



Memorandum

TO: BUILDING BETTER
TRANSPORTATION COMMITTEE

FROM: James R. Helmer
Betsy Shotwell

SUBJECT: LEGISLATIVE REPORT

DATE: 07-16-04

Approved

Date

RECOMMENDATION

Accept Legislative Report.

BACKGROUND

The objective of this report is to provide information and insights on legislative activities at both the federal and state levels.

ANALYSIS

Federal

TEA-21 Reauthorization

Discussion regarding the reauthorization of the Transportation Equity Act for the 21st Century (TEA-21) continues to move slowly. While the conference committee has continued to meet there has not been an agreement between House and Senate conferees regarding a funding level for the next six-year transportation-funding bill.

In late June, the Senate through Conference Chair Senate James Inhofe (R-OK) set a \$318 billion six-year funding level for the federal highway and transit programs. House Transportation and Infrastructure Chairman Don Young (R-AK) and House T&I Ranking Member Jim Oberstar (D-MN) indicated that they needed more time to prepare a counter-offer. Observers of the process believe that the inability of the House to come up with a counter-offer has been hampered by disagreement among conferees on the magnitude of the spending level, and how to reach an agreement with the Administration, which is still holding to its original funding level of \$256 billion. While Chairman Young and other committee members are supportive of a higher level than the House approved level of \$285 billion, House leadership is supportive of a lower total so as to avoid a possible veto from the

Administration. Another meeting of the committee was scheduled for mid July and it is expected at that time that Chairman Young is likely to provide a new funding proposal.

The Conferees did approve disposition on a slate of 31 additional items that are not funding-related and are relatively non-controversial. Many of these items were transit related. The list of 31 items included items like, but was not limited to:

- Definitions regarding Urban Areas
- Bus Seat Specifications
- Language defining who are individuals with a disability

The House and Senate will adjourn for the August recess on July 23, 2004, with the current extension of TEA-21 running out on July 31, 2004. If the reauthorization is not passed prior to September 30, 2004, the entire first year of the proposed reauthorization period will have passed and members of the conference committee will need to decide whether to shorten the bill or let it remain as a six-year bill that would run through federal FY 2010.

Another option for extension includes passing a longer-term extension bill that would defer action on the legislation until the next Congress convenes. It would also put the decision on the size of the federal FY 2005 program into the hands of the appropriations committees, since an omnibus appropriations bill is likely to be one of the last actions taken by Congress before adjournment.

Federal FY 2005 Appropriations

The FY 2005 federal Appropriations cycle continues to move at a slow pace and is falling behind schedule. According to sources in Washington, D.C., there is thought that the Defense Appropriations bill, which has not yet gone to conference, is viewed as the one bill that will pass Congress and be signed into law prior to the start of the new fiscal year. The Homeland Security bill was expected to be considered by the full Senate in late June but changes in the Senate schedule now make it appear that the chamber may not consider the bill in the month of July.

The House has passed six of the 13 annual appropriations bills for the new federal fiscal year that begins October 1. House Appropriations Committee Chairman Bill Young (R-FL) has stated that he plans on passing 11 of the 13 bills out of the House prior to the recess period that begins on July 23. The only two appropriations bills that are not on schedule to pass the House prior to the summer recess are the VA/HUD and Transportation/Treasury Appropriations bills, both of which have severe funding challenges.

The House Transportation/Treasury Appropriations Subcommittee is scheduled to mark-up its bill around July 14th, but this activity might be delayed until the week of July 19 or even until after the summer recess period. The Subcommittee is struggling with a funding shortfall compared to last year's funding levels. There is a strong chance that Subcommittee Chairman Ernest Istook (R-OK) will withhold some earmarks from the bill as a tactical maneuver to gain votes for the bill at all stages of the process. He will then insert the earmarks in conference after he has a better chance of assessing who supports his funding levels and who opposes them.

On the Senate side, by this point last year, the Senate Appropriations Committee had held full Committee mark-ups of six of the 13 bills with another three bills passed the week of July 12, 2003. By comparison, this year, the Senate Appropriations Committee has held full Committee mark-ups of only two appropriations bills and is unlikely to have considered many more by the conclusion of this month. Much of this traces back to the failure to pass a budget resolution and the resulting potential havoc that wrecks on the floor consideration of appropriations bills. Several of the subcommittee markups that were scheduled have been cancelled and have not been rescheduled. The likelihood that mark-up of the Transportation and Treasury Appropriations bill on the Senate side will occur prior to the July 23 recess is slim. The Senate may withhold earmarks in that bill until a conference committee took place to ensure that there are enough votes for final passage.

It is possible, that the Senate may come back from the August recess with a plan to wrap all of its other 12 spending bills into an omnibus appropriations bill that uses the Homeland Security Appropriations bill as a base. Senate Appropriations Committee Chairman Ted Stevens (R-AK) had discussed the possibility of preparing an omnibus package for consideration on the Senate floor in July, but this will probably not occur, allowing time for Senate passage and negotiations with the House prior to the early October adjournment. Majority and Minority leaders in both chambers are contemplating the prospects of passing the appropriations bills in late September through an omnibus process that would dramatically lessen the need for a lame duck session after the elections. Relying on recent history, the more likely course, is that efforts to pass the appropriations bills in some larger omnibus package before Election day will fail, and the real work will begin in the lame duck session.

