

APWA *Washington* REPORT

June 2005

TRANSPORTATION

Tea-21 Reauthorization

CONFEREES SPARRING WITH COMPROMISE; EIGHTH EXTENSION NECESSARY

Is there a new agreement by the conferees to have a \$286.5 billion TEA-21 Reauthorization of federal highway and transit programs? Or, is this just a rumor? The answer was not available at the time of this writing. But everyone had heard of the new figure being bandied about. Other House/Senate bouts are pounding out compromises on donor state returns and earmark levels.

Earlier, to get the talks going, Senate conferees had presented a funding compromise to their House counterparts, offering to split the difference between the \$295 billion level approved in the Senate bill and the \$284 billion level approved in the House bill.

By voice vote, Senate conferees agreed June 20, 2005, to propose writing a \$290 billion six-year bill. They also agreed that donor states -- states which receive less in transportation funds than they contribute in federal gasoline taxes to the Highway Trust Fund -- would receive a minimum return of 92 percent on their gasoline tax contributions and that funds for earmarked and large regional projects would be included in the calculation. Current law provides a 90.5 percent minimum return.

Also under the agreement, Senators want a "say" in 50 percent (another new agreement rumor: the Senate "say" is cut to 40 percent) of projects earmarked in the final bill. Currently, only the House bill includes project earmarks, which total about \$11 billion.

House conferees have insisted throughout conference proceedings that a bill be written at \$284 billion. A Bush Administration spokesman responded to the Senate proposal by saying the Administration supports the House bill level of \$284 billion. The Administration has repeatedly issued veto threats against a final bill which would exceed the \$284 billion over six years.

APWA had been calling on conferees to finalize a well-funded, multi-year bill by June 30. However, the 8th temporary extension was expected before this issue went to press. Conferees have not held a public meeting since their first meeting June 9, 2005. Reconciling many provisions in the two bills depends on resolving the funding difference.

The conference committee includes 93 members, 63 from the House of Representatives and 30 from the Senate. A list of conferees is posted on APWA's website, www.apwa.net/advocacy.

Transportation Appropriations

HOUSE COMMITTEE APPROVES INCREASED FUNDING FOR HIGHWAYS AND TRANSIT

The House Transportation Appropriations Committee approved an FY 06 Appropriations bill which includes an extra \$1.9 billion over current funding for the federal highway program and an additional \$386 million over current transit funding. The Committee approved the bill June 21, 2005. Details follow.

- The House bill would fund the highway program at \$37 billion, which is the same level authorized for 2006 in the House of Representatives' multi-year transportation reauthorization bill, TEA-LU, and provides \$8.5 billion for transit, also the 2006 level authorized by TEA-LU.

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- The Federal Aviation Administration would receive \$14.4 billion, \$877 more than current levels. That includes \$3.6 billion for the Airport Improvement Program and \$104 million for the Essential Air Service program.
- The bill funds Amtrak at \$550 million, a cut of \$667 million from current levels, and prohibits any of the funding to be used on any routes needing more than \$30-per-passenger subsidy, effectively directing the money to the northeast and west coast corridors and some midwest routes.
- The bill keeps the Community Development Block Grant program within the Department of Housing and Urban Development rather than transferring it to the Department of Commerce as proposed by the Bush Administration. The CDBG program would receive \$4.2 billion, a six percent cut from current levels.

The Transportation Appropriations bill provides funding for the Departments of Transportation, Treasury, and Housing and Urban Development and for the Judiciary and the District of Columbia. The bill now heads to the House floor for a vote possibly before the start of the July Fourth Recess on July 1, 2005. The Senate is expected to begin consideration of its bill after the recess.

Airport Infrastructure

TRANSPORTATION SECRETARY CALLS FOR AVIATION TRUST FUND REFORM

To keep pace with the nation's growing air travel, US Transportation Secretary Norman Mineta is urging reform of the Federal Aviation Trust Fund, the financing mechanism used to pay for new or improved airport infrastructure projects.

Mineta said the Trust Fund does not raise enough money to pay for needed improvements because revenues are based on a percentage of the fare each traveler pays for a plane ticket.

Ticket prices at the end of 2004 were down nine percent from their peak in 2000. The Trust Fund raised just over \$9 billion in 2004, \$4 billion short of the \$13 billion needed to make necessary improvement to the system last year. The Trust Fund and its 7.5 percent ticket tax come up for renewal in 2007.

