

APWA Washington REPORT

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INTERGOVERNMENTAL

FY 03 Appropriations

DELAYED MULTI-BILLION OMNIBUS SPENDING BILL BECOMES LAW

President Bush signed into law a 3,000-page, \$397.4 billion omnibus spending bill, which the House and Senate approved after agreement had been reached by conference committee on differing versions. The omnibus package consolidates 11 of the 13 previously unfinished fiscal year 2003 appropriations bills. Defense and Military Construction appropriations were the only two bills enacted separately last year in the 107th Congress under the usual procedures for enacting spending bills.

The 2003 omnibus appropriation includes funding for transportation, water infrastructure, homeland security and other public works programs. Total funding for the omnibus exceeded the \$385.9 billion limit set by the White House. Most programs are subject to a 0.6 percent across-the-board cut under the measure. Details about funding for various public works programs can be found in the *APWA Washington Report* sections on Transportation, Environment and Emergency Management/Disaster Mitigation.

The President signed the omnibus appropriation on February 20, 2003, nearly five months after the start of the 2003 fiscal year on October 1, 2002. Federal programs operating under the authority of the 11 unfinished appropriations bills had been funded at 2002 levels by a series of temporary spending measures called continuing resolutions (CRs), the last one of which expired the day the bill was signed into law.

FY 04 Appropriations

COMMITTEES REORGANIZE TO MAKE ROOM FOR HOMELAND SECURITY PANELS

House and Senate Appropriations Committees have been reorganized to make room for a new subcommittee with jurisdiction over homeland security appropriations. To keep the number of subcommittees unchanged at 13, former House and Senate Transportation Appropriations Subcommittees have been combined with former Treasury and Postal Subcommittees in each chamber to form new subcommittees called Transportation, Treasury, Postal Service and General Government. Other appropriations subcommittees remain unchanged.

The House and Senate use identical subcommittee structures to facilitate coordination and comparison of appropriations bills. Rep. Harold Rogers (R-KY) will head up the new House Appropriations Subcommittee on Homeland Security, and Rep. Ernest Istook (R-OK) will chair the new House Transportation and Treasury Subcommittee.

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Sen. Thad Cochran (R-MS) was named to chair the Senate Homeland Security Appropriations Subcommittee. Sen. Richard Shelby (R-AL) will chair of the Senate Transportation and Treasury panel.

Hearings on the fiscal year 2004 budget began February 24, 2003. A budget resolution is expected to be taken up in the House and Senate as early as the week of March 17, 2003. Appropriations Committees begin work on drafting spending bills once a budget resolution is adopted.

Telecommunications Regulation

FCC ISSUES RULE ON TELECOM COMPETITION

A new Federal Communications Commission (FCC) ruling governing voice and data services preserves requirements that regional Bell telephone companies continue to lease their facilities to competitors at discounted rates. State regulators will have a role in implementing the plan.

The controversial 3-2 decision, which was issued February 20, 2003, does not extend the same requirement to share facilities on new fiber lines built to provide broadband services. The FCC still must draft that ruling which could be a catalyst for legislation on the issue of broadband deployment and competition in the telecommunications sector. At a House Energy and Commerce Committee hearing February 26, 2003, at which the five FCC Commissioners testified, Committee Chair Billy Tauzin (R-LA) stated he disagreed with the ruling and intended to introduce legislation to address shortcomings.

Two-Year Infrastructure Blueprint

HOUSE T&I COMMITTEE TO ADDRESS \$500 BILLION INFRASTRUCTURE AGENDA

At its first meeting of the 108th Congress, the House Transportation and Infrastructure Committee (T&I) approved its organizational plan and an oversight agenda which includes approving \$500 billion in infrastructure programs over the next two years. The committee's oversight agenda, adopted by voice vote, includes reauthorization of TEA-21, reauthorization of AIR-21, development of passenger, freight and high-speed rail and investment in water infrastructure projects.

