

APWA *Washington* REPORT

July 2007

TRANSPORTATION

Congressional Briefing

APWA MEMBER DISCUSSES FEDERAL TRANSPORTATION FUNDING WITH CONGRESSIONAL STAFF

On June 26, APWA member Kathleen Davis, director of highways and local programs for Washington State Department of Transportation, discussed “SAFETEA-LU at the Halfway Point” with Congressional staff on Capitol Hill.

Davis, who serves on APWA’s SAFETEA-LU Reauthorization Task Force, offered insights and guidance for staffers who will soon be working on the next major transportation funding bill. Her office assists local agencies that receive federal funding and oversees compliance with the many regulations accompanying the use of federal funds.

Davis shared her unique perspective on difficulties faced by local agencies using federal funds, including unexpected rescissions and delays caused by spreading federal outlays over multiple years. She asked staffers to build additional flexibility and funding into the next authorizing bill.

APWA’s Washington Office hosts several staff briefings throughout the year in which APWA members share their technical and policy expertise on pertinent legislative issues with Congressional staff members. Past briefings dealt with issues such as the public works response to pandemic flu and infrastructure funding after Hurricane Katrina.



Congressman **Rick Larsen (D-WA)**, member of the House Transportation and Infrastructure Committee, introduces APWA member and briefing speaker **Kathleen Davis**. Davis discussed transportation issues before an audience of Congressional staff

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Highway Trust Fund

ADMINISTRATION RAISES TRUST FUND SHORTFALL ESTIMATE TO \$4 BILLION

Noting the deterioration of Federal Highway Trust Fund finances, the Office of Management and Budget (OMB) released new estimates on July 11 showing that the Highway Account is expected to go insolvent by approximately \$4 billion in 2009, an increase from its February estimate of \$700 million.

During committee markup of the Transportation Appropriations bill, House Appropriations Committee Chairman David Obey (D-WI) said the Administration and the House Transportation and Infrastructure Committee need to resolve the shortfall and Appropriators will not use general fund monies to address the problem.

The National Surface Transportation Policy and Revenue Study Commission, chaired by U.S. Department of Transportation Secretary Mary Peters, is studying the needs and financing options for the future of the transportation system and is expected to issue a report to Congress by the end of the year.

The Highway Trust Fund is financed primarily by motor fuel taxes.

Appropriations

HOUSE AND SENATE COMMITTEES PASS TRANSPORTION SPENDING BILLS

The House and Senate Appropriations Committees each approved their versions of a fiscal year 2008 transportation spending bill, fully funding SAFETEA-LU's funding guarantees and providing an increase of \$1.1 billion for the highway program over current funding.

Both bills provide \$40.2 billion for highways, \$631 million more than the Administration requested. The bills also retain \$631 million in Revenue Aligned Budget Authority (RABA), which the Administration proposed eliminating. RABA is a budgetary mechanism designed to maintain highway funding at actual and anticipated revenue levels.

The Senate bill, approved July 12, provides \$65.7 billion for U.S. Department of Transportation programs, an increase of \$2.57 billion over last year and \$1.24 billion more than the President proposed.

For aviation, the Senate bill maintains current funding of the Airport Improvement Program (AIP) at \$3.51 billion and sets Essential Air Service funding at \$110 million, \$600,000 more than current levels. The bill provides \$1.47 billion for Amtrak, nearly \$600 million more than requested by the Administration.

The House Appropriations Committee's version of the bill, approved June 11, also includes \$9.7 billion for public transportation, \$300 million more than the Administration's request and \$3.6 billion for AIP. It funds Amtrak at \$1.4 billion.

Both bills await floor consideration in each chamber.

Aviation Reauthorization

HOUSE PANEL APPROVES FAA REAUTHORIZATION LEGISLATION

With federal aviation programs due to expire at the end of September, the House Transportation and Infrastructure Committee passed a four-year, \$66 billion reauthorization bill for programs under the Federal Aviation Administration (FAA).

