



October 15, 2020

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Federal Legislative Status Report

Overview

An update is provided on efforts in Congress to enact appropriations bills and additional economic stimulus legislation. An overview is provided of a hearing on transportation equity.

Recommendation

Receive and file as an information item.

Discussion

Update on Annual Transportation Funding

As previously reported, Congress has not reached agreement on the enactment of annual funding bills, long-term surface transportation legislation, or the next phase of coronavirus (COVID-19) economic relief legislation. With the approaching expiration of the Fixing America's Surface Transportation (FAST) Act on September 30, 2020, and the start of the new fiscal year, Congress had to work to pass legislation providing a short-term extension of both annual appropriations and surface transportation authorization. Without a legislative solution by that date, not only would there be a partial government shutdown, but federal transportation programs would be at risk.

On September 22, 2020, the House of Representatives passed, by a vote of 359 to 57, a continuing resolution that included a one-year extension of surface transportation programs. The continuing resolution provided funding for government operations through December 11, 2020. The surface transportation extension, through September 31, 2021, authorized transportation programs largely at FAST Act levels, without accounting for any of the stimulus funding provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act earlier this year. On September 30, 2020, the Senate passed the House's

short-term funding bill, with the one-year FAST Act extension, by a vote of 84 to 10. The President signed the bill in short order, averting any potentially harmful consequences of failing to extend these critical federal functions.

Orange County Transportation Agency (OCTA) legislative staff and advocates worked with stakeholder organizations to advocate for an extension that would benefit Orange County. The American Association of State Highway and Transportation Officials, the American Public Transit Association, and a broad swath of transportation stakeholders submitted correspondence, included as Attachment A, outlining the need for Congress to extend surface transportation programs and provide additional funding to combat COVID-19, specifically \$37 billion for state departments of transportation and \$32 billion for public transit agencies. The California Transit Association (CTA) sent a similar letter, included as Attachment B, advocating for a continuing resolution, a one-year extension of surface transportation programs, and additional funding for transit agencies to combat COVID-19. The CTA letter supported the industrywide letter's call for \$32 billion in transit funding, emphasizing the need to direct \$3.1 billion to transit agencies in the State of California.

The continuing resolution also directed the transfer of \$13.6 billion into the Highway Trust Fund (HTF) to cover the cost of federal transportation programs for the upcoming fiscal year. In addition, the bill contains a minor adjustment to formula disbursements due to a statutory provision meant to ensure that every state receive adequate funding from the HTF. This provision prevents states from becoming a "donor" to the HTF by requiring that each state's HTF funding be at least 95 percent of the revenues that the state contributes into the HTF. This provision was invoked because the states of Colorado and Texas fell below the 95 percent threshold. Every other state will receive a 0.625 percent reduction to its formula apportionment this year, resulting in an estimated \$25 million reduction to the State of California's \$4 billion apportionment. Staff is conducting an in-depth analysis of these federal formula distributions to effectively advocate for the interests of Orange County and the region when Congress begins its work, in earnest, on a long-term reauthorization bill. Staff will continue to provide updates on any changes to the formula distribution, additional continuing resolutions, the consideration of funding bills, or any related issues as necessary.

Update on COVID-19 Relief Efforts

Unfortunately, differences between House and Senate leaders have been detrimental to progress on a potential next round of COVID-19 stimulus. As the Senate was passing the continuing resolution, House leaders announced plans to consider a \$2.2 trillion economic stimulus bill. This proposal was an amended, pared-down version of the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act the House passed in May, which staff previously

detailed for the Board of Directors' (Board) June meeting of the Legislative and Communications Committee. The amended HEROES Act would provide over \$400 billion in dedicated funding for state and local governments, \$120 billion in financial assistance for restaurants, and the \$32 billion for transit agencies requested by CTA and the transportation industry as discussed above. The bill would also provide \$2.4 billion in funding for Amtrak. Unlike the previous version of the HEROES Act, the amended version does not include any supplemental highway funding. The amended HEROES Act instead provides over \$40 billion for airports and the airline industry, a significant increase compared to the previous version of the bill.

The \$32 billion of transit funding would provide \$18.5 billion directly to agencies receiving Federal Transit Administration (FTA) funding through the FTA 5307 Urbanized Area Formula Grants and FTA 5337 State of Good Repair grants. In addition, the bill would provide an additional \$10 billion in FTA 5307 funding via a competitive selection process. The FTA 5307 and 5337 funding would be provided on a modified distribution system, taking into account funding from the CARES Act so that no agency can receive more than their 2018 operating expenses combined, in a manner that makes it difficult to accurately estimate how much funding may flow to Orange County. The amended HEROES Act would provide more than \$2.5 billion in supplemental funding for the Capital Investment Grants (CIG) program, specifically for CIG projects with funding allocated in federal fiscal years 2019 and 2020, to increase the project's federal share.

At the writing of this staff report, news reports indicated the amended HEROES Act stood very little chance of being signed into law in its current form. On October 1, 2020, the House passed the bill by a vote of 214 to 207, with negotiations ongoing on a potential compromise measure. Reports also indicated that Senate leaders did not want to provide more than \$1.5 trillion in any stimulus effort, whereas House leaders indicated an unwillingness to provide less than \$2.2 trillion in economic assistance. Staff will continue to monitor the ongoing stimulus discussions, advocate for stimulus policies that benefit OCTA, and provide updates on a next round of economic stimulus, or on any bill relevant to the agency, to the Board as necessary.

Summary of Hearing on Transportation Equity

On September 23, 2020, the House Transportation and Infrastructure Committee held a hearing entitled "Driving Equity: The United States Department of Transportation's Disadvantaged Business Enterprise Program." At the hearing, the discussion was focused on the ways in which the Disadvantaged Business Enterprise (DBE) program can be improved. Chair DeFazio (D-OR) noted that the hearing was the first discussion of the DBE program in 11 years. There was bipartisan consensus for continued commitment

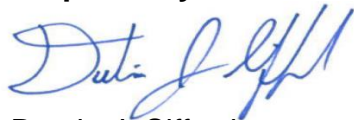
to this program because it is an effective way to ensure that minority- and women-owned businesses have full and fair access to transportation contracts. One theme in the hearing was the importance of this program now, especially because minority-owned businesses have been disproportionately affected by the COVID-19 pandemic. Suggestions from the witnesses included improvements to the personal net worth calculation, consistent program certification, and state transportation department waivers to exclude certain groups of people when they determine that group has reached some level of parity. Panelists stated that the DBE program's greatest benefit is not just financial, instead emphasizing the relationships that were created because of its assistance with future contracts.

Summary

An update is provided efforts to ensure that federal transportation funding continues to benefit Orange County, as well as a summary of a hearing on transportation equity.

Attachments

- A. Letter from Transportation Stakeholders to Congressional Leaders, dated September 9, 2020
- B. Letter from California Transit Association to Congressional Leaders, dated September 22, 2020
- C. Potomac Partners DC, Monthly Legislative Report – August 2020
- D. Potomac Partners DC, Monthly Legislative Report – September 2020

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