

**Metropolitan Transportation Commission and Association of Bay Area Governments
Joint MTC ABAG Legislation Committee**

January 13, 2023

Agenda Item 5a

Washington D.C. Legislative Update

Subject:

December 2022 Report from Washington, D.C. advocate.

Issues:

None identified.

Recommendations:

Information

Attachments:

- Attachment A: Summit Strategies Team Report – December 2022
- Attachment B: Bay Area Transportation Earmarks – 2023 Omnibus Appropriations Bill



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Summit Strategies Team Report – December 2022

From: Summit Strategies Team

To: Therese McMillan, Executive Director

Date: December 21, 2022

Subject: December Federal Policy Monthly Report

- **Lame Duck Session and Appropriations Update**
 - **National Defense Authorization Act (NDAA) and Financial Data Transparency Act Update**
 - **Federal Highway Administration (FHWA) Administrator Confirmed**
 - **New Leadership for Key Congressional Committees**
 - **Agency Actions and Competitive Grant Update**
 - **National Transportation News Roundup**
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Below is a status update on issues of interest to MTC and the actions that we have taken to date.

Lame Duck Session and Appropriations Update

The 2022 midterm elections finished before the 2022 Congress did. Several major pieces of legislation have passed during the lame duck session, including the Respect for Marriage Act and legislation to prevent a nationwide rail strike. The Senate also passed the National Defense Authorization Act (NDAA), sending the bill to the President for his signature

After these shoes dropped, all attention turned to funding the government, and the omnibus appropriations package. The text of the bill was released on Tuesday, December 21, 2022, Congress is moving to pass it this week, and this legislation aligns with MTC's priorities, with transit, roads, bridge, rail and bicycle/pedestrian funding increases above the levels guaranteed in the Bipartisan Infrastructure Law (BIL)

Throughout the year, your DC team has been working to secure several MTC priorities in this end of year legislative vehicle. For example, the DC team worked with House and Senate transportation appropriations staff, California House and Senate leadership and a national coalition of transit operator D.C. advocates to secure a \$425 million augmentation of the Capital Investment Grant (CIG) program for projects with secured full funding grant agreements but that are facing significant cost overruns. Bay Area transit operators – BART and Caltrain – will receive roughly \$75 million, or 18 percent of the CIG augmentation.

The DC team also worked to secure \$85 million for a new Department of Housing and Urban Development (HUD) grant program, incorporating language that will allow the Bay Area Housing Finance Authority (BAHFA) to compete for funding. This success came out of MTC and ABAG's in person-meetings this past June on Capitol Hill, and continued advocacy in the months following. HUD will provide competitive grant awards to projects that identify and remove barriers to affordable housing production and preservation. The bill also includes report language directing HUD to actively seek funding opportunities for regional agencies (metropolitan planning organizations and councils of government) and to support regional collaboration. This report language creates an additional opportunity for MTC/ABAG to advocate for federal support for regional approaches to addressing the Bay Area's severe housing challenges.

Going into the new year, we will be working with HUD to ensure BAHFA is in a good position to compete for these new resources.

Additionally, your DC team has been working with House and Senate Appropriators on the inclusion of a provision to extend Build America Bonds (BABs) credit subsidies through 2025. Without action, these subsidy payments would have been eliminated, increasing costs for borrowers like the Bay Area Toll Authority, transit operators, and local governments by tens of millions of dollars each year.

Some other highlights from the text include \$800 million in additional funding for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program, \$25 million for the Thriving Communities Program, \$150 million for the Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Formula program, \$12 million for the regional infrastructure accelerator program, \$45 million for active transportation infrastructure investment, \$542 million for the Transit Plus Up Account, \$100 million for Fed-State partnership for intercity passenger rail, \$535 million for the Consolidated Rail Infrastructure and Safety Improvements (CRISI) program, \$2.45 billion for Amtrak, \$1.15 billion for the bridge formula program, \$140 million for low-no bus and bus facilities, \$15 million for ferries, and \$54.5 million for San Francisco Estuary Funding.

Regarding housing, the bill extends existing housing assistance and expands housing choice vouchers to nearly 12,000 low-income individuals and families experiencing or at risk of homelessness, including survivors of domestic violence and veterans. This expansion is on top of the 25,000 new vouchers provided in fiscal year 2022. The bill also includes \$3.3 billion for the Community Development Block grant program, \$1.5 billion for the HOME Investment Partnership Program, and – as described above – \$85 million for a new “yes in my backyard” grant program for which state, local, and regional entities may compete.

The appropriations bill also included hundreds of earmarks. Bay Area transportation earmarks are listed in Attachment B.

National Defense Authorization Act (NDAA) and Financial Data Transparency Act Update

On December 6, 2022, House and Senate Armed Services Committee leadership unveiled a bicameral, bipartisan Fiscal Year (FY) 2023 NDAA. The NDAA is annual, must-pass legislation that, in recent history, serves as a legislative vehicle for additional bipartisan, bicameral bills (or policy riders) so they can be enacted without receiving a standalone vote.

The FY 2023 NDAA agreement includes the Financial Data Transparency Act (FDTA), led by Reps. Carolyn Maloney (D-NY) and Patrick McHenry (R-NC) in the U.S. House of Representatives and Sens. Mark Warner (D-VA) and Mike Crapo (R-ID) in the U.S. Senate. This bill was included as an amendment to the House Armed Services Committee's version of the NDAA that passed the U.S. House in July 2022. The bill would generally establish new financial data reporting standards for municipal securities market participants separate from the standards established by the Government Accounting Standards Board (GASB), which impacts BATA and other municipal bond issuers.