The FAA Reauthorization Act of 2007 (HR 2881) includes \$15.8 billion for the Airport Improvement Program (AIP) for fiscal years 2008 through 2011, \$13 billion for the Facilities and Equipment program and \$37.2 billion for FAA operations. AIP, which provides grants to improve airport infrastructure, would rise from \$3.8 billion in 2008 to \$4.1 billion in 2011.

The bill does not impose a user fee, as the Administration had called for, to fund a satellite-based air traffic control system. Instead, the Committee is recommending that the House Ways and Means Committee adjust the general aviation jet fuel tax rate for inflation from 21.8 cents per gallon to 30.7 cents per gallon, and the aviation gasoline tax rate be increased from 19.3 cents per gallon to 24.1 cents per gallon. The Senate's reauthorization bill (S. 1300) includes a \$25 surcharge per flight.

The House bill also includes an increase in the Passenger Facilities Charge (PFC) from the current level of \$4.50 to \$7 and a controversial labor provision requiring FAA to resume contract negotiations with air traffic controllers. PFC is used by airports to pay for new projects to increase capacity. The Senate bill does not increase PFC.

Approved by the Committee June 29, the bill will go to the House Ways and Means Committee before the full House considers it sometime in July. The Bush Administration issued a veto warning in opposition to the labor provisions. Senate leadership has not indicated whether the Senate bill will be considered on the Senate floor before the August Recess.

Transportation Research

ENVIRONMENT & PLANNING RESEARCH SUGGESTIONS REQUESTED

The Federal Highway Administration (FHWA) has announced revisions to the implementation strategy of a SAFETEA-LU environment and planning research program and is requesting suggested lines of research for the program's 2008 fiscal year.

SAFETEA-LU established the Surface Transportation Environment and Planning Cooperative Research Program (STEP). The general objective of STEP is to improve understanding of the complex relationship between surface transportation, planning and the environment. SAFETEA-LU provides \$16.875 million per year for fiscal years 2006-2009 to implement this new cooperative research program.

STEP is the primary source of funds to conduct all FHWA research on planning and environmental issues. In addition, Congress mandated several special studies, and STEP will be the funding source for those projects. STEP will also address priorities identified in the U.S. Department of Transportation Research and Development Strategic Plan including those related to highway safety benefits and congestion reduction.

The implementation strategy revisions are available on FHWA's Web site at <http://www.fhwa.dot.gov/hep/step/index.htm>. Suggestions for lines of research should be submitted to the STEP Web site on or before August 24, 2007. More information is available in the June 25th *Federal Register* under Federal Highway Administration, http://www.access.gpo.gov/su_docs/fedreg/a070625c.html.

Greenhouse Gas Emissions

HOUSE T&I COMMITTEE APPROVES BILL TO CUT EMISSIONS

The House Transportation & Infrastructure Committee passed a bill to reduce greenhouse gas emissions from the transportation sector. The Transportation Energy Security and Climate Mitigation Act of 2007 (HR 2701) passed the committee by voice vote on June 20.

The legislation aims to strengthen energy security and mitigate the effects of climate change by promoting energy-efficient transportation and public buildings, creating incentives for the use of alternative fuel vehicles and renewable energy and ensuring sound water resource and natural disaster preparedness planning.

Key provisions of the bill include: increased public transportation funding, with \$1.7 billion over two years for grants to transit agencies for fare reduction to encourage people to switch to transit; \$11 million for the Federal Aviation Administration to enter into a cooperative agreement to develop technology to lower aviation-related emissions and noise; federal share

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Proposed legislation in the House aims to mitigate effects of climate change by promoting public transportation, among other things. Image courtesy of the APWA Jim Martin Public Works Photo Library.

for CMAQ projects increased to 100 percent; incentives created for use of alternative fuel vehicles and renewable energy; and establishment of a U.S. Department of Transportation Center for Climate Change and Environment. The bill also requires that rescissions in federal highway spending authority be spread out over all highway programs.

The bill is expected to be added to comprehensive energy legislation to be brought to the House floor in July.