Transportation and Infrastructure

HOUSE APPROVES BILL FOR 700 WATER PROJECTS

A \$10 billion measure was approved by a House committee for the Army Corps of Engineers to carry out over 700 projects and studies pertaining to flood control, navigation, and environmental protection. The bill, HR 2864, if enacted would be the first such legislation since 2000. The last reauthorization of water projects expired in 2002. The long list of projects and studies was chosen from more than 1000 requests from over 300 members of the House.

ENVIRONMENT

Energy Bill

SENATE PASSES ENERGY BILL WITHOUT MTBE LIABILITY WAIVER

By a vote of 85-12, the Senate June 29, 2005, overwhelmingly approved its version of a comprehensive energy bill (HR 6). Unlike the House-passed bill, the Senate measure does not include a liability waiver preventing local governments from recovering clean up costs associated with water supply contamination caused by the gasoline additive MTBE (methyl tertiary butyl ether).

APWA and other local government organizations have actively opposed the waiver since it first emerged in energy legislation debated in the previous Congress. New studies by the American Water Works Association and the Association of Metropolitan Water Agencies estimate clean up costs totaling between \$25 billion and \$33 billion, and may be as high as \$85 billion or more. (See details in next article.)

Releases of MTBE are known to contaminate drinking water supplies, and the risks range from kidney or liver damage to cancer.

The House of Representatives earlier this year narrowly approved a provision in its energy bill (HR 6) to provide liability immunity to producers.

Among provisions included in the Senate energy bill are \$14 billion in tax and other incentives intended to reduce dependence on foreign oil and encourage development of alternative energy sources. The House bill would provide \$7 billion in tax incentives focusing on traditional fossil fuel sources.

The bill now heads to a conference committee to be reconciled with the House bill. The Bush Administration is urging completion of a bill by August 1, 2005. APWA members are urged to talk to their Congressional Delegation during the July Fourth recess to oppose the inclusion of the waiver.

Water Research

AMWA & AWWA STUDIES SHOW INCREASED MTBE REMOVAL COSTS

Two new studies, commissioned by the American Water Works Association (AWWA) and the Association of Metropolitan Water Agencies (AMWA), examined the cost to remove methyl tertiary butyl ether (MTBE) contamination from public drinking water systems across the United States.

These studies update estimates from 2001 that then cited MTBE cleanup costs at approximately \$29 billion. The new studies indicate that the clean up costs are likely to be in the range of \$25 to \$33.2 billion and could be as high as \$85 billion or more.

AWWA Report: The AWWA report is an assessment of the 2001 cleanup cost estimate to address MTBE-contaminated water supplies for Public Water Systems (PWS) prepared by Komex H2O Science, Inc. The AWWA review reveals that Komex likely underestimated the range of costs for removing MTBE from public water system wells. "There are significantly more public water system wells than Komex estimated, and the cost to treat an MTBE-contaminated well is likely to be higher than Komex assumed," Tom Curtis, AWWA Deputy Executive Director, said.

The AWWA assessment suggests that the cost of MTBE contamination of PWS wells is likely on the order of \$25 billion, but possibly as high as \$85 billion.

If the odor threshold at which MTBE is unacceptable to consumers is less than the 5 ppb (parts per billion) assumed in the Komex study, then the number of PWS wells impacted will increase significantly. Scientific investigation supports an odor threshold of 2 ppb or lower. At 2 ppb, the AWWA reasonable best estimate increases to \$50 billion or more and at 1 ppb the cost could be as high as \$85 billion. "The bottom line for public water systems is many billions of dollars in MTBE cleanup costs," Curtis said.

The AWWA report can be downloaded from the AWWA Web site at <http://www.awwa.org>.

AMWA Report: Based on publicly available data for 36 states that reported MTBE contamination in drinking water supplies, the AMWA Report estimates cleanup costs for water systems in these states to be \$33.2 billion.

"This study was conducted based on empirical data to leave no doubt about the cost to remove MTBE from public water supplies," Diane VanDe Hei, Executive Director of AMWA, said. "If more states tested for and reported MTBE contamination, our study would have shown billions more in cleanup costs," she added

The AMWA study was calculated by taking into account the number of systems reported to be contaminated, the number of wells associated with these systems and the cost per gallon for filtration of MTBE (based on system size). Analysis also weighed the duration of treatment and the fact that the odor and taste of MTBE can be detected at below 1 part per billion, a level determined by Houston-based Lyondell Chemical Company, an MTBE producer.

