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ASSOCIATION

Actionline

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Congress passes long-awaited highway bill

On June 29, the House and Senate approved a conference report reauthorizing federal surface transportation programs for the next 27 months. The bill, Moving Ahead for Progress in the 21st Century (MAP-21) will keep money flowing to federal highway and transit construction programs at current levels through the end of FY 2014.

The legislation also contains important program improvements that will speed highway project delivery, increase transparency and efficiency, and expand financing options. Unfortunately, provisions to expedite approval of the Keystone XL pipeline, thwart the Environmental Protection Agency's assault on fly ash, and encourage more private investment in water infrastructure by lifting the cap on private activity bonds were dropped from the bill as negotiators scrambled for a deal.

MAP-21 resolves the long period of uncertainty that state transportation departments and the construction industry faced as Congress struggled to approve a new transportation law after the expiration of SAFETEA-LU, the nation's last transportation law, in 2009. The new law makes important strides in reforming the nation's transportation infrastructure and will create jobs and speed economic recovery by restoring certainty to long-term infrastructure planning. The measure also makes several changes to the way the federal government will distribute highway investments to give states greater flexibility in planning and approving projects.

Congressional approval follows years of debate and discussion on a new highway bill and caps a tumultuous month of back and forth in Washington regarding the bill's ultimate fate. After appearing as if a bill would not be possible in mid-June, lawmakers redoubled their efforts in the month's closing days and developed bipartisan and bicameral compromise legislation.

Though the legislation failed to include many of ACPPA's top legislative priorities contained in the House bill, the association will continue to work with lawmakers on those matters. The House has already passed a standalone measure that would prevent the EPA from regulating fly ash and the provision that would grant approval to the Keystone XL pipeline enjoys widespread bipartisan support. ACPPA will continue to consult with lawmakers regarding desperately needed investments in the nation's water infrastructure networks and will continue the push for PABs through other means.

While the new highway bill is a big win for ACPPA, it is only the start of a much longer conversation about how to best secure robust and sustainable long-term funding for infrastructure investments. ACPPA looks forward to working with lawmakers in the coming months about how to put America's infrastructure on the path to long term prosperity.

Though a significant victory, the passage of a highway bill would not have been possible without the active engagement of ACPPA members and others active in the construction industry. The association would like

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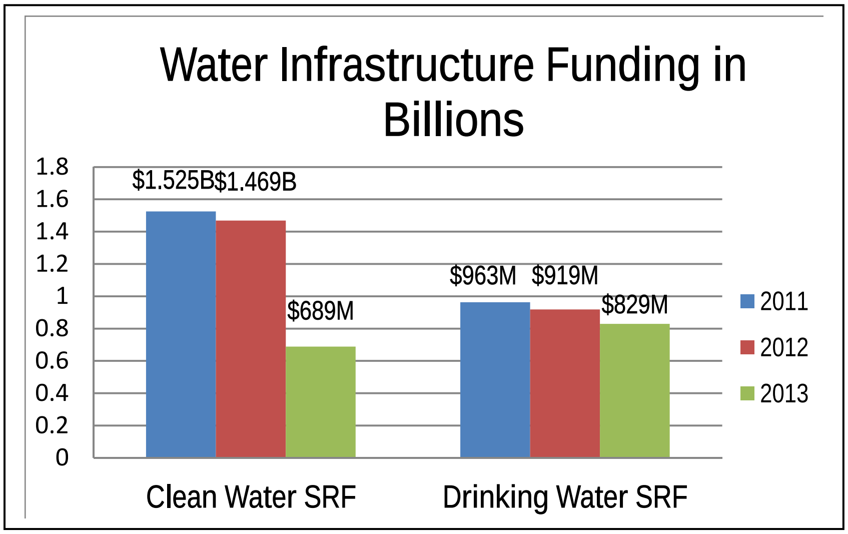
to thank all of its members for their efforts in securing MAP-21s passage by using ACCPA-Action.org or who engaged in other efforts to move the bill forward.

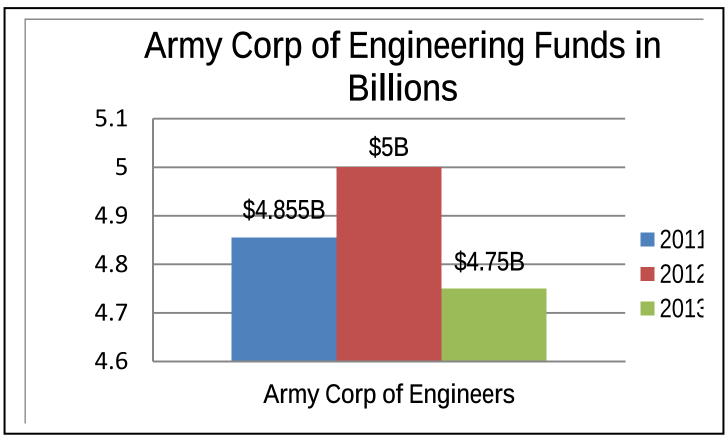
The text of MAP-21 may be found here. An explanatory statement detailing the bill's impacts prepared by the conference committee is available through the House Rules Committee here.