During the committee meeting, chairs and ranking members were named to subcommittees, and the former Highways and Transit Subcommittee was renamed to Highways, Transit and Pipelines Subcommittee. Chair Don Young, (R-AK) reminded committee members of the importance of transportation and water infrastructure to the nation's economy and noted that the committee has a demanding schedule this year. James Oberstar (D-MN) is Ranking Member of the committee.

TRANSPORTATION

FY 03 Transportation Appropriations

CUTS TO HIGHWAY PROGRAM AVERTED, TRANSIT FUNDING REMAINS LEVEL

Congress agreed to provide the Senate's higher proposed funding level for the highway program and maintain level funding for the transit program as part of transportation appropriations provided in the massive Fiscal Year 2003 omnibus spending bill.

Signed into law February 20, 2003, the omnibus measure sets an obligation ceiling of \$31.8 billion for highways, the level approved last year by the Senate Appropriations Committee.

Funding for the Federal Aviation Administration's Airport Improvement Program, which provides grants, restores an approximately \$8 billion cut proposed in the fiscal year 2003 White House budget request. For federal transit programs, the omnibus bill provides level funding of \$7.2 billion for 2003. Local airport construction, increases to \$3.4 billion under the measure, \$100 million over last year's funding.

The bill provides \$1.05 billion for Amtrak, less than the \$1.2 billion the passenger rail service had requested and the Senate Appropriations Committee had approved. Funding for transportation programs is subject to a 0.6 percent across-the-board cut enacted under the omnibus bill. (See FY03 Budget under Intergovernmental.)

FY 04 Transportation Budget

SENATORS SAY WHITE HOUSE TRANSPORTATION BUDGET TOO LOW

Echoing viewpoints expressed by many of their colleagues in the House and Senate, leaders of the Senate Environment and Public Works Committee are pointing out that the Administration's proposed Fiscal Year 2004 budget for transportation is inadequate.

Chair James Inhofe (R-OK) was joined by Christopher Bond (R-MO), Chair of the Transportation and Infrastructure Subcommittee, Ranking Member James Jeffords (I-VT) and Harry Reid (D-NV), Ranking Member of the subcommittee, in stating that \$29.3 billion, the FY04 White House request for the highway program, falls short of the needed level. Senators expressed this during a hearing on the Federal Highway Administration budget, held February 27, 2003. The levels were criticized for not even matching FY2003 level of \$31.8 billion.

Because TEA-21 expires later this year, FY04 transportation funding will be the first year in a new, reauthorized surface transportation bill. The White House reauthorization proposal, which had been scheduled for release in early February, has not yet been released and is still undergoing internal review.

TEA-21 Reauthorization

T&I COMMITTEE LEADERS AIM TO RAISE, THEN INDEX GAS TAX

As Congress begins to draft what may be a 10-year budget resolution, House Transportation and Infrastructure Committee leaders announced that they will promote indexing the federal motor fuels tax as part of their highway and transit reauthorization proposal.

Under the plan, the current gasoline tax of 18.4 cents per gallon would be raised by more than 5.3 cents to 23.7 cents per gallon in 2004. The tax would then be indexed to the Consumer Price Index where it would reach an estimated 26.7 cents per gallon by 2009. The initial increase in 2004 would restore the current gasoline tax's lost purchasing power, which has eroded to 1993 levels because of inflation.

Chairman Don Young (R-AK) and ranking member James Oberstar (D-MN) remain committed to increasing the federal highway and transit program to \$72 billion by 2009. The two have sent a letter to House Budget Committee leaders urging a \$50 billion funding level for the highway and transit program in FY04, a level needed in the budget resolution, they assert, to achieve their goals for reauthorization. The White House requested \$36.6 billion for 2004.

The reauthorization plan was presented by Representatives Young and Oberstar and Highways, Transit and Pipelines Subcommittee Chair Thomas Petri (R-WI) and Subcommittee Ranking Member William Lipinski (D-IL) on March 5, 2003.