The AMWA report can be downloaded from the AMWA Web site at <http://www.amwa.net>.
APWA Washington Report, June 2005

Drinking Water Infrastructure

EPA SURVEY DOCUMENTS \$277 BILLION NEED

A new drinking water needs assessment calls for \$277 billion over the next 20 years for infrastructure construction, upgrades and replacement among the nation's 53,000 community water systems and 21,400 not-for profit non-community water systems.

The US Environmental Protection Agency in June released its 2003 Drinking Water Infrastructure Needs Survey and Assessment, its third report to Congress. The report exceeds previous estimates in 1995 and 1999 by more than 60 percent due to refinements in surveying techniques and greater participation by the states. The survey is required by the Safe Drinking Water Act.

Projects reported in the 2003 Needs Assessment range from replacement of short sections of deteriorated water mains to construction of large scale, state-of-the-art treatment plants that produce drinking water from sea water. Many projects were identified as current needs; many more projects will arise over the next 20 years as existing infrastructure reaches the end of its useful life.

The full report is available at <http://www.epa.gov/safewater/needssurvey>

Clean Water SRF

ANNUAL REPORT COVERS 2004 PROGRAM ACTIVITIES AND PROJECTS FINANCED

The US Environmental Protection Agency (EPA) released its 2004 annual report on the Clean Water State Revolving Fund (CWSRF), highlighting the program activities of 2004 and the past 15 years. In addition, the report provides an in-depth look at how the CWSRF operates and describes projects it has financed.

Since it was created in 1988, the Fund has provided low-interest loans targeting a wide range of projects in areas like wastewater treatment, non-point source pollution control, estuary management and a host of projects focusing on water quality.

Highlights of the annual report include:

- The CWSRF program has provided \$47.9 billion to nearly 15,300 projects since its inception. In 2004, the CWSRF funded \$4.6 billion in high priority projects.
- CWSRF funding is typically directed to state-identified high priority projects based on several factors, including: public health protection; condition of impacted waters; and communities' regulatory compliance status.
- In 2004, EPA and state partners inaugurated a new era of performance assessment for the CWSRF. Starting in 2005, 28 states will begin using a pilot set of environmental indicators to show how their projects impact water quality and public health.
- Regional training workshops are an essential part of the CWSRF program. These sessions educate new and veteran employees, clarify legislative and policy changes, disseminate information on innovative funding practices and solutions, and provide a forum for discussion of new initiatives.

Copies of the Report may be obtained by sending a written request to the US Environmental Protection Agency, Water Resource Center (RC-4100), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460; by calling 202-566-1729; or by sending an email to center.water-resource@epa.gov. Refer to document number EPA-832-R-05-001.

Blending

EPA WITHDRAWS DRAFT GUIDANCE AS HOUSE VOTES TO BLOCK FUNDING FOR IT

The US Environmental Protection Agency (EPA) announced last month that it will not finalize its draft guidance on blending, first issued in November 2003 to clarify the circumstances under which blending would be permitted. The statement was released hours before the House of Representatives passed an amendment to the FY06 Interior and APWA *Washington Report*, June 2005

Environment Appropriations bill, prohibiting EPA from spending any funds on the guidance.

Blending is a practice that has been used by municipalities for decades to treat significantly increased wastewater volumes in wet weather and heavy storms, to avoid serious adverse impacts on plant operations and to protect public health and water quality.

Clean Water Appropriations

HOUSE APPROVES CUTS TO CLEAN WATER SRF

The House of Representatives voted to reject adding funding to the Clean Water State Revolving Fund (CWSRF) as part of its FY06 Interior and Environment Appropriations bill. Representative David Obey (D-WI), ranking member of the Appropriations Committee, offered several amendments to boost the program's funding, but all were defeated.

As passed the bill provides \$850 million to the CWSRF program, down from last year's level of \$1.1 billion. The bill also funds the Drinking Water State Revolving Fund at \$850 million, the same level approved last year. The bill funds the US Environmental Protection Agency at \$7.7 billion, below its current funding of \$8 billion. The House approved the bill May 19, 2005. The Senate is expected to take up its version of the bill this summer.