The DC Team worked closely with our partners to express concerns to the bill's sponsors in both chambers of Congress and coordinated an effort to suggest alternate language. Suggested changes included moving the rulemaking away from Municipal Securities Rulemaking Board (MSRB), lengthening the rulemaking timeline to allow for input from issuers and market participants and/or creating a pilot program or study to better determine the impact these new standards would have on the municipal industry.

Several of these suggestions were incorporated into the final NDAA agreement. The new language directs the Securities and Exchange Commission (SEC) to set and implement these new data standards instead of the MSRB. This language is more favorable since SEC already has regulatory authority and procedures and the commission is subject to congressional oversight. The section also includes new language specifically directing SEC to consult with affected agencies during the rulemaking process and addresses the timeline concerns by providing that there be two years to implement the rule.

While not the ideal outcome, these changes will allow BATA and other affected groups to work with SEC on the rulemaking process and provide a longer timeframe to implement the changes required by the new rule.

Federal Highway Administration (FHWA) Administrator Confirmed

The Senate confirmed Shailen Bhatt as the 21st Administrator of the FHWA where he will lead administration of more than \$350 billion of the Bipartisan Infrastructure Law (BIL). Prior to his confirmation, Shailen Bhatt served as the Executive Director of the Colorado Department of Transportation, a Cabinet Secretary of the Delaware Department of Transportation, FHWA Associate Administrator for Policy and Government Affairs, and CEO of the Intelligent Transportation Society of America (ITS America). His time at FHWA overlapped with MTC's Executive Director Therese W. McMillan's service in the Obama Administration and MTC's Deputy Executive Director Andrew Fremier served on ITS America's board during Mr. Bhatt's tenure as CEO.

New Leadership for Key Congressional Committees

The House Democratic Caucus has selected Rep. Rick Larsen (D-WA) to serve as the Democrat on the House Transportation & Infrastructure Committee next Congress. Ranking Member Rep. Sam Graves (R-MO) is expected to lead the committee in the 118th Congress when Republicans assume control. On the Senate side, current Senate Environment and Public Works Committee leadership is expected to stay in place. Senator Tom Carper (D-DE) serves as the chair and Senator Shelly Moore Capito (R-WV) is the ranking member. Senate Committee on Commerce, Science & Transportation Chair Maria Cantwell (D-WA) is expected to maintain her role, while Republican Senator Ted Cruz (R-TX) is expected to become the new ranking member. For the Senate Committee on Banking, Housing, & Urban Affairs, Senator Sherrod Brown (D-OH) is expected to maintain his role as Chair. Senator Tim Scott (R-SC) is predicted to assume the role of ranking member of the committee, replacing Senator Mike Crapo (R-ID), the current ranking member.

Other leadership changes in the 118th Congress include the Senate Appropriations Committee. With Senator Richard Shelby (R-AL) retiring, Senator Susan Collins (D-ME) is expected to be the ranking member on the committee. On the Democratic side, Senator Patty Murray is slated to take over for the retiring Senator Patrick Leahy (D-VT).

Agency Actions and Competitive Grant Update

USDOT Announces \$2.3 Billion in Funding to Expand and Modernize Passenger Rail

On Wednesday, December 7, 2022, the U.S. Department of Transportation (USDOT) issued a Notice of Funding Opportunity (NOFO) announcing the availability of nearly \$2.3 billion in funding to expand and modernize intercity passenger rail through the Federal-State Partnership for Intercity Passenger Rail Grant Program (Fed-State Partnership). Projects selected for Fed-State Partnership grants will improve existing rail corridors, create new ones, and enhance access to intercity passenger rail services for communities across the country. Historically, the program has focused on state of good repair. With the new announcement, the program will expand its reach to fund intercity rail service improvement. [More information on the announcement can be found here.](#)

USDOT Announces \$1.5 Billion Available through the 2023 RAISE Grant Program

On Thursday, December 15, 2022, USDOT issued a Notice of Funding Opportunity (NOFO) for \$1.5 billion in grant funding through the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program for 2023. RAISE grants help states, local governments, and Tribes complete freight and passenger transportation infrastructure projects. Authorized by the Bipartisan Infrastructure Law (BIL), RAISE looks to build on its success from 2022 when it funded 166 projects in all 50 states. Half the funding will go to projects in rural areas, and half of the funding will go to projects in urban areas. The deadline for applications is February 28, 2023. [More information on the announcement can be found here.](#)

DOE Announces \$550 million to Support Community-Based Clean Energy

On Tuesday, November 22, 2022, the U.S. Department of Energy (DOE) released a Notice of Intent announcing \$550 million to support community-based clean energy in state, Tribal, and local governments. The \$550 million made available from the Bipartisan Infrastructure Law (BIL) represents the second time that the Energy Efficiency and Conservation Block Grant (EECBG) Program has been funded. The goal of the EECBG Program is to develop local programming and deploy clean energy technologies that will support communities across the country. Applications for the EECBG Program will open in January 2023. [More information on the announcement can be found here.](#)

National Transportation News Roundup (links to articles)

- [Transit-Oriented Planning Grants Begin to Change Cities. \(Governing\)](#)
- [FTA to Fund Transit Worker, Rider Safety Research. \(Railway Age\)](#)
- [With \\$1B at Stake, Clashes Emerge Over Highway Removal. \(Route Fifty\)](#)
- [New State and Local Government Financial Reporting Requirements Headed to Biden's Desk \(Route Fifty\)](#)