Their reauthorization plan also includes: transferring revenues from the 2.5 cents-per-gallon portion of the ethanol tax from the general fund to the highway trust fund; applying to the highway trust fund revenues equaling the 5.3 cents-per-gallon difference between the current tax on ethanol and the current tax on gasoline (the tax on ethanol is 13.1 cents per gallon while the tax on gasoline is 18.4 cents per gallon); crediting the highway trust fund with interest accrued on its unspent balance; and spending down the trust fund balance by more than \$1 billion annually.

TEA-21 Discussion

APWA MEETS WITH HIGHWAYS AND TRANSIT SUBCOMMITTEE STAFF

APWA staff members met with staff members of the House Highways, Transit and Pipelines Subcommittee to discuss APWA's policy priorities for the reauthorization of TEA-21. The subcommittee is part of the House Transportation and Infrastructure (T&I) Committee. Subcommittee staff members currently are working on preparing reauthorization legislation.

APWA's priorities for reauthorization include increasing investment in transportation, preserving TEA-21 funding guarantees and budgetary 'firewalls,' streamlining the project delivery process and increasing funding flexibility to meet local and regional needs and priorities. The House Transportation and Infrastructure Committee plans to introduce reauthorization legislation this spring.

Transportation Project Requests

CONGRESSIONAL MEMBERS ASKED TO SUBMIT PROJECTS FOR REAUTHORIZATION

Leaders of the House Committee on Transportation and Infrastructure have asked Congressional members to submit to the Committee any requests for project funding as part of the reauthorization of TEA-21, the Transportation Equity Act for the 21st Century.

Congressional members submitting requests must include responses to a 21-question survey seeking information about the cost of the project, other sources of project funding, whether or not the project is part of a state long-term plan or metropolitan transportation plan, benefits of the project and whether or not the project faces any obstacles. The deadline for submitting project requests was extended until March 24, 2003.

DOT Biennial Report

STUDY SAYS TRANSPORTATION FUNDING NEEDS TO RISE TO IMPROVE CONDITIONS

A new US Department of Transportation (DOT) report to Congress finds that the nation needs to increase average annual capital investment in highways and bridges by 65.3 percent over the next 20 years in order to improve the condition and performance of the road and bridge network. The biennial report, *2002 Status of the Nation's Highways, Bridges and Transit: Conditions and Performance*, provides statistics and analysis of the physical condition, operational performance and investment requirements of the nation's highways and transit system. The report states that:

- To improve the condition and performance of roads and bridges requires an average annual capital investment of \$106.9 billion over a 20-year period from 2001-2020 (in constant 2000 dollars), 65.3 percent more than the \$64.6 billion capital expenditure invested by all levels of government in 2000.
- To improve both the physical condition of transit assets and transit operational performance to targeted levels by 2020 is estimated to be \$20.6 billion, 128 percent higher than transit capital spending in 2000.

The study indicates that physical conditions of highways have improved overall, although conditions on many lower-order roads have worsened since 1993. Moreover, highway operational performance has declined as average travel times under congested conditions have grown.

For the nation's transit systems, the report finds that transit infrastructure has expanded and its use has increased while physical conditions have remained relatively constant since 1997. Operational performance for rail, however, has decreased.

The full biennial report has not been released. An executive summary is available on the Federal Highway Administration website: http://www.fhwa.dot.gov/policy/2002cpr/pdf/execsummary_book.pdf

Environmental Streamlining

DOT SELECTS SIX NEW PROJECTS FOR EXPEDITED REVIEW

US Department of Transportation Secretary Norman Mineta announced that six high-profile transportation projects have been designated to receive special attention in order to accelerate their interagency environmental reviews.

The projects were selected from a list of 70 projects submitted by state governors and local officials. The projects include: a series of projects to rebuild the transit system in New York City after the terrorist attacks of September 11, 2001; I-66 between Rte. 80 and I-75 in Kentucky; the Inter-county Connector between I-270 and I-95 in Maryland; US 93 corridor in Montana; I-80 upgrade between Lincoln and Omaha, Nebraska; and Los Angeles World Airports master plan and environmental impact statement.

