



October 21, 2021

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Federal Legislative Status Report

Overview

The Orange County Transportation Authority regularly updates the Legislative and Communications Committee on policy issues directly impacting the agency's programs, projects, and operations. An overview on the federal transportation funding picture is provided, specifically the short-term funding extensions necessitated by the protracted negotiations on the Senate-passed infrastructure legislation that also reauthorizes federal surface transportation programs for the next five years. The staff report outlines the next steps in the development of a long-term transportation bill and the impact of the statutory debt limit on the increasingly complicated federal transportation funding landscape.

Recommendation

Receive and file as an information item.

Discussion

Federal Funding Extensions

On September 30, 2021, the President signed a short-term continuing resolution to fund government operations through December 3, 2021. The nine-week stopgap funding bill passed the Senate by a vote of 65 to 35 and the House by a vote of 254 to 175. Congress is expected to continue negotiations on a yearlong appropriations package to fund a majority of government programs in the coming weeks, although negotiations on the appropriations bills have been put on the backburner as Congress and the Administration focus on working out the details of an infrastructure package.

Unfortunately, Congress has been unable to pass the Senate-passed Infrastructure Investment and Jobs Act (IIJA), the bipartisan infrastructure

package with funding increases for traditional transportation programs. As detailed last month, September 16, to the Orange County Transportation Authority Legislative and Communications (L&C) Committee, the House majority was sharply divided on how to proceed on the IIJA. While the components of the IIJA are themselves not overly controversial, there has been, and continues to be, significant controversy on how to combine the IIJA with the rest of the President's infrastructure proposal via a procedural tool known as reconciliation, which allows for expedited consideration of legislation in the Senate.

Some members in the House want to vote on the IIJA after first voting on the House-drafted reconciliation bills that contain the other portions of the President's infrastructure proposal, most notably spending on social programs. The House reconciliation bills envision \$3.5 trillion in total spending. In addition to the IIJA spending, the House bills would provide an additional \$10 billion for high-speed rail projects, \$10 billion to support affordable housing and linked transit improvements, \$4 billion in supplemental funding for transportation-related projects that reduce greenhouse gas emissions and \$6 billion in local transportation priority projects. Meanwhile, certain members of the Senate indicated that they want to limit reconciliation bills to \$1.5 trillion, important since the rules of reconciliation are much more determinative on the outcome of the legislative process in the Senate. An agreement on the overall size of the infrastructure package has thus far remained elusive, especially with incredibly small majorities in both chambers. While there is some additional transportation-related spending in the House reconciliation bills, the consternation means that the reconciliation package is far from settled, and according to reports, there does not appear to be an appetite in the Senate to include spending that would duplicate the programs and initiatives within the IIJA.

This controversy is particularly noteworthy because it also resulted in a short lapse of Highway Trust Fund (HTF) spending authority. The extension of the Fixing America's Surface Transportation Act, which funded HTF expenditures, was through midnight on September 30, 2021. In the hours leading up to this deadline, House and Senate leaders focused on passing the IIJA, which would have reauthorized HTF-funded programs for five years, rather than preparing a short-term extension of the HTF.

This attempt to create urgency ultimately failed, as the IIJA still has yet to be considered on the House floor. Since a HTF extension was not passed before September 30, 2021, HTF spending authority lapsed for the first time since 2010. A lapse in HTF authority has much more serious consequences for transportation programs, and is much rarer, than partial government shutdowns caused by a lapse in appropriations. Obligations and reimbursements for HTF-funded programs, which make up a majority of federal transportation spending, cease, and approximately 3,500 transportation employees are furloughed until HTF expenditures are authorized. Some programs, notably the

Capital Investment Grants program, are not affected by a lapse in HTF spending authority. However, most federal transportation funding programs were put on hold until an extension was passed.

Fortunately, the impacts of the HTF lapse were reportedly negligible because an extension was passed in short order. On October 1, 2021, the House passed a 30-day extension of surface transportation programs, and the next day, the Senate passed the HTF extension by unanimous consent. The President signed the extension later that day, ending the roughly two-day lapse in HTF spending authority.

Next Steps on Transportation Funding

While the short-term extension mitigates any transportation funding impacts, the path forward was still incredibly uncertain at the writing of this staff report. Amid the negotiations, the President addressed the House majority, indicating his desire to delay passage of the IIJA until there was an agreement on the broader reconciliation package. News reports indicated that the President supports a compromise on a reconciliation package, somewhere around \$2 trillion. The President's announcement removed the urgency to pass the IIJA, facilitating the short-term HTF extension. Unfortunately, this maneuvering creates additional uncertainty for the passage of the IIJA, which would reauthorize surface transportation programs with sizable increases for federal transportation programs.

The short-term HTF extension is not the only time constraint complicating an already complex situation. As detailed at the September L&C Committee meeting, the statutory debt ceiling expired on July 31, 2021. The Treasury Department can take so-called extraordinary measures to avoid incurring any new debts. With these extraordinary measures expected to run out on October 17, 2021, Congressional leaders announced a tentative agreement to extend the debt ceiling for two months, giving negotiators more time to reach a broader deal on full-year appropriations bills, the IIJA, reconciliation bills, and longer-term action on the debt ceiling. Also as of the writing of this staff report, there was not legislative text on the reconciliation bills or a solution for the debt ceiling in the queue, preventing the IIJA from moving forward. Staff are monitoring the situation and will provide a more detailed verbal update for the L&C Committee on any developments that take place during this month.

Transportation and Infrastructure Committee Hearing

On September 30, 2021, the House Transportation and Infrastructure Committee held a hearing entitled, "Assessing the Federal Government's COVID-19 Relief and Response Efforts and its Impact – Part II." Held amidst the infrastructure package negotiations detailed above, the hearing allowed

transportation leaders from both sides of the aisle to argue for their preferred approach to the IIJA and reconciliation dilemma. A majority of the hearing was spent discussing the impact of additional spending on the national debt, including the economic consequences of the House-proposed reconciliation package. Those in the minority criticized the size of the reconciliation package as gratuitous spending, especially since Congress already provided so much stimulus funding in recent months. Paul Skoutelas, Chief Executive Officer of the American Public Transportation Association, testified about the importance of the funding Congress passed last year to help support transit operations while also voicing his support for additional funding for transit capital programs, like that contained in the IIJA and reconciliation bills. An economist testified that most of the spending that Congress enacted in the middle of the pandemic had a positive effect on the economy. The economist went on to say that additional spending can have economic benefits, but too much spending could result in budget deficits that could weigh down post-pandemic economic growth.

Summary

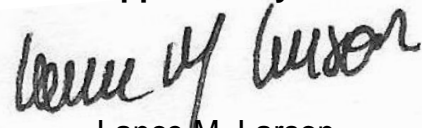
An update is provided on the Senate's infrastructure bill and the next steps in the complex federal transportation funding picture.

Attachment

- A. Potomac Partners DC, Monthly Legislative Report – September 2021

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