

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

December 11, 2020

Agenda Item 4b

**Washington D.C. Legislative Update**

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**Subject:** November 2020 Report from Washington, D.C. advocate.

**Recommendation:** Information

**Attachments:** **Attachment A:** Summit Strategies Team Report – November 2020



Therese W. McMillan



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### **Memorandum**

**From: Summit Strategies Team**

**To: Therese McMillan, Executive Director, MTC**

**Date: December 2, 2020**

**Subject: Federal Policy Monthly Report**

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- **Lame-Duck Session and COVID-Relief Negotiations**
  - **Fiscal Year 2021 Appropriation Update**
  - **FAST Act Reauthorization**
  - **2020 Elections**
  - **President-Elect Biden's Transportation Agency Review Team**
  - **Congress Blumenauer Transportation Roundtable**
  - **Stakeholders Urge the FCC not to Give Away the Transportation Safety Spectrum**
  - **Competitive Grant Update**
  - **National Transportation News Roundup**
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Our team of Devon Barnhart, Mark Detric, Jim Kolb, James O'Keeffe, Jason Pavluchuk and Heideh Shahmoradi have been hard at work on your behalf ensuring that MTC's voice is being heard by policymakers in DC. Below is a status update on issues of interest to MTC, and actions we have taken.

### **Lame-Duck Session and COVID-Relief Negotiations**

Lawmakers returned to Capitol Hill to officially jump-start the lame-duck session in November. Items at the top of the agenda include funding the government after the existing continuing resolution (CR) expires on December 11 and negotiating another COVID relief package. The House and Senate also began reconciling their versions of the National Defense Authorization Act. Additionally, legislators examined many bills, including a measure in the House that increases funding for apprenticeship programs.

While President Trump and Congressional leaders maintain their support for another substantial COVID relief measure, there has been little material progress in negotiations between the two sides. Speaker Pelosi and Senate Minority Leader Schumer continue to advocate for a multi-trillion-dollar package, while Senate Majority Leader McConnell opposes proposals more costly than \$500 billion. Recently, a bipartisan group of more centrist Senators has begun advocating for a compromise package somewhere in between these two positions. Funding for state and local governments continues to be a significant roadblock to negotiations. Although an unexpected breakthrough remains possible, it is hard to predict exactly what will happen. We have been advocating with House and Senate Appropriations Committee staff, as well as with House and Senate leadership to ensure that the needs of transit operators are being heard. Given that both Speaker Pelosi and Minority Leader Schumer are strong advocates for inclusion of transit dollars in any package, we believe that if there is any agreement, transit will be included. If lawmakers cannot reach an agreement, enacting much-needed relief will likely top President Biden's to-do list.

### **Fiscal Year 2021 Appropriation Update**

The government is currently funded by a continuing resolution (CR), which expires December 11<sup>th</sup>, forcing lawmakers to prioritize funding to avoid a shutdown before the holidays. House Appropriations Committee Chair Nita Lowey (D-NY) and Senate Appropriations Committee Chair Richard Shelby (R-AL) began negotiating topline figures for an omnibus bill and on November 24<sup>th</sup> came to a tentative agreement on overall funding figures known as 302(b) allocations. This is one of several hurdles that must be overcome to meet the deadline. Additionally, the White House has not signed off on the funding amounts and has indicated that it is not taking a government shutdown off the table. In the case that Congressional leaders are unable to enact such legislation, they are expected to pass another CR to fund the government into early next year.

### **Fixing America's Surface Transportation (FAST) Act Reauthorization Update**

The CR funding the government included a one-year extension of the FAST Act, the current surface transportation act, which funds federal highway, transit, and road safety programs at FY20 levels. It is not uncommon for lawmakers to extend existing transportation funding legislation, especially in an increasingly polarized legislative environment. However, House Transportation and Infrastructure (T&I) Chairman Peter DeFazio and President-elect Biden continually express interest in enacting sweeping infrastructure legislation to improve the American transportation system, and Biden's team has been in contact with the T&I Committee staff. Additionally, Speaker Pelosi and several key Biden advisors have suggested that bipartisan compromise around FAST Act reauthorization remains possible, even in the context of a Republican-controlled Senate. The most significant stumbling blocks include finding agreement on funding mechanisms and the inclusion of environmentally related provisions.

Given continued Democratic control of the House, we believe that the House-passed version of the reauthorization passed earlier this year will be the starting point for the House's approach next Congress. We have continued to be in close contact with the House Transportation and Infrastructure Committee's staff as well as the relevant Senate Committees to advocate for MTC's priorities, particularly those which were not addressed in the House-passed INVEST Act.

We have been in regular contact with staff regarding the opportunity to include a "regional advance mitigation program" when the Committee considers reauthorization next congress. We are working to set up a briefing for the staff regarding this proposal with MTC staff and The Nature Conservancy. We have also met with committee staff to discuss MTC's concerns with regional toll interoperability provisions in the bill. Finally, we have engaged in conversations with Members of the House and Senate who wish to advance proposals that support increasing funding allocated to municipal governments. Senator Tammy Duckworth (D-IL) along with Congressman Espaillat (D-NY) intend on offering policy proposals that would direct funding to regional and local governments in order to reduce congestion, improve the environment, and increase access. We have engaged those offices to share MTC's successes and perspectives and will continue to engage. Several proposals they crafted were included in the INVEST Act.