The designation of the six projects was the latest action by USDOT under the President's Executive Order on environmental stewardship and streamlining, issued in September 2002. The first set of projects was designated in October 2002. Additional projects will be announced on an on-going basis.

Traffic Congestion

NEW WEBSITE PROVIDES TOOLS AND INFORMATION ON REDUCING CONGESTION

The Federal Highway Administration (FHWA) has developed a new website, "Congestion and Traffic," to help state and local transportation agencies develop initiatives to reduce congestion through effective system management and operations strategies.

A section on program tools offers specific information on the most prevalent causes of traffic congestion: traffic incidents and work zones. Links to other FHWA and state programs to help mitigate congestion are provided. The website address is: www.fhwa.dot.gov/congestion.

Rural Air Service

GAO REPORT CITES SMALL COMMUNITY HURDLES TO ATTRACTING AIR SERVICE

A new report by the General Accounting Office (GAO) identifies a number of challenges small communities face in attracting and retaining the air service they desire. The report titled, *Factors Affecting Efforts to Improve Air Service at Small Community Airports*, notes that small communities "typically lack the population base and level of economic activity that would generate sufficient passenger demand to make them profitable to air carriers."

GAO studied 98 localities and found that just under half had offered financial incentives to air carriers to improve service or to enter a market. Other means to obtain service included air service demand studies and marketing efforts to increase demand. Eleven of the 12 localities GAO studied in depth employed some form of financial incentive program. Only six had ongoing programs, and of the five that had moved beyond offering some incentive, only one community retained air service when the incentives ended.

Two federal programs are designed to help certain small communities enhance air service. The Small Community Air Service Development Pilot Program, authorized under AIR-21, the current aviation funding law, awarded \$20 million in grants to 40 communities in 2002. In addition, the Essential Air Service (EAS) program provides subsidies to air carriers to provide service to underserved areas. Funding for the EAS program is expected to total about \$113 million in 2003.

The airline industry, facing unprecedented financial losses as a result of the economic downturn and the terrorist attacks, has been taking steps to minimize losses, including reducing or eliminating service to some small communities. In March 2002, GAO reported that small communities had almost 20 percent fewer departures in October 2001, as compared to October 2000. GAO was asked to follow up on that work by examining the challenges small communities face in attracting and keeping the air service and what steps they have taken to overcome these challenges.

The GAO study, number GAO-03-330, is available on the GAO website www.gao.gov.

Aviation Funding

FUTURE AVIATION TRUST FUND REVENUES EXPECTED TO FALL

Federal Aviation Administration estimates of revenues to the Federal Airport and Airway Trust Fund over the next five years show tax receipts are expected to decline by more than \$12 billion from projections made in April 2001.

At a Senate Commerce, Science and Transportation Committee hearing, Kenneth Mead, US Department of Transportation Inspector General, testified that the FAA budget had grown from \$8.2 billion in 1996 to an estimated \$14 billion by fiscal year 2004.

Total trust fund revenues from 2003 to 2007, however, are expected to fall from \$66.8 billion to \$54.2 billion. Any FAA shortfall would have to come out of the uncommitted balance on the trust fund or from the general fund.

In another hearing conducted by Senate Aviation Subcommittee Chair Trent Lott (R-MS), officials representing airports indicated that the annual estimate of capital projects over the next 3 years totals \$15 billion. FAA has identified an estimated \$9 billion in airport capital needs. The \$15 billion estimate, according to FAA, includes projects both eligible and ineligible for federal funding. If past funding practices continue, an FAA representative testified at the hearing, about \$12 billion would be available for airports, \$3 billion below airport officials' estimates.

Airport representatives and FAA officials continue to raise the issue of the impact increased airport security expenditures have had on the Airport Improvement Program, which is funded at \$3.4 billion in 2003 for airport construction. In 2001, \$56 million was spent on projects related to security, while the figure increased by 800 percent to \$560 million in 2002.