House considers key appropriations bills

The House Appropriations Committee this past month put forward a series of bills that fail to recognize America's serious infrastructure needs. At best, the committee maintained already inadequate investment levels while at worst it endorsed drastic cuts.



As *Actionline* went to press, the House of Representatives was poised to approve a Transportation, Housing, & Urban Development agreed to a Department of Transportation (DOT) appropriations bill that included $39.1 billion for highway projects, the same amount allotted for 2012 and widely recognized to be woefully inadequate in ensuring long-term viability. The White House has threatened to veto the legislation due to opposition to specific program cuts in the bill.



On June 27, the Appropriations Committee passed the Interior & Environment appropriations bill, which would squeeze the Environmental Protection Agency's (EPA) budget by 17 percent ($1.4 billion). The cuts hit water infrastructure hard. The Clean Water State Revolving Fund (SRF) is the big loser seeing its budget slashed from $1.469 billion to $689 million. The Drinking Water SRF is also hit with a $90 million reduction.

On June 6, the House approved the Water & Energy appropriations bill (H.R. 5325) for FY 2013. Provisions for the Army Corps of Engineers fell $25 million from the previous year to $4.75 billion—$1.477 billion of which is to be used for river and harbor related construction projects.

Stay tuned as the appropriations process continues throughout the summer.

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ACPPA, water infrastructure community square off with 'Buy American'

On June 27, Rep. Robert Aderholt (R-AL) successfully attached an amendment mandating "Buy American" requirements for projects receiving financial assistance through the Clean Water and Drinking Water State Revolving Fund (SRF) programs to the Interior & Environment appropriations bill.

Prior to Appropriations Committee consideration, in a June 19 letter, ACPPA joined water and construction industry allies, urging the House Appropriations Subcommittee on Interior, Environment & Related Agencies to oppose efforts to mandate "Buy American" requirements for the SRF programs. The signatories warned that Buy American mandates cause delays, increase costs, and discourage communities from seeking SRF funding. Additionally, U.S. manufacturers risk being locked out of export markets from possible retaliation that trading partners will adopt.

The Buy American requirements, similar to those included in the American Recovery and Reinvestment Act, attempt to promote American manufacturing by requiring that all of the iron and steel used in projects be produced in the United States.

Report: Taxmageddon will push nation over "fiscal cliff"

On May 22, the nonpartisan Congressional Budget Office (CBO) issued a dire warning of an impending recession if Congress fails to prevent a series of spending cuts and tax increases scheduled for the end of the year.

"On the one hand, if the fiscal policies currently in place are continued in the coming years, the revenues collected by the government will fall far short of federal spending, putting the budget on an unsustainable path," the CBO warns. "On the other hand, immediate spending cuts or tax increases would represent an added drag on the weak economic expansion."

CBO projects that Congressional inaction would cause the economy to grow only 0.5% in 2013 after shrinking in the first six months, while preventative measures could allow a more economically robust growth rate of 4.4%.

Dubbed "Taxmageddon" by those in Washington concerned with tax policy, the increases would include an end to the payroll tax cut, the alternative minimum tax (AMT) patch, and the Bush-era tax cuts, while cutting government spending as a result of last fall's sequestration measures.

Although CBO indicates that allowing the tax increases and spending reductions would cause the nation's economy to walk over a "fiscal cliff," the report recognizes the need to address the ever-expanding national debt. "If all current policies were extended for a prolonged period, federal debt held by the public—currently about 70 percent of GDP, its highest mark since 1950—would continue to rise much faster than GDP. Such a path for federal debt could not be sustained indefinitely, and policy changes would be required at some point," the report states.

The report provides guidance to lawmakers as they explore ways to offset the immediate effects of fiscal restraint measures designed to reduce the entire federal budget by 5.1 percent. The cuts are required by the Budget Control Act (BCA) of 2011, the deal to raise the national debt ceiling following the failure of the congressional "super committee" to reach a bipartisan agreement to curb federal spending.

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ACPPA has been sounding alarm bells about Taxmageddon on Capitol Hill for many months. We're calling on Congress to temporarily extend the Bush-era tax cuts to provide some near-term certainty and buy time for the next Congress and president to engage in a much-needed comprehensive tax reform and budget debate.

Canada kicks-off budget process with vote on omnibus bill

On June 18, the Canadian House of Commons passed the Jobs, Growth and Long-term Prosperity Act (C-38), moving the omnibus budget bill past its first legislative hurdle.