Fuel Economy

FLEET FUEL ECONOMY, CLIMATE CHANGE & CONGRESS

The rise in oil and gas prices over the past year has renewed focus on fuel consumption in the transportation sector. Larger concerns over climate change and greenhouse gas emissions are also fueling the debate and ending years of reluctance to increase the fuel economy of the cars and trucks on the road today.

Congress is attempting to address the dual issue of rising fuel costs and concern over greenhouse gas emissions by proposing changes to the Corporate Average Fuel Economy (CAFÉ) standards. CAFÉ standards are flexible economy averages that manufacturers must meet each model year. Under the current CAFÉ standards, separate fuel economy standards are established for passenger cars and light trucks, which include sport utility vehicles, vans and pick-up trucks. Current CAFÉ standards require automakers to achieve 27.5 mpg for passenger cars and 22.2 mpg for light trucks. Vehicle fuel economy standards have not changed in at least two decades.

The Senate energy package (HR 6) includes language raising the fleet wide average fuel economy standards for all cars, trucks and SUVs over a ten year period from 25 mpg to 35 mpg by model year 2020. From 2011 to 2019 the U.S. Department of Transportation must set fuel economy standards that are the *maximum feasible* and ratchet these standards up to make steady progress toward meeting the 2020 goal of 35 mpg.

Supporters estimate that the new fuel economy standards for cars and light duty trucks would save between 2 and 2.5 million barrels of fuel per day. Carbon dioxide emissions would be reduced by 18 percent, or the equivalent of taking 60 million cars off the road in one year. The House will take up CAFÉ and fuel economy standards when it begins consideration of a larger energy package in the coming weeks.

Check the APWA Advocacy Web page regularly for updates on this issue and others at www.apwa.net/advocacy.

EMERGENCY MANAGEMENT/DISASTER MITIGATION

9/11 Commission

STALLED 9/11 LEGISLATION MAYBE HEADING TO CONFERENCE

The long-stalled September 11th legislation that implements the recommendations of the 9/11 Commission hit another snag on its way to conference this week, although the delay is likely only temporary.

Senate republicans balked over a procedural move by Senate Majority Leader Harry Read (D-NV) that would allow the House to combine rail security provisions with its version of the bill (H.R. 1). The House Rules Committee had originally intended to meet this week regarding their desire to merge components of another bill addressing rail security into H.R. 1., but after running into Senate opposition, the Committee called off the meeting.

The House should begin the process of appointing conferees in the coming days, following the Senate, which did so last week.

H.R 1 passed the House in January, while the Senate version of the bill (S. 4) passed in mid-March. Since then, the bills have been held up due to obstacles such as collective bargaining rights for airport screeners,

which the White House and GOP opposed. In late June, the democrats agreed to remove that controversial language from the bill, allowing progress on appointing conferees to move forward.

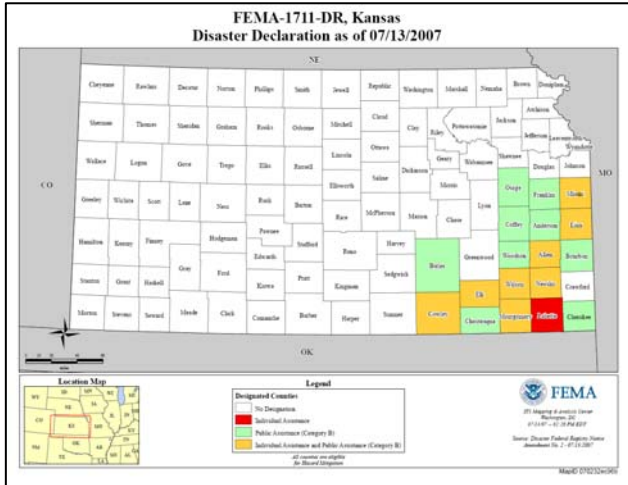
FEMA

FEMA COORDINATES DISASTER RESPONSE

It was anything but a quiet Fourth of July holiday week for the Federal Emergency Management Agency (FEMA), as it worked with its federal, tribal, state and local government partners to coordinate the response to recent severe storms and flooding in Texas, Kansas and New York. All three states received presidential disaster declarations.