Sewer Overflows

COMMITTEE PASSES BILL AUTHORIZING GRANTS TO ADDRESS SEWER OVERFLOWS

The House Transportation and Infrastructure Committee approved a bill to provide \$1.5 billion in grants over five years to assist communities to implement infrastructure upgrades and improvements to reduce sewer overflows. The bill (HR 624) was approved by voice vote in late May 2005. The committee also approved a bill (HR 1359) to authorize \$125 million in grants over five years for pilot projects to develop alternative sources of drinking water.

Arsenic Standard

BILL TO PROVIDE \$11 BILLION TO HELP COMPLY WITH ARSENIC STANDARD

Representative Heather Wilson (R-NM) has introduced a bill in the House which would provide \$11 billion to provide assistance to small communities for use in carrying out projects and activities necessary to achieve or maintain compliance with drinking water standards, including the US Environmental Protection Agency's arsenic standard to take effect January 1, 2006.

The Community Drinking Water Assistance Act (HR 2417) authorizes \$1.9 billion annually from 2006 to 2011. It is cosponsored by Representative Mark Udall (D-CO) and has been referred to the House Subcommittee on Environment and Hazardous Materials.

EMERGENCY MANAGEMENT/DISASTER PREPAREDNESS

Homeland Security

ANSI ANNOUNCES ONE STOP SHOP FOR HOMELAND SECURITY STANDARDS

The American National Standards Institute (ANSI) recently launched a web site (<http://www.hssd.us>) that promises "one-stop access" to standards for first responders, code officials and other homeland security personnel.

ANSI's Homeland Security Standards Panel (HSSP) developed the site on behalf of the Department of Homeland Security (DHS) in cooperation with many first responder groups including APWA.

The site has five searchable categories: Threats, Emergency Preparedness and Response, Borders and Transportation, Information Analysis and Infrastructure Protection and U.S. DHS standards. Within the categories are a number of subcategories, which allows users to obtain more specific output.

First Responders

FIRST "ISSUE BRIEF" ON PUBLIC WORKS IN HOMELAND SECURITY RELEASED

APWA's first *Issue Brief*, "Public Works & Terrorism Response: Black Sunday," has been produced in part as a response to recent press reports criticizing homeland security expenditures for "orange cones" and other items that may not, at first blush, seem related to homeland security.

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The brief is designed to explain the tremendous amount of planning and resources needed to assure that the nation is fully prepared for any stage of a terrorist attack or natural disaster. An example: the debris removal stage of recovery from the attack on the Twin Towers on 9/11 took 10 months and was managed by one of the public works agencies in the City of New York, the Department of Sanitation.

In the next months, APWA will follow-up the Issue Brief with others related to homeland security and some of the other activities performed by public works departments on a daily basis. *For more information or to obtain a copy, please contact Kristina Tanasichuk at (202) 218-6734 or ktanasichuk@apwa.net*

Recovery Funds

\$104.5 MILLION FOR NATURAL DISASTER RECOVERY IN 15 STATES ANNOUNCED

Agriculture Secretary Mike Johanns announced \$104.5 million in Emergency Watershed Protection Program (EWP) funding for locally-sponsored watershed protection projects resulting from floods and other natural disasters such as tornadoes, fires, drought and hurricanes.

EWP funds address public safety and restoration efforts on private lands and are used to remove debris, restore eroded stream-banks, re-seed burned areas and take related steps to mitigate threats to people and property from impaired watersheds.

Flood Maps

MODERNIZED MAPS AVAILABLE SOON ON WEB

The Federal Emergency Management Agency's FY05-FY09 Multi-Year Flood Hazard Identification Plan (MHIP) Version 1.5 will soon be available on FEMA's Flood Hazard Mapping website.

This is the first update to FEMA's Map Modernization Plan, incorporating FY05 business planning efforts and responding to most-frequently voiced comments on MHIP Version 1.0 dated November 2004.

FEMA plans to post the updated MHIP to FEMA's Flood Hazard Mapping website by early July; initiating a 60-day review period for the updated Plan. A notice will be sent of the posting of MHIP Version 1.5 to FEMA's website to assure that comments and suggestions are submitted to FEMA.

Water Security

EMERGENCY RESPONSE TABLETOP EXERCISES FOR WATER SYSTEMS READY

EPA is making available a new CD product entitled Emergency Response Tabletop Exercises for Drinking Water and Wastewater Systems. The tabletop exercises on this CD were developed to help train water and wastewater utility workers in the application of their emergency response plans. The training goal of the CD is to strengthen the relationships between a water supplier and their emergency response team members and to enable water suppliers to "test" their emergency response plans before an actual incident occurs.

