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LEGISLATIVE Alert

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION



August 22, 2017

August Washington Update

The first six months of the Trump Administration and the new Congress has been a busy time for the public transportation industry, and important legislative issues for APTA members remain on the legislative agenda for the months ahead. As Congress prepares to return to Washington after Labor Day, it is a good time to look back at what has been accomplished thus far and what we are likely to see in the months ahead.

115th Congress So Far

The year started without a full-year Fiscal Year (FY) 2017 Transportation Appropriations bill and the submission of a so-called FY 2018 “skinny budget” proposal from the Trump Administration that called for the phase-out of the Federal Transit Administration’s (FTA) Capital Investment Grant (CIG) program that funds new start, small start, and core capacity projects. The Administration skinny budget proposal also called for deep cuts in the CIG program in the yet to be completed FY 2017 appropriations process.

Congress finally passed the Consolidated Appropriations Act of 2017 (PL 115-31), which provided full-year funding for transportation and other federal programs, and that bill was signed into law on May 5, 2017. The FY 2017 appropriations bill rejected the Administration proposal to phase out the CIG program, and it full funded most public transportation programs at levels authorized under the Fixing America’s Surface Transportation (FAST) Act. In late May, the Administration submitted its full FY 2018 budget proposal that included the earlier recommendations.

During the same time frame, the Administration continued to call for a major infrastructure initiative that would invest up to \$1 trillion in the nation’s aging infrastructure, including transportation. Though we have still not seen the details of the Administration’s infrastructure proposal, or whether it will include public transportation, recent reports indicate that the proposal will provide \$200 billion, over 10 years, that would be used to leverage public-private financing for investment. Separately, the Administration sought input from the public on how burdensome regulations under federal programs could be reduced administratively. APTA developed industry recommendations on a potential federal infrastructure initiative, and proposals for reducing regulatory burdens, both of which have been shared with Congress and the Administration. APTA’s Legislative Subcommittee on Federal Procedures and Regulations is continuing to work on additional regulatory issues. The [Appendix on Regulatory Reform Recommendations](#) and the [Appendix on Innovative Financing Recommendations](#) can be found on our [toolkit page](#).

The Administration also laid out its broad legislative goals early in the year, saying that it would focus first on repealing or replacing the Affordable Care Act, then turn to enacting comprehensive tax reform legislation, followed by an infrastructure initiative.

Moving Forward: FY 2018 Appropriations

As noted in recent Legislative Alerts, the full Appropriations Committees in both chambers of Congress have approved FY 2018 Transportation, Housing and Urban Development, and Related Agencies (THUD) Appropriations bills. Neither bill has been approved by the full House or Senate. Congress is unlikely to complete action on the FY 2018 THUD Appropriations prior to start of the new federal fiscal year in October, and is instead expected to approve a continuing resolution to keep all federal programs temporarily funded at last year’s levels in the short-term. Final action on a full-year FY 2018 THUD Appropriations bill is more likely to be included in an Omnibus Appropriations bill that

would be taken up by the Congress likely between October and December, or later. Further complicating this effort is the need for Congress to approve a FY 2018 Budget Resolution that sets new top-line spending levels in order to avoid across-the-board spending cuts known as “sequestration,” as required by the Budget Control Act.

While each of the FY 2018 THUD Appropriations bills approved by the House and Senate largely reject Administration proposals to phase out the CIG program, they differ in significant ways. The House bill sets total FTA funding at \$11.75 billion, while the Senate bill sets FTA funding at \$12.13 billion. Both bills fully fund Mass Transit Account (MTA) formula programs at levels authorized under the FAST Act, both bills include both statutory and report language directing the U.S. Department of Transportation (DOT) to rate and enter into new full funding grant agreements (FFGA's) to fund those projects, and both bills provide funding for the CIG program at levels above those requested by the Administration. However, the Senate bill would fund the CIG program at \$2.13 billion, while the House bill would fund the CIG program at \$1.75 billion, both below the \$2.3 billion level authorized in the FAST Act. While the House bill is \$549 million below the authorized level, the bill provides an additional \$500 million for the Gateway project under the Federal Railroad Administration title of the bill, in addition to the funding that is provided for Gateway under the CIG program. Both bills also reject the Administration proposal to reduce Amtrak funding and the Senate bill provides \$500 million for TIGER grants, which the Administration budget proposed to eliminate.

Other Issues Impact Upcoming Legislative Calendar

When Congress returns in September, it must address several critical issues before it can return to passing full-year appropriations bills, comprehensive tax reform, or an infrastructure initiative. First and foremost, it will need to pass legislation to increase the debt limit and avoid a default by the federal government, before September 29. Also before October 1, Congress will need to pass a continuing resolution to fund the government and approve reauthorizing legislation for the Children's Health Insurance Program, National Flood Insurance Program, and Federal Aviation Administration taxes and authorities.

As all of this plays out this fall and into 2018, APTA members must continue to monitor the status of the CIG program and advocate for fully funding all of the public transportation programs authorized under the FAST Act. Moreover, we must continue working to ensure that public transportation recommendations and programs are part of any infrastructure initiative that Congress advances.

Other News; President Trump Issues Executive Order (EO) on Infrastructure Permitting

On August 15, President Trump issued an EO that aims to cut the federal environmental permitting process for infrastructure projects down to two years and implement the FAST Act requirement that there be a lead agency for environmental review for major projects. Specifically, it sets timelines on agency decision-making and implements new accountability measures to encourage compliance. The goals of the EO are generally aligned with APTA's regulatory reform policy to “to speed project delivery and reduce costs of projects” and to “implement statutory project delivery reforms.”

The White House Fact Sheet can be accessed [here](#) and the full EO is [here](#).

From the Federal Register:

- On Tuesday, August 22, the Federal Transit Administration published in the [Federal Register](#) a [Request for Expressions of Interest to Participate in a Pilot Program for Nonprofit Cooperative Procurements](#).
- Also on August 22, the Federal Transit Administration posted on the Public Inspection Document a [Notice of Funding Opportunity: Solicitation of Project Proposals for the Passenger Ferry Grant Program](#).