



## Monthly Legislative Report – September 2020

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### September Advocacy Meetings

**Congressman Harley Rouda (D-CA)** – We have been in regular contact with senior staff in Congressman Rouda's office to discuss the surface transportation reauthorization and the FACT Act extension included in the CR. We also discussed funding to support transit operations during the COVID-19 crisis and the need for additional flexibilities in the use of existing formula accounts. We discussed support for additional formula funding but highlighted the complexity of the new formulas that would be used, and the new COVID-19-related costs that would not be addressed. We also discussed a provision in the HEROES Act 2.0 that would provide extra funding for CIG projects receiving allocations in 2019 and 2020, and opportunities for other projects to be eligible for that funding with report language or clarifications in the bill text.

**Congressman Alan Lowenthal (D-CA)** – We have been in contact numerous times with Congressman Lowenthal's office to discuss next steps on Surface Transportation Reauthorization in November and opportunities to include OCTA priorities. We also discussed the need for new transit formula funding (i.e. 5307 and 5337) to support operations and opportunities in the upcoming stimulus package. We also discussed the additional funding for CIG projects and opportunities to include the OC Streetcar in HEROES Act 2.0. We discussed support for additional formula funding but highlighted the complexity of the new formulas that would be used, and the new COVID-19-related costs that would not be addressed.

**Congressman Lou Correa (D-CA)** – We have been in contact with Congressman Correa and his staff this month to follow-up on OCTA's requests for the Surface Transportation reauthorization and the need for additional formula funding. We also followed-up on support for transit funding for be included in any final stimulus spending bill(s). We also discussed the new funding for CIG projects. We discussed support for additional formula funding but highlighted the complexity of the new formulas that would be used, and the new COVID-19-related costs that would not be addressed.

**Congressman Mike Levin (D-CA)** – We continue to touch base with Congressman Levin and his senior staff to discuss the Alternative Fuel Tax Credit issue, the effects of COVID-19 on daily operations, as well as Measure M project funding. We also discussed the need to strongly support additional transit formula funds in the upcoming stimulus bill(s). We also discussed the additional funding for CIG projects and the fact that the OC Streetcar would not be eligible, and opportunities to include the other projects in the HEROES Act 2.0. We discussed support for additional transit formula funding but highlighted the need to account for new costs related to maintaining a safe and healthy transit system for riders and operators.

**Congressman Gil Cisneros (D-CA)** – We followed-up with senior staff in Congressman Cisneros' office to provide an update on OCTA transit services, and the need for additional funding to support COVID-19 activities. We also discussed the timeline for stimulus negotiations and support for OCTA priorities in any final legislation. We discussed support for additional formula funding but highlighted the complexity of the new formulas that would be used, and the new COVID-19-related costs that would not be addressed.

**Congressman Pete Aguilar (D-CA)** – We have been in close contact with Congressman's Aguilar's senior staff this month to discuss FY21 appropriations and the timeline for negotiations with the Senate and the White House. We discussed the timeline for a possible CR and any opportunities for policy inclusions. We also discussed support for increased transit formula funding in the potential stimulus legislation. We also discussed the need to account for new costs associated with COVID-19 safety measures when looking at transit agency budgets compared to previous years.

**House Transportation, Housing and Urban Development Appropriations** – We followed-up with senior staff on the House Appropriations Committee (THUD) to discuss the CIG funding in the Heroes Act 2.0. We discuss opportunities for expansion of that funding for other projects in a revised version of the bill as negotiations continue.

**Senator Dianne Feinstein (D-CA)** – We have been in contact with staff in Senator Feinstein's office this month to discuss FY21 appropriations and ongoing Senate negotiations for the THUD bill. We followed-up on our discussions regarding Measure M impacts from COVID-19, and the need for additional resources to include an increase in formula funding. We also discussed negotiations in the Senate, and with the House, for a new stimulus bill. We discussed opportunities for new transit funding, and the timeline for a bill in September along with the CR. We also discussed the additional funding for CIG projects and opportunities to include the OC Streetcar in HEROES Act 2.0.

**House Transportation and Infrastructure Committee** – We have been in close contact with both Majority and Minority staff to provide ongoing updates on OCTA's projects, to discuss progress on the Surface Transportation Reauthorization, and to highlight the need for additional spending flexibility authorizations. With the Minority staff we specifically discussed the BUILDER Act, HR 8333, and ways to help expedite project delivery.

