigation of assaults on transit workers.
 - Allocates not less than 0.75 percent of § 5307 funds to safety-related projects. If a recipient does not meet its performance targets, requires the recipient to allocate these funds to meet the performance targets, including modifications to rolling stock and de-escalation training.

State Safety Oversight Agencies

- Provides inspection authority to State Safety Oversight Agencies (SSOAs).
- Requires the State Safety Oversight (SSO) program to provide SSOAs with the authority and capability to enter the facilities of each rail fixed guideway system to inspect infrastructure, equipment, records, personnel, and data.
- Requires rail fixed guideway systems to provide SSOAs with the data that the public transit agencies collect when identifying and evaluating safety risks.
- Requires SSOAs, in consultation with rail fixed guideway transit systems, to establish policies and procedures:
 - regarding access to conduct inspections of rail fixed guideway transit systems, including inspections without advance notice; and
 - for collecting data from the public transit agencies on identifying and evaluating safety risks (including the frequency of data collection).

Requires the policies and procedures to be incorporated into the SSO program standard under 49 C.F.R. § 674.27 and the public transportation safety plan.

- Requires the Secretary to develop and disseminate to SSOAs the process and methodology that the Secretary will use to monitor the effectiveness of enforcement authorities and practices of SSOAs.
- Requires the Secretary to ensure that the:
 - inspection practices of the SSOA are commensurate with the number, size, and complexity of the rail fixed guideway systems that the SSOA oversees;
 - inspection program is risk-based; and
 - SSOA has sufficient resources to conduct inspections.
- Requires the Secretary, within one year of the date of enactment, to issue a special directive to each SSOA on the development and implementation of risk-based inspection programs. Authorizes the SSOA inspection authority two years after the date that the Secretary issues the special directive.

Sec. 30013. Administrative Provisions.

- Amends 49 U.S.C. § 5334 (Administrative Provisions) to authorize the disposal of rolling stock, equipment, and supplies under the following terms:
 - With a fair market value of \$5,000 or less, rolling stock, equipment, and supplies may be retained, sold, or disposed of at the end of service life with no obligation to reimburse FTA; and

- With a fair market value of more than \$5,000, rolling stock, equipment, and supplies may be retained or sold at the end of service life; if sold, the recipient shall retain \$5,000 plus a percentage of the remaining proceeds (equal to the non-federal share of the original purchase).

Sec. 30014. National Transit Database.

- Amends 49 U.S.C. § 5335 (National Transit Database) to require the Secretary to collect “geographic service area coverage” information.
- Requires grant recipients to report to the NTD any data on assaults on transit workers and any data on fatalities that result from an impact with a bus.

Sec. 30015. Apportionment of Appropriations for Formula Grants.

- Amends 49 U.S.C. § 5336 (Apportionment of Appropriations for Formula Grants) to increase the set-aside for Small Transit Intensive Cities (STIC) from two percent to three percent.
- Increases the set-aside for State Safety Oversight Program grants from 0.50 percent to 0.75 percent beginning in FY 2022.

Sec. 30016. State of Good Repair Grants.

- Amends 49 U.S.C. § 5337 (State of Good Repair Grants) to authorize an FTA competitive program to replace rail rolling stock. Requires grants to be subject to the same terms and conditions as other § 5337 State of Good Repair grants.
- Authorizes the Secretary to make up to three new awards each fiscal year. In making awards, requires the Secretary to consider:
 - size of the rail system;
 - amount of funds available to applicant under this competitive program;
 - age and condition of rail rolling stock of applicant that has exceeded or will exceed the useful life of the rail rolling stock in the five-year period following the grant; and
 - whether the applicant has identified replacement of rail vehicles as a priority in the investment prioritization section of the TAM plan of the recipient.
- Authorizes a federal share up to 50 percent under this program and 80 percent of total federal assistance.
- Authorizes a project to be carried out under a multi-year grant agreement (up to three consecutive years) and may include contingent commitments.

Sec. 30017. Authorizations.

- Amends 49 U.S.C. § 5338 (Authorizations) to authorize funding for public transportation programs. *See APTA's Bipartisan Infrastructure Law Public Transit Funding table.*

Sec. 30018. Grants for Buses and Bus Facilities.