In Texas, aid was granted under FEMA's Individual Assistance Program, which provides grants to residents to help them pay for temporary housing, home repairs and other serious disaster-related expenses. Low-interest loans from the U.S. Small Business Administration were also made available. Both Kansas and New York are receiving aid under the Public Assistance Program, which supplements state and local recovery efforts. Under that program, federal funding is available to state and eligible local governments, and certain private non-profit organizations, on a cost-sharing basis. Federal funding is also available on a cost-sharing basis for hazard mitigation measures statewide.

Although sometimes thought of only during hurricane season, FEMA has been busy all year responding to other disasters such as wildfires, flooding, severe storms and tornadoes. Since Jan. 1, President Bush has issued 38 major disaster declarations, six emergency declarations and 22 fire management assistance declarations.



FEMA declared parts of Kansas as disaster areas following severe weather in July. Image courtesy of www.fema.gov.

DHS

SECRETARY CHERTOFF RESPONDS TO LONDON AND GLASGOW INCIDENTS – DHS IMPLEMENTS INCREASED SECURITY MEASURES

Saying that he has seen “no specific, credible information suggesting that this latest incident is connected to a threat to the homeland,” Department of Homeland Security (DHS) Secretary Michael Chertoff responded to the incidents in downtown London and at the airport in Glasgow, Scotland, in statements to the public. He indicated that, while there are no plans to raise the national threat level in the United States, DHS will be implementing plans to increase security measures at transportation facilities throughout the nation. Commenting in a news interview in July he said, "We are safe, but we are safe because we continue to pay attention and we continue to add security measures."

The secretary spoke on several television news programs over the weekend and this morning, responding to questions about links between the unexploded car bombs in London, the Jeep that was crashed into the airport in Glasgow and threats to the United States. He said DHS is closely monitoring the investigation in the United Kingdom, and has been in close contact with counterparts there. DHS and the FBI have also been in touch with state and local homeland security and local law enforcement partners to share information.

When asked about the impact of increased security measures at airports and other transportation facilities during this holiday period, the Secretary said in his statement, “Some of these measures will be visible; others will not. As always, airline passengers should arrive at the airport with sufficient time for security clearance. We encourage the public to go about their business and recreational plans as usual, but remain vigilant to the events happening in your environment and report any suspicious activities to authorities.”

To read the Secretary's full statements, go to www.dhs.gov/xnews/releases/pr_1183233198811.shtm.

Hurricane Preparation

SECRETARY PRAISES MISSISSIPPI AND ALABAMA FOR HURRICANE PREPARATION

Department of Homeland Security (DHS) Secretary Michael Chertoff praised the governors of Mississippi and Alabama for preparing their states for the 2007 hurricane season, and for taking a proactive approach to prepare for a storm that could cause great harm to their citizens and economy.

While in Biloxi, Miss., for his meeting with Gov. Haley Barbour of Mississippi and Gov. Bob Riley of Alabama, the Secretary addressed the Mississippi-Alabama Joint Hurricane Conference about hurricane preparations. He pointed out that Mississippi recently held a state-wide exercise designed to test its hurricane emergency response plans while Alabama has begun construction on a new emergency operations center with a \$2.9 million grant from the Federal Emergency Management Agency. He expressed his appreciation for the states' partnership with the DHS in enhancing preparedness across the nation and implementing a common framework for managing hurricanes and large-scale disasters. "You are our essential partners and we appreciate your contribution," he said.

The Secretary emphasized that, despite all the efforts to prepare for hurricanes at the state and federal levels, the most meaningful preparation is done by individuals and businesses. "I know officials in both states have been getting this message out to your citizens. We appreciate those efforts," he said and added that materials for helping people, communities and businesses prepare for disasters are available through the department's Ready.gov Web site. "We hope none of these storms will see the light of day, but we must act as though they will. And that means continuing to refine and enhance our capabilities and making sure we all understand our roles and responsibilities," he said.