**Senate Environment and Public Works Committee** – This month we continued to touch base with various EPW staff (minority and majority) on OCTA's Surface Transportation Reauthorization policy asks. We discussed the timeline for negotiations with the House and the outlook for a deal in September. We also specifically followed-up on our discussions regarding the need for TIFIA reforms and changes that would benefit OCTA in the Highway Bill.

**Senate Banking Committee** – We followed-up again with senior staff this month to discuss progress on a Senate Surface Transportation reauthorization and the likelihood of progress on negotiations in September or the release of a transit title that may mirror what the House has already released.

### **New Stimulus Legislation Negotiations Update**

On Monday, September 28<sup>th</sup>, House Democrats released a revised version of the HEROES Act. The new bill includes \$2.2 trillion in COVID-19 relief to states, individuals, schools, businesses, and workforce agencies. The bill still includes provisions that would make the overall package dead-on-arrival in the Senate; negotiations, however, are still ongoing between the House Speaker Nancy Pelosi and Treasury Secretary Steven Mnuchin and there seems to be a desire by both parties to reach an agreement before the House adjourns for the October recess to campaign. In her testimony to the House Rules Committee earlier this week, House Appropriations Chairwoman Nita Lowey (D-NY) said “Negotiations are continuing, and I ardently hope that we can reach a bipartisan agreement. However, if Republicans refuse to meet us halfway, we will have no choice but to once again act alone.”

On September 30<sup>th</sup>, details of a counteroffer being proposed by Secretary Mnuchin began appearing in news reports. The counteroffer (which has not been publicly released) topped out at \$1.6 trillion and would include \$250 billion for state and local governments (\$186 billion below the HEROES Act 2.0), and \$400/week in federal unemployment benefits retroactive to September 12<sup>th</sup>, lasting through January 1, 2021. Both of these offers show a desire to reach a middle ground and a planned vote on the Democratic package in the House was delayed on Wednesday as negotiations continued.

The new House Democrat version tops out at \$2.2 trillion. The 2,152-page bill includes the following highlights:

#### **Department of Transportation (DOT) DOT Operations**

- \$20.2 million to support activities to prevent, prepare for, and respond to coronavirus, including to support telework and information technology, purchase personal protective equipment, and conduct Department-wide oversight of coronavirus related funding.
- Amtrak – \$2.4 billion to support Amtrak’s ability to operate passenger rail service on Northeast Corridor (NEC), State-supported, and long-distance routes, protect Amtrak workers from furloughs, and prevent service reductions on long-distance routes. This includes \$569 million to assist States and commuter rail providers in making FAST Act required payments to Amtrak for State-supported routes and commuter rail service on the NEC.
- Transit Emergency Relief – \$32 billion, of which \$28.5 billion is for operating assistance grants that, in combination with funds provided in the CARES Act, will support up to 100 percent of transit agencies annual operating expenses, \$2.5

billion is for projects that received funding under the Capital Investment Grants program, and \$1 billion is for rural and paratransit providers.

#### **Title II - Sec. 202. Clarification of Assistance.**

- Provides assistance for activities, costs, and purchases of States, local, tribal, or territorial governments, including activities eligible under the Stafford Act but not limited to: backfill costs for first responders, increased operating costs for essential government services, costs of providing public guidance and information, costs for establishing virtual services and operating remote test sites, training provided in anticipation of, or response to, the COVID-19 pandemic, personal protective equipment for first responders, public health, public schools and **public transportation**, and medical supplies, non-congregate sheltering, food preparation and delivery to impacted communities, as well as limited funeral benefits.

#### **Title III - Sec. 301. Requirements for Owners and Operators of Equipment or Facilities Used by Passenger or Freight Transportation Employers.**

- Establishes requirements for the provision of personal protective equipment for certain passenger and freight transportation employees. Ensures that stations, facilities, and equipment are cleaned and disinfected in accordance with Centers for Disease Control and Prevention guidance. Establishes standards for the use of face masks and protective coverings by passengers and certain employees. Creates reporting requirements in the event that a passenger or freight transportation employer is unable to procure the required personal protective equipment.

#### **Assistance to Multi-State Transportation Agencies**

- \$100 million for assistance to multi-state entities that are involved in the transportation of passengers or cargo and are suffering revenue losses due to the public health emergency caused by the coronavirus.

#### **Direct Payments to Individuals**

- A second round of \$1,200 checks for individuals, in addition to \$500 for each dependent.