The Act directs expenditures for nearly 160 government titles. Among other things, C-38 makes amendments to improve business planning and create a more favorable climate for investment through tax policies and regulatory reforms, adjust the rules governing political activities of charitable organizations, increases the eligibility age for Old Age Security, and refocuses employment insurance to focus on job creation and incentives work.

The bill would rewrite the Canadian Environmental Protection Act and create the Canadian Environmental Assessment Act to judge whether projects are likely to have adverse environmental effect. The new process would allow for the recognition of similar assessments by other jurisdictions and mandates opportunities for public participation. C-38 would also extend the Mineral Exploration Tax Credit for one year to allow flow-through share investors.

Because of the sweeping changes contained in the legislation, the measure has been considered controversial. Additionally, concern has been raised over the bill's lack of details on its $5.2 billion in budget cuts. A last ditch effort to prevent passage without more information about the budget details failed to gain traction despite an opinion from the Parliamentary Budget Office arguing that federal departments were not providing sufficient information.

Having cleared the House of Commons, C-38 now proceeds to the Senate for further consideration. The Senate is expected to approve the matter within days.

A map to the election law minefield

If you care about the issues facing the country and your industry – rising debt, tax uncertainty, underinvestment in infrastructure, regulatory overreach, etc. – it's important that you help decide who's calling the shots on Capitol Hill and in the White House. Voting is one way to do that, writing a campaign check is another. With the average House race costing around $1 million, your financial support is critical to helping like-minded candidates get their messages out to voters. As you wade into Campaign 2012, here are some basic rules to keep you out of trouble:

Who can give? All money contributed to federal campaigns must come from individuals who are either U.S. citizens or lawful permanent residents (i.e., "green card" holders). As an individual, you can contribute to a campaign directly or you can give money to a political action committee (PAC), which collects money from multiple individual donors and distributes those funds to candidates who share the PAC's political philosophy.

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How much can you give? Federal election laws impose limits on how much individuals can contribute. Some of the limits are indexed for inflation, some aren't. Some limits are based on a two-year election cycle, others are annual. The current limits are:

- $2,500 per congressional candidate *per election* (primary and general elections count as separate elections, so you could give up to $5,000 this cycle to a Senate or House candidate running in 2012);

- $30,800 per national political party committee *per calendar year;*

- $10,000 per state, local, and district party committee *per calendar year* (combined limit);

- $5,000 per political action committee per calendar year; and

- $117,000 in total contributions *over a two-year election cycle* with a limit of $46,200 to all candidates and $70,800 to all PACs and parties.

Husbands and wives have separate contribution limits. If you're married, assuming certain protocols are followed, you can write checks out of the same bank account for double the contribution limits indicated above, even if one of the spouses doesn't work outside the home.

No corporate contributions . . . Corporations (including nonprofits like ACPPA), banks, and labor unions can't make direct contributions to candidates from their general treasury funds. In other words XYZ, Inc. can't write a check to Bob Smith for Congress. Under the recent *Citizens United* Supreme Court ruling, those prohibited entities can, however, make independent expenditures (i.e., pay for ads) to influence elections. They can also set up and administer PACs to advance their political agendas. The ban on corporate contributions also means that corporations can't reimburse owners and employees for contributions they make to candidates or PACs.

. . . But certain businesses can support candidates. Partnerships and limited liability companies (LLCs) can make contributions to candidates and PACs. However, LLCs can't contribute if they're publicly-traded or are treated as corporations for tax purposes. Also, individual owners of the partnership or LLC must remain personally responsible for the contribution (i.e., it has to be attributed to an owner or owners as income). Contributions by partnerships and LLCs also count against the overall contribution limits of participating partners.

Be careful about doing campaign work on company time. You may want to do more than just contribute and actually help the campaign in other ways (raising money, organizing a campaign event, etc.), but be careful about doing so at work. The Federal Election Commission (FEC) has said that it's okay to make "incidental" use of company time and facilities (assuming the company doesn't mind!), but that if it exceeds more than one hour per week or four hours per month, you have to reimburse the company at a commercially reasonable rate. That reimbursement counts against your contribution limits.

No quid pro quo. Remember that it's inappropriate – and illegal – to ask a candidate to do something in exchange for a campaign contribution. While there's nothing wrong with discussing substantive issues or ask questions about a candidate's positions at a campaign event, telling a candidate that your contribution is dependent on them doing something specific (e.g., voting for or cosponsoring a bill) could be considered bribery and subject you to criminal prosecution.

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The foregoing is just a cursory look at some of the most common campaign finance issues. This article does not constitute legal advice. If you have questions, consult an attorney or the FEC website, which has a wealth of information to help you stay out of trouble. The FEC's "Questions & Answers" page is a great place to start: http://www.fec.gov/ans/answers.shtml. Another great resource is the Citizens Campaign Guide Brochure: http://www.fec.gov/pages/brochures/citizens_guide_brochure.pdf.

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