



October 18, 2018

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Federal Legislative Status Report

Overview

An update is provided on the 2019 appropriations process and legislation to reauthorize the Federal Aviation Administration. Summaries of hearings on rail safety and innovations in transportation are included. An update is also provided on national fuel economy standards and greenhouse gas emissions.

Recommendation

Receive and file as an information item.

Discussion

Appropriations Update

As part of the "minibus" appropriations process, the President has signed bills to fund a portion of government operations for Federal Fiscal Year 2019. Five of the 12 appropriations bills have been signed into law thus far. Unfortunately, the transportation funding bill has not yet been enacted, making it one of seven appropriations bills subject to a continuing resolution until December 7, 2018.

Leaders of the House and Senate Appropriations Committees have begun work to conference the transportation funding bill as part of a four-bill "minibus" that has been approved by the Senate. Since the full House did not pass a transportation funding bill, the conference committee is basing the final draft on the version that passed the Senate, which funds most transportation programs above levels authorized in the Fixing America's Surface Transportation Act. The Senate bill provides \$26.6 billion for the Department of Transportation, including \$2.55 billion for the Capital Investment Grants (CIG) program. The Senate bill also includes amendments to expedite administration of the CIG program and prohibit the procurement of rail cars and buses from manufacturers subsidized

by the Chinese government. Congress must act to fund transportation programs beyond December 7, 2018, after the November elections.

Federal Aviation Administration (FAA) Reauthorization Legislation

On October 4, 2018, the Senate approved H.R. 302, a bill to reauthorize the FAA, by a vote of 93-6. The amendment adding the FAA reauthorization bill to H.R. 302 passed the House by a vote of 398-23. The President was expected to sign the bill in short order. The Orange County Transportation Authority (OCTA) and other regional stakeholders worked on inserting language into the bill to address an FAA rule promulgated on December 8, 2014, that would require state and local general sales tax revenue from the sale of aviation fuel to be invested in airport operations. Working with the Self-Help Counties Coalition (SHCC), OCTA previously supported efforts to exempt existing sales tax measures from this regulation and seek flexibility in meeting any requirements through the investment in transportation infrastructure that serve airport patrons. These actions are consistent with the provision in OCTA's 2017-18 Federal Legislative Platform opposing legislation diverting revenues from locally-approved sales taxes. Unfortunately, amendments to achieve this goal were not included in the bill. OCTA will continue to work with the SHCC and other impacted entities to explore options to clarify this issue moving forward.

Hearings on Positive Train Control (PTC) Implementation

On September 13, 2018, the House Transportation and Infrastructure Committee's Subcommittee on Railroads, Pipelines, and Hazardous Materials (Subcommittee) held a hearing on the state of PTC implementation. The Subcommittee discussed how nine railroads are considered "at-risk" of missing the statutory deadline at the end of the year, most of them being commuter rail lines. Caltrain and the Altamont Corridor Express (ACE) are the only California rail operators on that list. Stacey Mortensen, Executive Director of ACE, testified about the challenges ACE faces as a small commuter rail line. Multiple Subcommittee members implied that patience was wearing thin because railroad operators have had many opportunities to voice concerns about PTC implementation and make requests for specific solutions. There were also discussions about how many rail lines would need to take advantage of the alternative delivery schedule allowed by statute, which extends the deadline by up to two years once the rail line's plan is approved by the FRA. FRA Administrator Ronald Batory testified how he will be recommending fines for agencies that do not comply with statutory deadlines.

On October 3, 2018, the Senate Commerce Committee hosted a similar hearing on PTC implementation. The Commerce Committee hearing featured many of the same witnesses as the House Subcommittee hearing in September, except

that New Jersey Transit (NJ Transit) testified instead of ACE. The Senators were not as direct with the witnesses as their House counterparts, even offering compliments to rail lines for their hard work. There were discussions about how certain rail lines, like NJ Transit, might not meet the criteria for the alternative delivery schedule. In addition, FRA Administrator Batory again declared his intent to have the FRA enforce the maximum fine of \$27,000 per day for rail operators that cannot comply with the statute.

Both Metrolink and the Los Angeles – San Diego – San Luis Obispo (LOSSAN) Rail Corridor Agency, the two passenger rail operators in Orange County, are subject to the PTC implementation deadline. Metrolink is currently operating PTC technology across its entire network, and the LOSSAN Agency is undergoing interoperability testing with host railroads in territory beyond the Metrolink service area. PTC technology is expected to be in operation on the entire LOSSAN rail corridor by December 31, 2018.

Hearing on Innovation in Surface Transportation

On September 5, 2018, the House Transportation and Infrastructure Committee's Subcommittee on Highways and Transit held a hearing to discuss the innovations and technologies currently being deployed on highways and public transit systems. The purpose of the hearing was to inform Congress of best practices and lessons learned as it considers legislation on automated vehicles. Subcommittee Chairman Sam Graves (R-Missouri) emphasized that emerging technologies have the potential to move people and goods more safely and efficiently. Randell Iwasaki, Executive Director of the Contra Costa Transportation Authority, and the other witnesses touched on the importance of pilot programs for autonomous vehicles and the need for a national regulatory framework that encourages, rather than stifles, innovation. James Barna, Executive Director of Drive Ohio, noted that connected and autonomous vehicles will need to operate across 50 states and, as such, highlighted the need for a national conversation about interoperability and standardization.

California Air Resources Board's Action on Vehicle Emissions Rules

On August 24, 2018, the National Highway Traffic Safety Administration and the Environmental Protection Agency published "The Safer Affordable Fuel Efficient (SAFE) Vehicles Rule," that would freeze existing Corporate Average Fuel Economy and greenhouse gas emissions standards for passenger cars and light-duty trucks from 2021 through 2026. The SAFE Vehicles Rule would also rescind California's ability to set more stringent standards under the Clean Air Act's preemption waiver. The removal of this waiver could create potential hurdles for the state in achieving federal air quality standards, state greenhouse gas emission reduction requirements, and zero-emission vehicle targets. Given

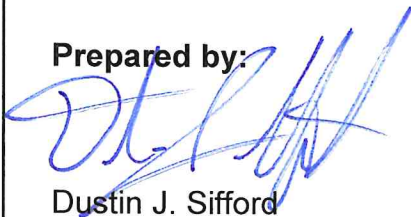
the possible impact, the California Air Resources Board approved regulatory revisions on September 28, 2018, to the Low-Emission Vehicle III Greenhouse Gas Emission Regulation. The clarifying amendments would allow California to retain its increasingly stringent greenhouse gas standards by requiring automakers to separately meet California's standards and the proposed federal standards in the SAFE Vehicles Rule. Concurrently, California is also participating in ongoing discussions with Administration officials to consider maintaining one national set of standards. Staff will keep the OCTA Board of Directors updated as these discussions progress.

Summary

Updates are provided on the appropriations process, FAA legislation, three transportation-related hearings, and vehicle emissions rules.

Attachments

- A. Potomac Partners DC, Monthly Legislative Report – August 2018
- B. Potomac Partners DC, Monthly Legislative Report – September 2018

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