



Federal Flyer

July 20, 1999

A Publication of the Legislative Affairs Office

Vol. V, No. 10

Senate Stalled on Appropriations and FAA Authorization Bills *Spending Bill Delayed until September, Short-term AIP Extension Possible*

Two major bills affecting Texas transportation – the FY 2000 transportation appropriations bill (S. 1143) and the FAA reauthorization bill (S. 82) – remain stalled in the United States Senate. Continued delays may threaten new funding for the state’s transportation programs.

FY 2000 Transportation Spending Bill Caught Up in Debate over Transit Funding. As we reported in the last issue of the *Federal Flyer*, Senate Transportation Appropriations Subcommittee Chairman **Richard Shelby** (R – Alabama) has included a provision in S. 1143 which would cap a state’s annual transit formula and capital improvement program funding at 12.5% of program funds distributed each year. This would result in reductions in transit funding for New York and California and an increase in funding for the rest of the states, who will benefit from the redistribution of the “excess” above the cap. California and New York senators have threatened a filibuster and several controversial amendments if the provision is not removed. Rather than give in, Shelby has vowed to delay Senate consideration of the bill until after the August recess, which may mean that the transportation spending bill could be rolled into the annual continuing resolution.

Members of both the Environment and Public Works and Commerce Committees have written letters attacking the transit spending provision. The chairmen and ranking members of these authorizing committees state that the bill includes provisions that “are either authorizing in nature or waive requirements established in prior authorizing statutes.” These concerns from the authorizing committees further cloud the prospects for the transportation spending bill coming up before the August recess.

FAA Reauthorization Still Stuck on Slot Issues and Budgetary Treatment Concerns. The Senate version of the FAA reauthorization legislation (S. 82) has been sitting on the Senate calendar for several months now. Senate Commerce Committee Chairman **John McCain** (R – Arizona) has been unable to win

agreement among senators on the issue of the number of flights in and out of Reagan National, LaGuardia, and O’Hare airports. McCain indicated last week that these continued struggles could jeopardize plans to bring the bill to the Senate floor before the current authorization expires on August 6.

Given the continued uncertainty surrounding the slot issue, Senate Majority Leader **Trent Lott** (R – Mississippi) has suggested that McCain introduce legislation for another short-term extension of FAA authority. If adopted, the measure would likely provide authority and funding through the end of the current fiscal year (September 30) to give the House and Senate time to work on a conference committee. House Transportation and Infrastructure Committee leaders are opposed to an extension, hoping to use the impending deadline to force Senate action on S. 82 and move to conference on the issue.

Another issue diminishing the prospects for prompt action on FAA reauthorization is the budgetary treatment of the aviation trust fund in H.R. 1000, the House version of the measure. The senate bill does not provide any kind of special budgetary treatment for aviation spending; in fact, S. 82 holds spending for aviation programs within the overall budget agreement limits, while H.R. 1000 would increase spending dramatically over the next five years.

Within the Senate, however, there is a movement to win support for special budgetary treatment for aviation. The National Association of State Aviation Officials (NASAO) and others are working to get key senators to support an amendment to S. 82 that would effectively guarantee annual spending for aviation.

At this point, the support for this effort is unclear and certainly not as strong as in the House. Certain senators have already expressed their opposition to the idea, including Senate Budget Committee Chairman **Pete Domenici** (R – New Mexico) and Appropriations Transportation Subcommittee Chairman Shelby. These key senators may try to further stall consideration of S. 82 to avoid a conference with the House this year.

Senate appropriators may be trying to put together an amendment to some appropriate piece of legislation (appropriations bills or the budget reconciliation package) that would automatically trigger a one-year extension of FAA programs to keep funds flowing and avoid a conference on H.R. 1000.

For their part, officials in the Clinton Administration have expressed concern over the slow pace of

consideration in the Senate on the FAA reauthorization bill. They want the Senate to pass S. 82 soon and go to conference with the House before the start of the August recess. The Clinton Administration does not support the special budgetary treatment for the aviation trust fund as provided in H.R. 1000.

We will report again on these issues as we near the days before the recess.