Preparedness

GOOD TURNOUT AT 2007 NATIONAL CONFERENCE ON COMMUNITY PREPAREDNESS

FEMA's Citizen Corps program was the focal point of the 2007 National Conference on Community Preparedness, which was hosted by the International Association of Emergency Managers (IAEM) and the National Emergency Management Association (NEMA) in Alexandria, Va. Held June 10-13, the conference was titled, The 2007 National Conference on Community Preparedness – Partnerships and Collaboration Through Citizen Corps.

Delivering keynote remarks, Federal Emergency Management Agency (FEMA) Administrator David Paulison emphasized the importance of collaboration between emergency management and Citizen Corps Councils, especially during the planning, training and exercises conducted before an emergency. Department of Homeland Security (DHS) Assistant Secretary for Private Sector Al Martinez-Fonts spoke about the need to work with businesses to leverage the resources they can offer communities in which they operate, as well as to increase private sector resilience by training and preparing employees for disasters.

Over 600 people attended the conference, representing a cross section of organizations engaged in community preparedness, including emergency management agencies, public health agencies, fire and police services, Citizen Corps councils, local, state, and federal agencies, non-governmental organizations, and the private sector. Conference materials will be posted to the Citizen Corps Web site in the near future at www.citizencorps.gov.

In another preparedness development, DHS announced in mid-July that it is sponsoring the fourth annual National Preparedness Month this September. Each year, the department leads a coalition of organizations whose members agree to distribute emergency preparedness information and sponsor activities across the country that promote preparedness. More information about this announcement is available at http://www.dhs.gov/xnews/releases/pr_1181763393616.shtm.

FEMA Training

FEMA PRESENTS COOP COURSES AT UNITED NATIONS

From now through September, the Federal Emergency Management Agency's (FEMA) National Continuity Programs personnel are presenting a three-part series of Continuity of Operations (COOP) training courses and exercises at the United Nations in New York.

In early June, FEMA staff facilitated "COOP Awareness" and "Introduction to COOP" courses for approximately 35 U.N. staff members. During the week of June 25, FEMA personnel presented the second installment of training, consisting of a three-day COOP Managers "Train-the-Trainer" course for 20 students. In September, the third installment will include a "Train-the-Trainer" course, a COOP Exercise Design course and a COOP Tabletop Exercise. During the Exercise and Design course, U.N. students will design a functional exercise based on the organization's crisis management plan, assisted by FEMA personnel.

The United Nations has a crisis management plan, but it asked FEMA to train its staff in a comprehensive COOP program. The international body plans to apply FEMA's COOP concepts and work models.

ENVIRONMENT

Water

FY 2008 EPA BUDGET BILLS CONTAIN KEY CLEAN WATER PROVISIONS

Both the U.S. House of Representatives and Senate Appropriations Committees have approved their fiscal year (FY) 2008 budget packages for the U.S. Environmental Protection Agency (EPA). Overall, EPA would receive \$7.77 billion in FY08 under the Senate version, which is \$48 million more than the Agency received in FY07.

Under the more generous provisions of the House bill, EPA would receive \$8.08 billion or \$360 million more than FY07, with a large piece of this increase going to the Clean Water State Revolving Fund (CWSRF). Funding for the CWSRF differs between the two bills. The House bill requested \$1.125 billion, which is \$437.4 million above the President's request and would be \$41.18 million above last year's enacted level. The Senate bill, meanwhile, recommended a funding level of \$887 million – \$193 million below FY07 levels and \$213 million below the House level. The likely result will be a number similar to last year's funding level of approximately \$1 billion. The House version of the bill also includes a provision to block implementation of EPA's proposed National Pollutant Discharge Elimination System (NPDES) permit fee rule. President Bush has threatened to veto this budget package.

For additional information contact Julia Anastasio at janastasio@apwa.net.

Clean Water Act

APWA JOINS WATER SECTOR IN CELEBRATING CLEAN & SAFE WATER

With the 35th anniversary of the Clean Water Act (CWA) approaching, APWA has joined with other organizations working to provide clean and safe water by co-sponsoring the Clean Water American Gala Celebration. The event will bring together a cross section of leaders whose collaboration will be essential to guarantee the sustainability of clean and safe water for future generations.

