

GOVERNMENT RELATIONS INC.
1050 17th STREET
SUITE 510
WASHINGTON, DC 20036

(202) 775-0079

April 2007 Monthly Report for MTC

To: Steve Heminger, Executive Director
MTC

From: Tom Bulger, President
Jason Pavluchuk, Associate
GRI

Re: Monthly Report for April 2007

Date: May 2, 2007

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Bay Bridge Connector Accident

At the end of April we coordinated with the Governor's Washington office, the Bay Area Congressional Delegation, and the House and Senate transportation committee staff concerning the bridge connector accident.

The delegation is most interested in assisting with a quick approval of the State's emergency relief funding request that has yet to be submitted to the US Department of Transportation. The Federal Emergency Relief program includes a 'public safety' clause, which allows for Federal reimbursement of transit/ferry interim costs. The FHWA division office must sign off on the disaster declaration that should include reasonable reimbursement of emergency transit/ferry costs.

National Transportation Commission Field Hearing in Minneapolis

On April 17, 18, 19 Tom Bulger attended the National Transportation Commission Field Hearing in Minneapolis. The following commissioners attended: Secretary Peters, Commissioners Geddes, Quinn, Odland, Zino & Skancke. Below are the highlights of the Commission's Minneapolis, MN field hearing.

Rural transportation issues dominated the discussion in the first two panels. The main focus was that the majority of the nation's fatalities are in rural areas on two lane roads. Minnesota DOT (MNDOT) seems to have a handle on reducing traffic fatalities and a good working partnership(s) with local governments and public safety officials. The state directs safety funds in a cost-benefit manner.

Minnesota, North Dakota and South Dakota DOT's all requested more flexibility from the federal highway program. When asked what this meant the answer was less oversight and federal review.

The Chair's of the Metropolitan Council (Minneapolis' MPO) and the Metropolitan Transitway Development Board both testified that the current FTA New Starts program is process driven vs. outcome driven. They recommend that FTA follow the law concerning economic development outcomes and land use outcomes.

The other major recommendation was deployment of ITS technologies in a larger manner throughout the country. It was recommended that a dedicated federal funding program that would allow greater ITS deployment project(s) with high cost-benefit ratios.

Freight Users Perspectives: the fortune 500 company's that testified were all committed to whatever their customers wanted or needed. With that said, they mentioned that the US logistics supply system is at capacity. In fact, as recently as 18 months ago the nation's logistic supply system almost cratered. One panelist from Cargill Inc. was not convinced that the Commission would recommend anything worthwhile. He based this on a blue ribbon committee that he was on with former Secretary Mineta.

None of the panelists recommended revenue enhancements. I believe this was the case because most of the panelists were not in a position of authority.

In addition to the hearing, Mr. Bulger toured the Guidestar Control Center and the University of Minnesota Human First Program Driver Simulator.

At this briefing, we found out that MNDOT will be submitting an Urban Partnership Agreement Application. The focal point of their application will be expansion of their dynamic toll project on the I-394 MN Pass HOT lanes.

Buy America Hearing

On Tuesday April 24, 2007 the House Transportation & Infrastructure Subcommittee on Highways and Transit held a hearing on Buy America. The focus of the hearing initially was on the SAS piece of the Bay Bridge. Originally, there was a high level of concern that the SAS of the Bay Bridge project would be singled out as a poster child concerning Buy America. Very little time was allowed by the Committee announcing the hearing and the hearing purpose wasn't public until right before the hearing date, which led to high levels of frustration and agitation.

Through the intervention of Speaker Pelosi's office and Rep. Ellen Tauscher's office the Committee staff got the message that there would be no negative discussion allowed about

the SAS. For the most part this was the case; throughout the hearing it became clear, especially to Rep. Baird (D-WA), the main proponent of the hearing and opponent of the SAS portion of the bridge that the Congress would have to further amend the federal Buy America legislation with respect to how FHWA administers project contracts. Congressman Baird introduced HR 1984 (details are below), legislation that would amend Buy America and how FHWA administers it. The legislation was introduced with seven co-sponsors, but has no chance of moving to the House floor if were to ever be approved by the House committee. This point has been repeatedly reaffirmed by Speaker Pelosi's office.

As expected, Chairman Oberstar attended the hearing and recounted the history of the Buy America legislation. Caltrans did a good job testifying, but the star of the show was the SAS contractor Mr. Robert H. Luffy, President and CEO of American Bridge Company.

We will continue to monitor the situation and notify staff of any changes.

Details of Congressman Baird's Buy America Legislation, HR 1984

Below is the legislative language of HR 1984, a breakdown of how it will effect Buy America provisions, and a summary of the legislation

A BILL

To amend the Surface Transportation Assistance Act of 1982 to clarify that the Buy America provision applies to an entire bridge project, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION.