#### **State and Local Assistance**

- \$436 billion for State, Local, and Tribal governments.
  - \$62.65 billion for entitlement municipalities (defined as being generally over 50,000 population)
  - \$26.85 billion for non-entitlement municipalities (populations less than 50,000)
  - \$89.5 billion to Counties based on population.
- \$75 billion in new funding for COVID-19 **testing** and related measures.
- \$21 billion to states, territories, and tribes for **homeowners** struggling to afford their housing due directly or indirectly to the impacts of the pandemic by providing

direct assistance with mortgage payments, property taxes, property insurance, utilities, and other housing related costs.

- \$238 billion in **State Fiscal Relief** funding to assist state governments with the fiscal impacts from the public health emergency caused by the coronavirus, including \$755 million in CARES Act Coronavirus Relief Fund repayment for the District of Columbia.
- \$179 billion in **Local Fiscal Relief** funding to assist local governments with the fiscal impacts from the public health emergency caused by the coronavirus.
- \$3.6 billion for **Elections** grants to states for contingency planning, preparation, and resilience of elections for Federal office.
- \$1.3 billion for **FEMA** to prevent, prepare for, and respond to coronavirus.
- **Centers for Disease Control and Prevention** – \$13.7 billion to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus, including:
  - \$2 billion for State, local, Territorial, and Tribal Public Health Departments;
  - \$7 billion for a COVID-19 vaccination campaign;
  - \$1 billion for an evidence-based public awareness campaign on the importance of vaccinations;
  - \$500 million for an enhanced seasonal influenza campaign;
  - \$1 billion to strengthen global public health preparedness and response capacity;
  - \$200 million for the multi-year effort to modernize public health data surveillance and analytics infrastructure; and
  - \$2 billion for grants to State, local, Tribal, or territorial health departments to purchase personal protective equipment for essential workers.

The text of revised version of the House Democrat's Heroes Act is [here](#).

A one-pager on the legislation is [here](#).

A section-by-section summary is [here](#).

Additional information on the state and local relief provisions is [here](#).

### **FY21 Appropriations Update**

On September 30th, the Senate passed H.R. 8319, a Continuing Resolution (CR) to extend government spending until December 11th, 2020, by a vote of 84-10. The House already passed the CR on September 22nd by a vote of 359-57. The President signed the bill into law shortly after midnight. The stopgap measure extends current funding levels for most federal agencies. In addition to extending federal spending, the Continuing Resolution:

- Extends the **Surface Transportation Authorization** (FAST Act) for one year, until September 30, 2021.

- Extends the **National Flood Insurance Program** through September 30, 2021.
- Prevents the Department of Defense (DOD) from beginning new multi-year activities during the period of the CR.
- Includes the same terms, conditions, authorities, and prohibitions as the FY19 CR.
- Prevents new starts and activities outside the DOD.
- Provides agencies with a daily rate for operations unless Congress allows them to spend funds more quickly.
- Prevents agencies from spending grant money too quickly.
- Reiterates that funding should be spent in the most limited manner possible.
- States that mandatory spending and appropriated entitlements should operate as normal, and in the case of a government shutdown provides an additional 30 days for after December 11<sup>th</sup>.
- Allows the Department of Agriculture to continue issuing loans for clean and reliable water systems in rural areas.
- Allows the Food and Nutrition Service to spend at a higher rate during the CR to ensure the Summer EBT program is fully operational by May 2021.
- Allows the Food and Nutrition Service to spend at a higher rate during the CR to provide supplemental USDA foods to low-income seniors, and to some low-income women, infants, and children.
- Extends the dates in the Reclamation States Emergency Drought Relief Act, ensuring the Bureau of Reclamation can provide emergency drought assistance in 17 western states.
- Allows FEMA to access the entire Disaster Relief Fund appropriations for FY21 as necessary to respond to declared disasters.
- Reduces discretionary funding for the Land and Water Conservation Fund now that those funds are mandatory appropriations.
- Allows the US Forest Service to transition certain accounts to a new budget structure as required by Congress.
- Extends funding for TANF and the Childcare Entitlement to States, allowing HHS to make first-quarter payments to States.

- Increases funding for the Veterans Electronic Health Record Modernization program for the first quarter.
- Allows the transfer of funds from the CARES Act to maintain operations of the Veterans Canteen Service.
- Provides additional spending flexibilities and extends obligation deadlines for 2017 and 2018 BUILD grant recipients.