More than 30 organizations, including APWA, have joined to make the GALA possible. Honorary Chairs Howard Baker (R-TN), former Senator, and Representative James Oberstar (D-MN) will join in the celebration and Atlanta Mayor Shirley Franklin will be featured as a keynote speaker and honoree. The event is scheduled for September 18, 2007 at the Ronald Regan Building and International Trade Center in Washington, D.C. Other activities include a Congressional Rally for clean and safe water on the national mall and World Water Monitoring Day events.

For more information on the GALA or if you are interested in purchasing tickets to the event, please contact Julia Anastasio at janastasio@comcast.net or Tanya Stevenson at (202) 530-5722 or cwgala@nacwa.org.

Wetlands

EPA SEEKS COMMENTS ON DREDGING POLICY

The Environmental Protection Agency (EPA) recently published a notice in the *Federal Register* (72 FR 34464 (Jun. 22, 2007)) announcing the review of the National Dredging Policy and the National Dredging Team's 2003 Action Agenda. The National Dredging Policy provides a national, unified policy for navigational dredging and focuses Federal agency commitments.

As part of the review the agency will consider whether it should revise the national policy or publish an Addendum to the 2003 Action Agenda, updating the Action Agenda as appropriate. If the National Dredging Team develops any revisions to the National Dredging Policy or any Addendum to the 2003 Action Agenda, EPA will publish a *Federal Register* notice requesting additional comments.

The National Dredging Policy and the 2003 Action Agenda can be found at <http://epa.gov/owow/oceanas/ndt>. For more information contact Julia Anastasio at janastasio@apwa.net.

Water Security

WATER SECTOR-SPECIFIC PLAN RELEASED BY EPA AND DHS

The Department of Homeland Security (DHS) and Environmental Protection Agency (EPA) recently released the final Critical Infrastructure and Key Resources Sector-Specific Plan (SSP) for Water as input to the National Infrastructure Protection Plan. The SSP outlines security and emergency response objectives for water and wastewater utilities and identifies four water sector security goals: 1) sustain protection of the public health and environment; 2) recognize and reduce risks in the water sector; 3) maintain a resilient infrastructure; and 4) increase communication, outreach and public confidence. As established by the SSP, the water sector's security vision "is a secure and resilient drinking water and wastewater infrastructure that provides clean and safe water as an integral part of daily life."

A copy of the SSP can be accessed via the DHS Web site by at www.dhs.gov/xprevprot/programs/gc_1179866197607.shtm#3. For additional information contact Julia Anastasio at janastasio@apwa.net.

Wastewater

SEWER OVERFLOW REPORTING LEGISLATION INTRODUCED IN HOUSE

In late May, Rep. Timothy Bishop (D-N.Y.) introduced the *Raw Sewage Overflow Community Right-to-Know Act* (H.R. 2452) which contains monitoring and reporting requirements for sewer overflows. The bill has only 18 co-sponsors, and the Senate is not working currently working on similar legislation.

Bill requirements include:

- installation and use of a technology that notifies the owner/operator in "a timely manner" that a sewer overflow has occurred;
- notification to the public, as well as EPA or the state, of the overflow within 24 hours;
- immediate notification of public health authorities and other "affected entities, such as public water systems" of any overflow that may "imminently and substantially endanger human health;"
- a report to EPA or state of the magnitude, duration and suspected cause of the overflow and the steps being taken to reduce or eliminate the recurrence;
- a report (provided to EPA or the state) containing the total number, location and impact of overflows in a given year.

Initial reaction to the bill from municipalities has been that many communities are already doing the types of monitoring and reporting on overflows and that it would create duplicative requirements, that it unnecessarily

scares the public regarding the health impacts of engineered overflows, and that it constitutes an unfunded federal mandate. For additional information visit www.apwa.net/advocacy and click on Federal Legislation.

