



March 18, 2019

To: Members of the Board of Directors
From: Jennifer L. Bergener, Managing Director
Subject: Legislative Update

Overview

An update is provided on the federal fiscal year 2018-19 funding bills and discussions surrounding the California High-Speed Rail project. An overview of transportation-related legislative hearings and a report issued by the Federal Railroad Administration on preventing trespassing incidents is also included.

Recommendation

Receive and file as an information item.

Discussion

Federal Appropriations Process Update

Prior to the start of federal fiscal year (FFY) 2018-19, the President signed five of the 12 appropriations bills into law, funding a portion of government operations for the duration of the fiscal year. The remaining seven appropriations bills, including the Transportation, Housing and Urban Development (THUD) bill, were funded under a series of continuing resolutions that expired on December 21, 2018. After a 35-day lapse in appropriations, another continuing resolution was passed on January 25, 2019, that reopened the closed government agencies through February 15, 2019. A separate measure was also passed providing backpay for federal workers impacted by the partial government shutdown.

On February 14, 2019, the House signed omnibus appropriations legislation by a vote of 300 to 128. The Senate passed the bill shortly thereafter by a vote of 83-18. On February 15, 2019, the President signed the bill into law, funding the remaining seven appropriations bills through the end of the fiscal year. The THUD division received \$71.1 billion in discretionary funding, \$23.1 billion above the President's budget request and \$1 billion above the FFY 2017-18 enacted

level. The portion of the omnibus bill that funds the Department of Transportation provides \$85.6 billion overall.

The omnibus bill provides more than \$16 billion for public transportation and intercity passenger rail grants, which is \$1.2 billion above authorized levels in the Fixing America's Surface Transportation (FAST) Act. Within the \$13.4 billion provided for public transportation grants is \$2.55 billion for the Capital Investment Grants (CIG) program. The bill allocates \$1.27 billion for New Starts projects, \$635 million for Core Capacity projects, and \$526.5 million for Small Starts programs. In addition, the bill also includes language directing the Federal Transit Administration to obligate \$2.17 billion of the CIG funds in a timely manner, specifically by December 31, 2020. There was also language emphasizing that the CIG program should be administered pursuant to the policies authorized in the FAST Act.

The \$2.6 billion provided for intercity passenger rail grants consists of \$1.94 billion for Amtrak, \$400 million for Federal-State Partnership for State of Good Repair grants, and \$255 million for the Consolidated Rail Infrastructure and Safety Improvements program, among other programs. Of the \$1.94 billion included for Amtrak, the bill allocates \$650 million for Northeast Corridor grants and \$1.29 billion for the National Network. As for the Federal-State Partnership for State of Good Repair program, the bill also directs the Federal Railroad Administration (FRA) to release funding for FFY 2016-17, 2017-18, and 2018-19 grants within 30 days of enactment of this bill to expedite the timeline of grant notices and awards.

The omnibus bill also provides \$900 million for the competitive Better Utilizing Investments to Leverage Development (BUILD) program, which funds surface transportation projects that include multi-modal investments. The bill requires BUILD grants to be split evenly between large urban areas and rural areas with a population of under 200,000. The bill also contains language requiring that the FFY 2018-19 funding application process commence within 60 days of enactment. Staff will continue to monitor the implementation of these funds as it relates to intercity passenger rail service.

California High-Speed Rail Project Update

Since voters approved Proposition 1A in 2008, the high-speed rail project has experienced significant cost increases that have resulted in an estimated \$50 billion funding gap to complete Phase I of the project, which would run from San Francisco to Anaheim. In the State of the State speech, Governor Gavin Newsom signaled a shift in California's approach to the project. Specifically, the Governor announced his intention to utilize the authorized funding to complete a segment of the project between Merced and Bakersfield,

while also continuing work on the environmental reviews for the remainder of Phase I.

In response to the Governor's announcement, the FRA declared its intention to cancel a \$929 million federal grant appropriated in 2009. The letter from the FRA detailing its reasoning behind the potential de-obligation of these funds is included as Attachment A. In the letter, the FRA argues that the California High-Speed Rail Authority (CHSRA) has failed to meet the terms of the Cooperative Agreement entered into with the FRA when the grant was executed. The FRA is also considering legal options to get back another \$2.5 billion federal grant the CHSRA has already spent on the project.