Section 165 of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 101 note) is amended--

(1) in subsection (a)--

(A) by inserting 'for a project' after 'shall not obligate'; and

(B) by inserting 'before, on, or after the date of obligation of such funds,' after 'products used'; and

(2) by adding at the end the following:

'(h) Applicability to Bridge Project - If subsection (a) is applicable to a component of a bridge project, the Secretary shall ensure that subsection (a) applies to the entire bridge project.'

An Excerpt from the 1982 Surface Transportation Assistance Act, as amended Buy America - Section 165

Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate for a project any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978 and administered by the Department of Transportation, unless steel and manufactured

products used before, on, or after the date of obligation of such funds in such project are produced in the United States.

(added on at the end)

(h) Applicability to Bridge Project – If subsection (a) is applicable to a component of a bridge project, the Secretary shall ensure that subsection (a) applies to the entire bridge project

Summary:

Congressman Baird’s legislation would change Buy America by applying the provisions of Buy America to a project if any aspect of the project uses foreign steel and specifically states that no Federal-aid Highway funds shall be used unless steel and manufactured products used before, on, or after the date of obligation of such funds in such project are produced in the United States. This means that hypothetically, a project could be retroactively punished. We are unsure how FHWA could implement this punishment.

Urban Partnership Agreement

In April, we participated in the Commission’s staff deliberations surrounding the region’s April 20, 2007 Urban Partnership Agreement (UPA) application submission to US DOT. Currently we are working to secure a support letter from the Bay Area Congressional Delegation to Secretary Peters.

FHWA Releases Distribution of Revenue Aligned Budget Authority for FY 2007

On April 13, 2007, the Federal Highway Administration (FHWA) released the revenue aligned budget authority (RABA) figures for FY 2007. RABA provides for adjustments in funding for Federal-Aid Highway and safety programs to reflect changed estimates of Highway Account revenue. The funds are apportioned across the core Federal Highway programs and are distributed to the States using the same ratio that each State is apportioned for such programs.

In FY 2007, a portion of the additional funds were used for the equity bonus program, which are used to increase a State’s rate of return.

The RABA figure for FY 2007 is \$842,254,167, of which, \$128,247,471 has been set aside for the equity bonus program***, \$119,888,952 has been set aside for FHWA discretionary programs, and 3,421,020 for Motor Carrier Safety Assistance programs.

California will receive the following totals:

INTERSTATE MAINTENANCE	NATIONAL HIGHWAY SYSTEM	SURFACE TRANSPORTATION PROGRAM	BRIDGE	CONGESTION MITIGATION & AIR QUALITY	HIGHWAY SAFETY IMPROVEMENT	TOTAL
\$12,662,519	\$15,959,110	\$17,171,974	\$10,480,206	\$10,559,992	\$2,837,140	\$69,670,941

*** It should be noted that FHWA’s allocation chart includes the amount states receive through RABA, and the portion of RABA dedicated to equity bonus.

Rescission of Highway Contract Authority in Supplemental Draws Fire

House and Senate appropriators included a provision in the conference report on the fiscal 2007 emergency spending bill rescinding some authorized federal highway funding to pay for emergency road repairs elsewhere, despite objections from Transportation and Infrastructure Chairman James L. Oberstar (D-MN)

The conference agreement on a \$124.2 billion emergency spending bill (HR 1591), expected to be filed later today, will provide \$683 million to fund a backlog of projects through the Federal Highway Administration's Emergency Relief program, which pays for repairs to roads damaged by natural disasters. The Senate version had originally appropriated \$389 million.

The provision would offset the emergency road funding with a rescission of states' highway contract authority. Chairman Oberstar wrote House appropriators late Monday urging them not to include the provision in the conference report.

"The rescission of contract authority is the exclusive jurisdiction of the Committee on Transportation and Infrastructure," Oberstar wrote. There is no need to offset the highway funds because they are designated as emergency money, Oberstar wrote. A Senate appropriations aide said the rescission was needed to keep the bill's bottom line in check.

It should be noted that the President vetoed the legislation because of troop withdrawal language, but it is quite likely that the language will appear in a new version of the supplemental.

Senate Finance Committee Considering Short-Term Fix for Highway Trust Fund Shortfall

Members of the Senate Finance Committee are working on a short-term fix to the projected Highway Trust Fund shortfall, which is expected as early as Fiscal 2009. While the plan does not include any discussion of a gas tax increase, Finance Committee members have offered plans to crack down on fuel tax evasion, redirect "gas guzzler" tax monies to the Highway Trust Fund instead of the General Fund, and lift the federal gasoline tax exemption currently provided to state and local governments (although state and local governments would be able to apply for a reimbursement of these costs from the general fund). A spokesman for House Transportation & Infrastructure Committee Chair James Oberstar (D-MN) said that the Committee would begin looking at fixes to the Highway Trust Fund deficit at some point later in 2007 or in 2008.