- Amends 49 U.S.C. § 5339 (Grants for Buses and Bus Facilities) to increase the amount of formula funds distributed to all states and territories from \$90.5 million to \$206 million each fiscal year. The section also increases the minimum apportionment to each state from \$1.75 million to \$4 million and to each territory from \$500,000 to \$1 million.
- Encourages recipients and subrecipients of formula and competitive grants to use the innovative procurement tools under § 3019 of the FAST Act. If a recipient or subrecipient purchases fewer than five buses through a standalone procurement, requires the recipient or subrecipient to provide the Secretary with a written explanation regarding why the innovative procurement tools were not utilized.
- Increases the minimum percentage of funds to be distributed to projects in rural areas from 10 percent to 15 percent. This section authorizes the Secretary to use less than 15 percent for rural projects if there are insufficient eligible applications.
- Requires the Secretary to solicit grant applications for eligible projects on a competitive basis within 30 days after the amounts are made available for obligation for a full fiscal year. This section requires the Secretary to award grants not later than the earlier of 75 days after the solicitation expires or the end of the fiscal year.
- Authorizes recipients to submit Competitive Grant and Low or No Emission Grant applications in partnership with other entities, including a transit vehicle manufacturer that intends to participate in implementation of the project. Projects awarded with partnerships satisfy competitive procurement requirements (49 U.S.C. § 5325).
- Applies § 5311 grant requirements to eligible Low or No Emission Grant recipients in rural areas.
- In awarding Competitive Grants and Low or No Emission Grants for projects related to zero-emission vehicles, requires applicants to submit a zero-emission transition plan that:
 - demonstrates a long-term fleet management plan with a strategy for how the applicant intends to use the current application with future acquisitions;
 - addresses the availability of current and future resources to meet costs;
 - considers policy and legislation impacting technologies;
 - includes an evaluation of existing and future facilities and their relationship to technology transition;
 - describes the partnership of the applicant with the utility or alternative fuel provider; and

- examines the impact of the transition on the current workforce by identifying skill gaps, training needs, and retraining needs of the existing workers to operate and maintain zero-emission vehicles and related infrastructure and avoids the displacement of the existing workforce.

Strikes requirement that projects be part of a long-term integrated fleet management plan.

- Requires the Secretary to consider only non-zero-emission vehicles and facilities for 25 percent of available Low or No Emission Grant funds.
- Requires five percent (or a smaller percentage if necessary) of grants to zero-emission vehicles and related infrastructure be used by recipients to fund workforce development training (49 U.S.C. § 5314(b)(2) (including registered apprenticeships and other labor-management training programs)) under the recipient's plan to address the impact of the transition to zero-emission vehicles on the current workforce.

Sec. 30019. Washington Metropolitan Area Transit Authority Safety, Accountability, and Investment.

- Authorizes \$150 million per year for the Washington Metropolitan Area Transit Authority (WMATA) for each of FY 2022 through FY 2030.
- Amends Title VI of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) (P.L. 110-432) to require the WMATA Board of Directors to delegate certain authorities to the WMATA Inspector General.
- Requires WMATA to certify that it has implemented certain policies and procedures for the capital planning and TAM planning processes.

Division G—Other Authorizations

Title XI—Clean School Buses and Ferries

Sec. 71102. Electric or Low-Emitting Ferry Pilot Program.

- Defines “alternative fuel” as methanol, denatured ethanol, and other alcohols; a mixture containing at least 85 percent methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels; natural gas; liquified petroleum gas; hydrogen; fuels (except alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel that the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits.
- Defines “electric or low-emitting ferry” as a ferry that reduces emissions by utilizing alternative fuels or onboard energy storage systems and related charging infrastructure to reduce emissions or produce zero onboard emissions under normal operation.
- Requires the Secretary to carry out a pilot program to provide grants for the purchase of electric or low-emitting ferries and electrification of or other reduction of emissions from existing ferries.
- In carrying out the pilot program, requires the Secretary to ensure that:
 - not less than one grant shall be for a ferry service that serves the state with the largest number of Marine Highway System miles;
 - not less than one grant shall be for a bi-state ferry service with an aging fleet and whose development of zero and low-emission power sources ferries will propose to advance the state of the technology toward increasing the range and capacity of zero-emission power source ferries.
- Authorizes \$50 million per year to carry out this section for each of FY 2022 through FY 2026.

Sec. 71103. Ferry Service for Rural Communities.

- Defines “basic essential ferry service” as scheduled ferry transportation service.
- Defines “eligible service” as a ferry service that operated a regular schedule at any time during the five-year period ending March 1, 2020, and served not less than two rural areas located more than 50 sailing miles apart. The term “rural area” has the meaning given the term under 49 U.S.C. § 5302.
- Requires the Secretary to establish a program to ensure that basic essential ferry service is provided to rural areas by providing funds to states to provide such basic essential ferry service.
- Directs the Secretary to establish requirements and criteria for participation in the program, including requirements for the provision of funds to states, and criteria for the waiver of any requirement.
- Provides that an eligible service funded under the program shall not be attributable to an urbanized area for purposes of apportioning funds under 49 U.S.C. chapter 53 (Public Transportation).
- Provides that an eligible service that receives funds under the program shall not receive funds apportioned under 49 U.S.C. § 5336 (Apportionment of Appropriations for Formula Grants) or 49 U.S.C. § 5337 (State of Good Repair Grants).
- Authorizes these funds to pay the operating costs of the eligible entity. Adds operations and repair to the definition of “Alaska Marine Highway System” under 23 U.S.C. § 218 (Alaska Highway) (as amended by Section 11116 of Division A of this Act).
- Authorizes \$200 million per year to carry out this section for each of FY 2022 through FY 2026.