The revenue and expenditure estimates were presented as Congress begins to consider reauthorization of the Aviation Investment and Reform Act for the 21st Century, AIR-21, which expires on September 30, 2003.

ENVIRONMENT

Cathode Ray Waste

US EPA WITHDRAWS CATHODE RAY TUBE WASTE EXEMPTION PILOT PROGRAM

The US Environmental Protection Agency (US EPA) is withdrawing a final rule that would have revised its hazardous waste program in Region III by excluding from its definition of solid waste used cathode ray tubes (CRTs) and the glass removed from CRTs for recycling.

EPA is said to be withdrawing the rule because of adverse comments. The agency reportedly received about 20 comments on the rule. Three quarters of the comments were expressing concern about exporting CRTs. EPA expects to address the adverse comments in a subsequent final action on the parallel proposal.

The withdrawn rule was published December 26, 2002. It would have supported a pilot project in Region III to promote electronics reuse and recycling. The region includes Delaware, Maryland, Pennsylvania, West Virginia and the District of Columbia.

Stormwater Rule

SMALL CITIES /CONSTRUCTION SITES BEGIN COMPLIANCE; ENERGY SITES CAN WAIT

On the same day, March 10, 2003, that municipal separate storm sewer systems serving populations of up to 100,000 people and most small construction sites disturbing one to five acres had to have a National Pollutant Discharge Elimination System Permit under Phase II of the stormwater program, small oil and gas production sites were given two more years to get their permits. (Permits require pollution prevention plans to control runoff of sediment and other pollutants.)

Environmental groups criticized the action as a "give-away" for the oil and gas industry while making small cities and small construction sites meet the requirements of the plan. EPA said extension of the Phase II compliance deadline for the construction of small oil and gas production facilities until March 10, 2005, responds to President Bush's Executive Order (EO 13211) directing agencies to consider the impacts of their actions on domestic energy production activities.

Trees and Runoff

FACT SHEET ON RUNOFF CONTROL WITH TREES FOR PHASE II REGULATION READY

American Forests has produced a fact sheet called "Stormwater Phase II Action Alert," which describes how communities can use trees as a way to reduce stormwater runoff. The fact sheet defines the Stormwater Phase II regulation, what communities are affected, and what must be included in a stormwater management plan. For more information, click on the following URL: <http://www.lgean.org/html/whatsnew.cfm?id=553>

Water Utilities Threat

ADVISORY GUIDELINES AVAILABLE FOR WATER UTILITIES SAFETY MEASURES

The EPA Office of Water's Water Protection Task Force has released Threat Advisory guidelines for water utilities, to assist in their preparations for the newly announced Threat Level Orange. The guidelines include suggested measures water utilities should consider, and an EPA/Center for Disease Control (CDC) Advisory. For more information, click on the following URL: <http://www.lgean.org/html/whatsnew.cfm?id=549>

Arsenic Compliance

SMALL ENTITY COMPLIANCE GUIDE FOR ARSENIC NOW AVAILABLE

The US EPA Office of Water has published a guidance document entitled "Complying With the Revised Drinking Water Standard for Arsenic: Small Entity Compliance Guide." The guide provides small systems with step-by-step instructions on meeting the revised rule, from determining if the system has an arsenic problem, to arsenic monitoring requirements. For more information, click on the following URL:

<http://www.lgean.org/html/whatsnew.cfm?id=554>

US EPA Awards

2003 CLEAN WATER ACT RECOGNITION AWARDS COMPETITION OPENS

Nominations now are being accepted for the U.S. Environmental Protection Agency's (US EPA's) Clean Water Act Recognition Awards. These awards will recognize municipalities and industries for outstanding and innovative technological achievements through their waste treatment and pollution abatement programs, projects or activities. Applications are due May 30, 2003. For more information, click on the following URL:

<http://www.lgean.org/html/whatsnew.cfm?id=547>

Wastewater Utility Safety

HOUSE COMMITTEE PASSES BILL TO IMPROVE SECURITY MEASURES AT PLANTS

The Wastewater Treatment Works Security Act of 2003 (HR 866) introduced by Representatives Don Young (R-AK) and Jim Oberstar (D-MN), was approved February 26, 2003, by the House Transportation and Infrastructure Committee. The legislation authorizes \$220 million to improve security efforts at wastewater plants.