In total, twelve unique exercises can be created from the CD from five basic event types: intentional contamination, security breach, cyber security, physical attack, and interdependency. Users are also encouraged to adapt the materials on the CD to meet their own needs and objectives.

The exercises also contain secondary roles for health officials, laboratories, fire, police, emergency medical services, and local, state, and federal officials.

Hurricanes

NOAA PREDICTS CHANCES OF 2005 ATLANTIC HURRICANES ABOVE NORMAL

NOAA's 2005 Atlantic hurricane season outlook indicates a 70 percent chance of an above-normal hurricane season, a 20 percent chance of a near-normal season, and only a 10 percent chance of a below-normal season. Seven to nine hurricanes are predicted, with three to five of them being major hurricanes. For more information, go to <http://www.cpc.ncep.noaa.gov/products/outlooks/hurricane.html>

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Earthquakes

PROJECTIONS OF POTENTIAL EARTHQUAKE LOSSES HIGH FOR LOS ANGELES AREA

Future earthquakes on the Puente Hills fault beneath the Los Angeles area could result in 3,000 to 18,000 fatalities, 142,000 to 735,000 displaced households, and more than \$250 billion in total damages, according to U.S. Geological Survey (USGS) and Southern California Earthquake Center (SCEC) research. For more information, go to <http://www.scec.org/research/050525puentehills.html>

INTERGOVERNMENTAL

Eminent Domain

SUPREME COURT RULES IN FAVOR OF CITIES' RIGHT TO DECIDE DEVELOPMENT

In a momentous decision, the Supreme Court ruled 5-4 to support local eminent domain authority. The justices said that local officials know their communities best and should decide whether a development project will benefit the community.

The suit, originally filed by some Connecticut residents whose homes are slated for destruction to make room for an office complex, was a real test of the Fifth Amendment, which allows governments to take private property through eminent domain authority for "public use." Litigants in the case argued that cities have no right to take land except for projects with a clear public use, such as roads or schools, or to revitalize blighted areas.

"The city has carefully formulated an economic development that it believes will provide appreciable benefits to the community, including -- but by no means limited to -- new jobs and increased tax revenue," Justice John Paul Stevens wrote for the majority. Justices Anthony Kennedy, David H. Souter, Ruth Bader Ginsburg and Stephen G. Breyer joined Stevens.

Justice Sandra Day O'Connor issued a strong dissent arguing that cities should not be able to raze private homes to accommodate developers. "Any property may now be taken for the benefit of another private party...The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms," O'Connor wrote." Chief Justice William H. Rehnquist, Justices Antonin Scalia and Clarence Thomas joined the dissent.

Block Grants

HOUSE MOVES TO KEEP COMMUNITY DEVELOPMENT BLOCK GRANTS IN HUD

The House Appropriations Subcommittee on Treasury, Housing, and Urban Development allocated \$4.2 billion for the Community Development Block Grant (CDBG) in the Department of Housing and Urban Development for FY 2006.

Still a reduction over FY 2005, the move comes in direct contrast to the Administration's request to consolidate CDBG with 17 other programs, cut it by \$2 billion and move it to the Department of Commerce. Subcommittee Chair Joe Knollenberg (R-MI) said that one of his priorities was to "retain and restore, to the maximum extent possible, the formula funding for cities and towns across America through the Community Development Block Grant."

EDA Appropriations

FUNDING RESTORED FOR ECONOMIC DEVELOPMENT ADMINISTRATION (EDA)

The Departments of Commerce and Justice, Science, and Related Agencies Appropriations Bill has restored the FY 06 appropriation for the Economic Development Administration [EDA] to the previous year's level. The EDA provides grants to local governments and nonprofit agencies for public works, planning, and other projects designed to facilitate economic development. Funding amounts for the two appropriations accounts under this heading are displayed below.

The recommendation is \$30,000,000 above the fiscal year 2005 funding level and \$283,985,000 above the budget request. The Committee recommendation provides funding of \$181,718,000 for public works grants (Title I), \$27,000,000 for planning assistance, \$16,000,000 for trade adjustment assistance, \$49,527,000 for economic adjustment grants (Title IX), \$9,200,000 for technical assistance.

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