State

ABAG/MTC Joint Policy Committee - SB 849 (Torlakson)

During the 2001-02 Legislative Session, Senator Tom Torlakson introduced legislation (SB 1243), which if passed would have merged the Metropolitan Transportation Commission (MTC) with the Association of Bay Area Governments (ABAG). That bill was defeated in the Assembly Local Government Committee, with the caveat that MTC and ABAG form a taskforce to develop a local solution to issues of concern. The taskforce concluded its work in December 2003, with the recommendation that ABAG and MTC develop a Joint Policy Committee to review regional planning documents.

In 2003, a Joint Task Force made up of members of ABAG and MTC's Boards held a series of meetings over a six-month period to discuss the ABAG/MTC merger issue and to work to develop a consensus on regional planning issues. The outcome of the meetings was the development of the Joint Policy Committee with the focus of its efforts on periodically updating the regional vision and outlining implementation strategies for consideration by ABAG and MTC. From a transportation perspective, the committee would coordinate and evaluate other regional plans dealing with incentives, transportation, land use, housing, jobs, environment, economy and equity with the view of coordinating revisions and updates to coincide with the 2008 Regional Transportation Plan (RTP).

Santa Clara County representatives on the Task Force included: David Cortese – City of San José (ABAG), John McLemore – City of Santa Clara (MTC), and Pete McHugh – County Board of Supervisors (ABAG).

Senator Torlakson placed language in SB 849 relative to the Joint Policy Committee and as amended on June 15, 2004, would require the Joint Policy Committee formed by MTC and ABAG to oversee specified actions relating to regional housing, land use, air quality, and transportation planning. Additionally, the bill would require that the committee report to the Legislature by January 1, 2006, the feasibility of *consolidating functions separately performed by ABAG and MTC*. The bill also requires the committee to coordinate the development and drafting of major planning documents prepared by ABAG, MTC, and the Bay Area Air Quality Management District (BAAQMD).

Examples of these plans include but are not limited to:

- MTC's 2008 Regional Transportation Plan (RTP)
- ABAG's Housing Element
- BAAQMD's Ozone Attainment Plan and Clean Air Plan

SB 849 as amended includes additional tasks that were not agreed upon in the ABAG/MTC Joint Task Force Report and does not truly reflect the agreed upon action plan included within the Task Force's Final Report.

SB 849 would again attempt to begin the process of mandating Bay Area local regional issues/activities regarding ABAG and MTC from Sacramento. The Task Force developed a regionally accepted plan of action that directs the Joint Policy Committee's activities. The ABAG/MTC Task Force approved the final report, which included the Plan of Action, unanimously in December 2003. The creation of the Task Force was driven by Senator Torlakson's bill that mandated the merger of the two agencies. At its final hearing in the Assembly Local Government Committee it was made clear to Bay Area Representatives during a hearing on SB 1243, that the region needed to come together to develop a mutually acceptable arrangement or the outcome would be legislated by Sacramento. The Task Force came together to discuss the merger and other issues and at the end of its tenure created a regionally accepted outcome, a Joint Policy Committee.

Language in SB 849 continues to promote the possible merger of the two agencies whether or not it is an outcome wished for by the Bay Area. The bill includes language that states the Joint Policy Committee has a substantial role in facilitating progress on regional transportation matters. Additionally, the bill includes language as of this writing, which mandates that the Bay Area Air Quality Management District (BAAQMD) becomes a member of the Joint Policy Committee. The inclusion of BAAQMD was discussed during the task force meetings, and it was decided that there were already structures in place where ABAG/MTC/BAAQMD were able to discuss regional issues. The Joint Policy Committee approved by the task force included only ABAG and MTC.

Along with the addition of BAAQMD as a member of the committee, Torlakson's bill also states that the combined membership of the Joint Policy Committee shall include at least one member from each of the nine regional counties: Alameda, Contra Costa, Marin, Napa, Sonoma, San Mateo, San Francisco, Santa Clara, and Solano. While the legislation does have language that would provide each of the nine Bay Area counties with a representative, the requirement that a county only need have one representative could be problematic on a committee that could range in size up to 21 members, seven members from each of the three agencies.

At this time the development of the Joint Policy Committee is underway and it has held its first meeting. MTC has agreed to fund staff that will assist the committee in the development of a work plan that will meet the goals of the ABAG/MTC Joint Task Force's Plan of Action. The goal of the Task Force and the reason for its creation was to work locally and to create an acceptable process to deal with regional issues. Legislative action, such as SB 849, that drives the process from Sacramento does not meet the goal of creating a grass-roots locally acceptable program.

On June 15, 2004, the City Council approved an oppose position for this legislation. At the end of June, SB 849 (Torlakson) was placed on the Suspense File by the Assembly Appropriations Committee. Additionally, the Santa Clara County Cities Association voted to oppose SB 849 at its July 8, 2004, board meeting.

COORDINATION

This item was coordinated with the City's legislative advocates in Washington, D.C. and with the City's Sacramento Office.

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