The full text of the Continuing Resolution (H.R. 8319) can be found [HERE](#).

A section-by-section summary is [here](#)

Two states, Texas and Colorado, will receive more funding in the Continuing Resolution compared to their FHWA 2020 allotments. This is because the one-year extension of the FAST Act (H.R. 8337) requires all apportionment calculations to be run anew for fiscal year 2021. Therefore, every non-Texas, non-Colorado state's fiscal 2021 highway formula funding will be reduced by 0.625 percent, from 2020 levels, so that Texas's apportionment can be increased by 5.93 percent, and Colorado's by 0.51 percent, over 2020 levels. This is because subsection (c)(1)(B) of [23 U.S.C. §104](#) guarantees that "each State receives an aggregate apportionment equal to at least 95 percent of the estimated tax payments attributable to highway users in the State" deposited in the Highway Account in the most recent year.

### **DOT Announces \$574 Million in Emergency Relief for Road and Bridge Repairs**

On September 29<sup>th</sup>, DOT announced \$574 million in federal funding to help states repair and rebuild roads and bridges damaged from natural disasters. DOT's Emergency Relief program is administered by the Federal Highway Administration and some of the reimbursements include:

- More than \$64 million to California, including \$34 million for November 2018 wildfires.
- More than \$46 million to Nebraska for winter storms and flooding in 2019.
- More than \$27 million to Alabama for storms and flooding in 2020.
- More than \$25 million to Michigan for flooding in the central part of the state in 2020.
- More than \$22 million to Florida for Hurricane Michael in 2018.
- More than \$21 million to North Carolina for Hurricane Dorian in 2019.

A full list of reimbursements can be found [HERE](#) and [HERE](#).

## **House T&I Committee Sends Letter to US Army Corps Regarding Clean Water Protections**

On October 1<sup>st</sup>, the House T&I Committee Chairman Peter DeFazio (D-OR) and Water Resources Subcommittee Chairwoman Grace Napolitano (D-CA) sent a letter to US Army Corp of Engineers Civil Works ASA RD James. The letter (found [HERE](#)) criticizes the issuance and implementation of the Navigable Waters Protection rule. The letter, which calls the rule “unlawful”, requests a laundry list of oversight and informational items from the US Army Corps of Engineers regarding the implementation, scope, and effects of the rule on the nation’s waterways and wetlands. This is likely to be an ongoing issue before the House T&I Committee under Democratic leadership.

## **DOT Announces \$321 Million in CRISIS Grants**

On September 23<sup>rd</sup>, the Department of Transportation announced the award of \$321 million in Fiscal Year (FY) 2020 Consolidated Rail Infrastructure and Safety Improvements (CRISI) grants. Nine of the projects were selected to specifically address safety at highway-rail grade crossings, and deter illegal trespassing, which is the leading cause of rail-related deaths in America. Of these awards, 77% went to rural projects. Other major projects in this year’s grants include:

- \$31.8 million for the Wisconsin DOT to upgrade the Soo Line communication and signaling and extend sidings so that Amtrak can add an additional *Hiawatha* round-trip each day between Milwaukee and Chicago.
- \$16.9 million to Pan Am (seriously – a Class II in New England bought the old airline’s name and logo) to upgrade the track and bridges between Waterville and Mattawamkeag (in Maine) so that speeds and car weights can be increased.
- \$16.4 million so that Boca Raton, Florida can build a Brightline station and attached parking garage.
- \$15.6 million to the Michigan DOT to eliminate trespassing hotspots between Dearborn and Kalamazoo. (Reducing fatalities by reducing trespassing has been a top priority of AAR’s government relations work for the last couple of years, and it shows in the pattern of federal grants.)
- \$13.7 million to upgrade the Buckingham Branch Railroad’s line between Charlottesville and Clifton Forge, Virginia.

## **House T&I Committee Requests Improvements to DOT Disadvantaged Business Enterprise Program**

On September 23<sup>rd</sup>, the House T&I Committee held a hearing to examine U.S. Department of Transportation’s Disadvantaged Business Enterprise (DBE) program. During the hearing, Members discussed ways to improve the program, which has not seen statutory adjustments or improvements since women-owned business enterprises were added in 1987. Witnesses testified that many DBEs would be put out of business



without the program. One witness testified that the vast majority of minority-owned businesses have less than ten employees. Overall, this was a very non-partisan hearing.