Farm Bill

HOUSE AGRICULTURE COMMITTEE PREPARES TO CONSIDER FARM BILL REAUTHORIZATION

The House of Representatives Agriculture Committee will begin consideration of the 2007 Farm Bill reauthorization process this month. The Farm Bill authorizes about \$275 billion over six years for crop subsidy, conservation, rural development and food stamp programs. Efforts to reauthorize the 2002 Farm Bill, which expires September 30, 2007, began in May when individual subcommittees marked up the various titles of the larger bill. Amendments and final funding recommendations were not offered during the subcommittee deliberations and were held until the full committee begins consideration of the entire package. The Senate is anticipated to begin considering their version of the Farm Bill before this fall.

The 2002 Farm Bill made important improvements to both the conservation and rural development titles by establishing and strengthening programs and technical assistance. APWA teamed up with two coalitions to see that the needs of the public works community are met in the new bill. Through the Campaign for Renewed Rural Development (www.ruralcampaign.org), APWA, the National Association of Counties (NACo) and several other groups are calling for increases in funding for the rural development title. APWA is also working with a group of associations representing the water sector in advocating for increased funding for the conservation title and for programs that provide for cooperative, multi-stakeholder efforts on a regional or watershed basis to improve or protect water quality.

For additional information contact Julia Anastasio at janastasio@apwa.net and check www.apwa.net/advocacy for updates on the reauthorization process.

Solid Waste

RECYCLING INVESTMENT SAVES ENERGY ACT INTRODUCED IN SENATE

Legislation designed to reduce greenhouse gases, create jobs, help businesses and improve recycling programs was introduced by Senators Carper (D-DE) and Snowe (R-ME). The Recycling Investment Saves Energy Act (RISE) provides accelerated depreciation for the purchase of equipment used for recycling, thereby enabling recycling facilities to invest in new equipment and upgrade outdated facilities. According to the bill sponsors, in addition to increasing recycling rates, the legislation will lead to energy conservation savings to heat more than 74 million homes, provide electricity for 2.5 million Americans, save nearly \$440 in crude oil costs and create job opportunities.

In letters to Senators Carper and Snowe APWA expressed an inability to fully support the bill as it is currently drafted because local governments will not directly benefit from the financial incentives offered in the proposal and because the definition of recycling does not include compostable materials.

Visit www.apwa.net/advocacy and click on Federal Legislation for updated information on RISE.

UTILITIES AND PUBLIC RIGHTS-OF-WAY

Local Franchising

LOCAL GOVERNMENTS ASK COURTS TO STAY FCC FRANCHISING ORDER

Several local government organizations representing county and municipal officials have asked a federal appeals court to block implementation, pending judicial review, of a recent franchising order adopted by the Federal Communications Commission (FCC).

The organizations assert that the FCC order will severely restrict the ability of local governments to protect their citizens, manage their rights-of-way and provide other services. The organizations assert that the request

for Stay is in the public interest since under the FCC order, "local franchising authorities will be forced to rush franchising decisions without being given an opportunity to ensure the interests of the public, including safety concerns, are met."

In March, the FCC issued a Report and Order concluding that the "local franchising process in many jurisdictions constitutes an unreasonable barrier to entry," and therefore issued rules pre-empting local franchising authority. The FCC's order sets fixed deadlines on local franchising authorities to rule on video franchise applications – 90 days for entities with pre-existing access to the rights of way, 180 days for those without. In addition, it limits build-out requirements and restricts compensation in the franchise agreement and sets other requirements.

In a March notice of proposed rulemaking, the FCC also proposed applying the findings in the Report and Order to cable operators that have existing franchise agreements (the Report and Order changes the franchising process with respect to new applicants) as they negotiate renewal of those agreements with local franchising authorities.

Organizations participating in Motion for Stay, filed in the Sixth Circuit Court of Appeals on June 20, include the Alliance for Communications Democracy, Alliance for Community Media, National Association of Counties, National League of Cities, National Association of Telecommunications Officers and Advisors and the U.S. Conference of Mayors.

APWA Washington Report contributors include Julia Anastasio, Jim Fahey, Dan Jensen and Elizabeth Kelsey. Becky Wickstrom is editor of the Report.