Senate Committee Holds Transportation Conformity Hearing *Witnesses Argue for Restoration or Elimination of Grandfathering Provisions*

The Senate Environment and Public Works Committee held a hearing on July 14 to hear testimony on whether or not the Congress should reinstate certain transportation conformity regulations struck down recently by a DC Circuit Court. The regulations, promulgated jointly by the EPA and the FHWA in 1997, provided flexibility for regional transportation planning in nonattainment areas. The DC Circuit Court ruled on March 2, 1999 that the regulations were invalid and required congressional action if they were to be reinstated.

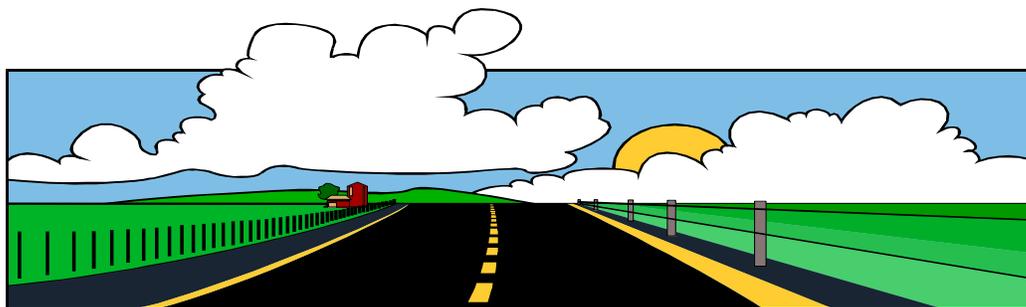
Committee Chairman **John Chafee** (R – Rhode Island) called the hearing to get an understanding of how this court action has affected the ability of states and localities to plan and provide transportation options while still striving to meet air quality goals. Witnesses were mixed in their opinions about the need for congressional action.

Witnesses from the EPA, FHWA, FTA, and the Environmental Defense Fund (the plaintiffs in the DC Circuit Court case) argued that the court acted appropriately in striking the regulatory provisions. In particular, they argued that perhaps the most controversial provision (the “grandfathering” provision that would allow previously approved transportation projects to advance even though the plan does not meet the targets to achieve improved air

quality goals) should not have been allowed in the first place. These witnesses stated that the subsequent EPA/FHWA guidance on the issue was sufficient for regions to continue transportation planning while working to develop an effective transportation plan for meeting air quality improvement goals.

Witnesses for AASHTO, ARTBA, and a few regional governments responsible for transportation planning argued that the Congress needed to pass legislation similar to S. 1053, sponsored by Senator **Kit Bond** (R – Missouri), which would codify the regulations in place on March 1, 1999. These witnesses stated that significant transportation projects were at risk of being put on hold for an indeterminate length of time if the planning flexibility provisions were not restored. “We are extremely concerned that the agreement reached by EPA and DOT to implement the March 2 Court of Appeals decision is burdensome and unworkable,” said AASHTO representative Dean Carlson, Executive Director of the Kansas Department of Transportation.

As of this date, nine senators have signed on as cosponsors to S. 1053, including Texas Senators **Phil Gramm** (R) and **Kay Bailey Hutchison** (R). Missouri Congressman **James Talent** (R) has filed a companion bill (H.R. 1876) in the House but there has been no hearing on the transportation conformity issue in that chamber thus far this session.



The *Federal Flyer* is a publication of the TxDOT Legislative Affairs Office. It is intended to provide up-to-date information on major legislative activities in the 106th Congress for the management of the Texas Department of Transportation, state leaders, and others interested in Texas transportation issues. This report will also feature key activities in the national transportation community. Sources include news services and staff reports.

Coby Chase, Director of Legislative Affairs, serves as publisher and can be reached at (512) 463-6086. The department's federal legislative analysts are Tonia Norman Ramirez (463-9957) and David Soileau (463-6081). Please contact any of the staff for information on federal transportation and legislative issues.

This publication will be filed with the State Publications Clearinghouse in the State Library in accordance with the Texas State Depository Law.