

Conference Report on HR 4348, MAP-21 (Transportation Bill)

Summary of Key Issues for California

Funding for California

Highway Funding for California

<u>FY11 – current law</u>	<u>Conf. Rep. FY12</u>	<u>Conf. Rep. FY13</u>	<u>Conf. Rep. FY14</u>
\$3,808,733,995	\$3,543,739,939	\$3,543,739,939	\$3,574,110,167

Transit Funding for California

<u>FY11 – current law</u>	<u>FY12 – current law</u>	<u>Conf. Rep. FY13</u>	<u>Conf. Rep. FY14</u>
\$ 1,205,085,711	\$1,138,515,059	\$1,231,130,409	\$1,248,470,329

*The Conference Report changes the bus and bus facilities program from a discretionary program to a formula program. The FY11 amount includes how much California got for the Bus Program in discretionary awards. The FY12 number includes the average that CA usually gets (\$90 million) in Bus program funds since those funds have not been awarded yet. The Conf. Rep. FY13 and FY14 numbers include how much CA will get in the new formula Bus program.

** These numbers exclude all other discretionary transit programs such as New Starts. California generally does very well in the New Starts program.

Donor State Issue

- The Conference Report provides that every state must receive a minimum return of 95% of what they pay into the highway trust fund. This is an increase over the last bill which provided a 92.5% minimum return.
- **This issue is somewhat irrelevant** since every state now receives more than 100% of what they pay into the highway trust fund. This is because the highway trust fund is no longer able to pay for the full cost of the federal aid highway program and Congress has to add general fund revenue to back fill it.

NEPA-CEQA Environmental Streamlining Program

- The Conference Report makes permanent the current pilot program that lets DOT delegate NEPA authority to states that have equal or stronger environmental review laws. This authority is expanded in the bill to all states and includes rail, public transit, and multi-modal projects – not just highways as the current program does.
- California is the only current participant in this program.
- This program relieves California of the burden of performing a full NEPA document when they have already performed CEQA.

TIFIA Loan Programs

- The Conference Report includes \$750 million in FY 2013 for TIFIA and \$1 billion in FY 2014 for TIFIA. This is a major increase over \$120 million in current funding.
- The Transportation Infrastructure Finance and Innovation Act (TIFIA) program provides low-cost loans to states and localities to implement transportation projects.
- Many California cities and transportation agencies are strong supporters of this program as it will allow them to quickly construct projects that are funded by a

long term local revenue stream. This can cut down on the overall project cost by reducing inflationary costs.

- Los Angeles Metro is a strong supporter of this provision because it will help them implement Measure R Transit projects in 10 years instead of the proposed 30 years.

Projects of Regional and National Significance program

- The Conference Agreement authorizes \$500 million from the general fund for the projects of regional and national significance program **for FY 2013 only.**
- **The program will most likely not be funded** as the THUD Appropriations bill for FY13 is on the House floor this week and it includes no money for this program. For this program to be funded, the Senate would need to add money in their approps. bill.
- California is a major supporter of a projects of regional and national significance program as over 45% of the nation's imports are transported through our state, and much of that moves onto the rest of the nation.
- This makes California strategically important for the movement of goods across the country and a prime recipient of funding through the current Projects of National and Regional Significance program.

National Freight Program

- Because our state is a major importer and manufacturer of products that move through our state and to the rest of the nation, a major priority of Caltrans was that this bill creates a National Freight Program.
- The Conference Report establishes a national freight policy, which requires the designation of a primary freight network of up to 30,000 miles. The agreement also requires the development of a national freight strategic plan, and encourages states to develop state freight plans.
- To incentivize states to invest in freight projects, the conference report increases the Federal share for freight mobility projects identified on state freight plans. The federal share would increase from 80 percent to 90 percent for non-Interstate projects, and from 90 to 95 percent for projects on the Interstate system.

Truck Size and Weight Issue

- The Conference Report requires the Federal Motor Carrier Safety Administration complete a study within 2 years regarding the potential impacts of increasing the size and weight of trucks.
- CHP was very concerned that the bill may include provisions allowing bigger trucks on the highway system, but the conference report only includes a study.

Buy America

- The bill includes none of the new buy America provisions that Democrats and many California offices were requesting.
- The bill does include a new Buy America provision that would prohibit the future segmentation of highway projects to avoid Buy America requirements for parts of a whole project. This is in response to what Caltrans did when they built the new Bay Bridge project.

Transit Privatization

The bill does not include the most egregious privatization provisions that were included in HR. 7 but it does include some privatization provisions that will draw concern from transportation unions.

The conference report :

- Requires FTA to “better coordinate public and private sector-provided public transportation services” and “promote more effective utilization of private sector expertise, financing, and operational capacity to deliver costly and complex new fixed guideway capital projects;
- Requires FTA to provide technical assistance to recipients of Federal transit grant assistance on practices and methods to best utilize private providers of public transportation;
- Requires FTA, if requested by a New Starts project sponsor, to identify best practices for public-private partnerships models, develop standard public-private partnership transaction model contracts; and perform financial assessments that include the calculation of public and private benefits of a proposed public-private partnership transaction.
- Requires FTA to identify any regulations or practices that impede greater use of public-private partnerships and private investment in public transportation capital projects and develop and implement approaches similar to SEP-15 for highways.
- Requires FTA to conduct a study on the effects of contracting out public transit services on cost, availability and level of service, efficiency, and quality of service. The study must specifically look at “the extent of unionization among privately contracted employees” and “the impact to wages and benefits of employees when publicly provided public transportation services are contracted out to a private for-profit entity”
- Requires FTA to publish policy guidance regarding how to best document compliance by recipients of Federal assistance with the requirements regarding private enterprise participation in transit planning.

Controversial Environmental Provisions

- The conference agreement includes multiple environmental streamlining provisions that will be a concern to the environmental community.
- **The biggest concern is Sec. 1306 Accelerated Decisionmaking.** This section sets deadlines for decisions by the Federal agency with responsibilities for environmental review. **The section requires financial penalties for the agency if it does not complete environmental reviews by certain deadlines,** thereby further impacting the budgets and resources of agencies that they are pressing to speed up reviews. Fines can be up to 7% of agency office budget for the fiscal year.
- This is unprecedented and will likely drive agencies to simply deny permits to avoid fines. It will also deplete the resources of agencies that are already not able to review permits fast enough and will drive all resources toward transportation projects at the expense of other projects that also need review such as water projects, mining projects, and other infrastructure projects.

Provisions Not in the Conference Report

Positive Train Control not in the Conference Report

- The Conference Report does not include any changes to the current federal mandate that requires railroads to implement Positive Train Control (PTC) on passenger rail lines and lines carrying dangerous toxic-by-inhalation hazardous materials by Dec. 31st, 2015.
- These deadlines are important as a response to the Metrolink Train Disaster of 2008.
- There were proposals in the House and Senate bills that would have delayed and weakened implementation but those proposals are not included.

High Speed Rail

- The Conference Report does not include any provisions regarding high speed rail.

Privatizing Engineering Provision not in the Conference Report

- There was a very controversial provision in HR 7 that would have privatized public engineering services that was strongly opposed by Caltrans Engineers.
- This provision is not in the conference report.

Transit operations flexibility not in the Conference Report

- Many California transit agencies and transit unions wanted language in the bill that allows transit agencies to use some federal transit funds that are currently dedicated to capital improvements for operations.
- The transit operations flexibility provisions that were in the Senate bill were not included in the conference report.