The Environmental Protection Agency (EPA) would receive \$200 million in grants for utilities to conduct vulnerability assessments and improve security measures at wastewater plants.

The measure also would provide \$15 million for technical assistance to small wastewater plants and \$5 million to improve wastewater vulnerability self-assessments tools and methodologies. Utilities receiving grants must pay at least 25 percent of the costs for improvements. No utility is able to receive more than \$150,000.

The Senate is likely to see similar legislation introduced by Environment and Public Works (EPW) Chairman James Inhofe (R-OK) or former EPW Chairman Jim Jeffords (I-VT).

The legislation is available on APWA's Legislative Action Center: <http://capwiz.com/apwa/issues/bills/?bill=1528071>

Solid Waste

BILL TO RESTRICT CANADIAN MUNICIPAL WASTE IMPORTS INTRODUCED

A bill (S 199) to regulate more closely the importation of municipal solid waste from Canada into the United States was introduced by Senators Carl Levin (D-MI) and Debbie Stabenow (D-MI) January 21, 2003. Representative John D. Dingell (D-MI) is expected to introduce similar legislation in the House.

The bill would give the US Environmental Protection Agency the authority to implement and to enforce a treaty between the US and Canada and would create civil penalties for those who ship waste in violation of the treaty. Similar legislation was introduced in July 2001 by Senator Levin.

The legislation would create criteria for EPA to determine whether to consent to a shipment. The criteria would include the state's view on the shipment and the shipment's impact on landfill capacity, air emissions, public health and the environment.

Although Michigan is protected under a bilateral agreement concerning the Transboundary Movement of Hazardous Waste that calls for government to government notification between Canada and the US, Stabenow claims these protections are not being enforced by EPA.

EMERGENCY MANAGEMENT/DISASTER MITIGATION

First Responder

TWO HOUSE BILLS ADDRESS NEED FOR FUNDING; FY 2003 EXCLUDES LOCAL/STATE DOLLARS

Despite intense lobbying efforts on behalf of the nation's first responders, the fiscal year 2003 consolidated spending bill (HJ Res. 2) passed earlier in the year by Congress and signed by the President did not include funding for local and state first responders.

The President's 2004 budget request, under jurisdiction of the Homeland Security department, seeks \$5.9 billion for Emergency Preparedness and Response. The Administration's request includes \$3.558 for First Responder Grants. About \$1.4 billion would be provided for first responder planning, training, equipment purchases, exercises and mutual aid. Firefighter assistance grants total \$500 million, \$500 million for state and local law enforcement assistance, \$181 million for the Citizen Corps programs, and includes existing FEMA emergency planning and assistance programs funded in FY02 at \$68 million.

Representatives Ike Skelton (D-MO), Ranking Member of the House Armed Services Committee and Jane Harman (D-CA), Ranking Member of the House Permanent Select Committee on Intelligence have introduced HR 764, providing \$7.1 billion for first responder grants within a supplemental spending bill for fiscal year 2003, and \$10.6 billion for fiscal year 2004. The bill would provide an accelerated grant program targeted towards first responders involved in homeland security efforts in local communities. The legislation is available on the APWA Legislative Action Center:

<http://capwiz.com/apwa/issues/bills/?bill=1638261>

Representative Juanita Millender-McDonald (D-CA) is expected to introduce legislation authorizing a \$3.5 billion First Responder Initiative for three years through 2006. The legislation would seek to ensure that other vital programs such as, crime prevention, public safety, and law enforcement grants, would not see funding cuts.

Contributors to this month's Washington Report were: Beth Denniston, Jim Fahey and Heather McTavish.

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