### **2020 Elections Results**

Despite continued, albeit nearly unanimously unsuccessful, legal challenges by President Trump's legal team, GOP leaders have gradually accepted President-elect Joe Biden's victory. Control of the Senate hinges on the outcome of two run-off races in Georgia, including a rematch between Jon Ossoff and David Perdue and Raphael Warnock and Kelly Loeffler. Republicans can stretch their advantage in the upper chamber to a 52-48 margin, while Democrats can assume control through tie-breaking votes by Vice President-elect Harris in a 50-50 split. In either case, the more progressive elements of Biden's platform are likely to face significant obstacles from Republicans and moderates in his caucus.

House Republicans, shocking election handicappers and political leaders, netted at least ten seats, including several in California. However, the San Francisco Bay Area congressional delegation remains unchanged. Additionally, Vice President-elect Kamala Harris's victory creates a vacancy for California's junior Senator. Governor Gavin Newsome will appoint her replacement. The appointed Senator will face an election in 2022.

As President-elect Biden's transition team continues to move forward, we have reached out to members of his Agency Review Team and others close to the President-elect to ensure that MTC's voice is being heard.

On the transportation front, 15 of 18 transportation referendum around the nation were passed. These referenda include everything from new borrowing authority (bonds) to self-imposed taxes that will provide dedicated transportation revenue. Included in these are two successful Bay Area votes. In a related referendum, California voters overturned the State legislatures decision to require rideshare drivers to be considered employees. Uber & Lyft spent more than \$200 million on this battle.

### **Congressman Blumenauer Roundtable**

On November 20<sup>th</sup>, we participated in a roundtable hosted by Earl Blumenauer (D-OR). Representative Blumenauer has long been a champion of infrastructure funding and transportation policy. The roundtable included representatives from more than 15 transportation stakeholder groups including American Association of State Highway and Transportation Officials, American Public Transportation Association (APTA), US Chamber of Commerce, and the Unions. The purpose of the roundtable was to discuss key priority funding and policy needed looking into 2021. During the call we pressed for the need to address the funding emergency facing transit agencies around the nation. APTA's Ward Carragher reiterated this point as did others on the call. Rep. Blumenauer indicated that he has been in touch with the transition team as well as President Elect Biden on this pressing issue.

During the call, we also pressed the need to focus more funding to regional entities by pushing up the Surface Transportation Program as well as Congestion Mitigation and Air Quality. We reiterated that there was a lot to like in the Invest Act. The Congressman agreed and would like to speak with MTC leadership early in 2021.

### **Stakeholders Urge the FCC not to Give Away the Transportation Safety Spectrum**

In November, we joined transportation stakeholders who were urging the FCC to reconsider selling part of the 5.9 gigahertz (GHz) spectrum. That portion of the spectrum is currently reserved for transportation uses, specifically as it relates to vehicle to infrastructure technology and other safety applications. Selling a portion of the spectrum could limit the ability of the spectrum to be an effective conduit for connected vehicles, vehicle safety, and other transportation communication needs.

In December 2019—against guidance from Secretary of Transportation Elaine Chao—the Federal Communications Commission (FCC) proposed to reallocate more than half of the 5.9 GHz radio frequency band (or Safety Band) to unlicensed operations, such as Wi-Fi. Advanced transportation technologies have the potential to revolutionize our transportation system, but the safety and effectiveness of those technologies will depend on the amount of spectrum available on the Safety Band.

House T&I Chairman Peter DeFazio (D-OR) was joined by Ranking Member Sam Graves (R-MO) in a letter requesting the agency conduct a study into the safety implications of sharing more than half of the 5.9 GHz spectrum band. Currently, the entire 5.9 GHz band is reserved exclusively for transportation safety purposes.

### **Competitive Grants Update**

#### U.S. Department of Transportation's Federal Railroad Administration (FRA) Announces FY2020 State of Good Repair Grant Program Grants

On Wednesday, October 28, the FRA announced the award of \$ 291 million in FY2020 State of Good Repair Grant Program grants to 11 projects in 9 states. The full list of the awarded projects can be found [here](#).

#### U.S. Department of Transportation's (DOT) Announces Railroad Rehabilitation and Improvement Financing Express (RRIF Express) Extension

On Friday, October 30, the DOT Build America Bureau announced that it expanded eligibility and provide more flexibility for the RRIF Express Program. The full release can be found [here](#).

## National Transportation News Roundup

Under Biden, Infrastructure Is Back in Play. But Making a Deal Will Still Be Tough. [RouteFifty](#)

Smart concrete could be a crucial, cost-effective way to fix America's crumbling infrastructure. [Fast Company](#)

Senate Committee Unveils Fiscal 2021 Transportation Funding Bill. [Transport Topics](#)

How Trump's \$1 Trillion Infrastructure Pledge Added Up. [Bloomberg CityLab](#)

Five Ways The Biden Administration May Affect U.S. Transportation. [Forbes](#)