On March 4, 2019, the CHSRA responded to the FRA in a letter included as Attachment B. In this letter, the CHSRA explains how the agency is focused on meeting the conditions laid out in the federal grant agreement. Specifically, the letter discussed the progress made on the project, which includes 119 miles of construction, and the advancing of environmental permits. In addition, the letter notes that the CHSRA fulfilled its commitment to fully expend the other \$2.5 billion in federal funds discussed in connection with the FRA's letter.

It is expected that both the Legislature and Congress will continue to analyze and evaluate the project's next steps. Staff will continue to provide additional updates as the situation continues to develop.

Federal Railroad Administration's Report on Preventing Trespassing

On February 19, 2019, the FRA issued a report to Congress entitled, "National Strategy to Prevent Trespassing on Railroad Property," which is included as Attachment C. At the request of the U.S. House of Representatives Committee on Appropriations, the report analyzes the leading factors of trespassing incidents on railroad property, as well as develops a national strategy to prevent future trespasser incidents. Specifically, the FRA identified several contributing factors, such as the behavioral choices of individuals, the lack of knowledge of trespassing dangers, the focus of finite resources on higher-priority law enforcement issues, community-planning decisions, and the lack of prosecutions associated with violations.

In addition, the FRA examined trespasser casualties over a four-year period between November 2013 and October 2017 and identified the ten counties with the highest pedestrian trespasser casualties, which includes the Counties of Los Angeles and San Diego. Considering these high-risk areas and the increase in trespasser fatalities at grade crossings and other railroad rights-of-way, the FRA developed a national strategy that focuses on four strategic areas: data gathering and analysis, community site visits, funding, and partnerships with

stakeholders. The focus on these areas is expected to allow the FRA to transition its trespasser prevention program to a centrally managed, data driven program designed to identify and mitigate trespassing hot spots more effectively.

Informational Hearing on Senate Bill 1

On February 26, 2019, the Senate Transportation Committee held an informational hearing on Senate Bill 1 (SB1) (Chapter 5, Statutes of 2017). This hearing focused on the benefits that SB 1 funding has been able to provide for local streets and roads, transit, highways, rail, active transportation, research, and the economy. The witnesses included Chad Edison, Deputy Secretary of the California State Transportation Agency, and Darrell Johnson, Chief Executive Officer of the Orange County Transportation Authority. Deputy Secretary Edison spoke about the increase in funding for the Transit and Intercity Rail Capital Program and the State Rail Assistance Program, which has allowed for investments in operations and capital improvements for intercity and commuter rail service, as well as transit service improvements and electrification efforts. Darrell Johnson shared how SB 1 has provided immediate benefits to localities and regions by doubling local streets and roads funding for each city and county, stabilizing the State Transportation Improvement Program, augmenting transit funding, and providing a new revenue source for intercity and commuter rail. In addition, a common theme that was discussed by the Senate Transportation Committee and the witnesses was the need for more robust workforce development efforts to address future employment needs in the construction and equipment manufacturing sectors.

House Transportation and Infrastructure Committee Hearing

On February 26, 2019, the House Transportation and Infrastructure Committee held a hearing entitled, "Examining How Federal Infrastructure Policy Could Help Mitigate and Adapt to Climate Change." Committee members and witnesses discussed how transportation policy impacts the environment and, specifically, how federal transportation policy might be altered to achieve both infrastructure and climate goals. Committee members discussed how the transportation sector is one of the largest contributors to climate change and, as such, transportation policy should reward local transportation agencies for pursuing low-carbon technologies and strategies. California Air Resources Board Member Dr. Daniel Sperling testified about policies implemented in the State of California, most notably regional greenhouse gas emission reduction targets, as well as the importance of funding in incentivizing transportation agencies to achieve climate goals. Committee members and witnesses also focused on the airline industry's success in achieving emissions reductions as an example of a market-based approach to protecting the environment. According to a witness from Airlines for America, the air travel industry is responsible for driving five percent of gross

domestic product, yet airlines are only responsible for two percent of greenhouse gas emissions. These statistics, and others like them, generated significant discussion about the need for market-based policies to combat greenhouse gas emissions as opposed to top-down environmental mandates that might harm taxpayers.

Summary

An update is provided on the appropriations process, trespasser incidents, the California High-Speed Rail Project, and transportation-related hearings.

Attachments

- A. Federal Railroad Administration's Letter to the California High-Speed Rail Authority
- B. The California High-Speed Rail Authority's Letter to the Federal Railroad Administration
- C. Report to Congress, National Strategy to Prevent Trespassing on Railroad Property
- D. Los Angeles – San Diego – San Luis Obispo Rail Corridor Agency Legislative Matrix

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