



**Item #12-11-8
Information**

Government Relations and Public Affairs Committee

November 13, 2012

Federal Advocacy Update

Issue: Summary of major activities in 2012.

Recommendation: None; this item is informational.

Discussion: Attachment A is a summary of major federal activities from SACOG's federal advocate, Mike Miller with the Ferguson Group. Staff and Mr. Miller will provide an overview of the key issues from 2012 at the committee meeting. In January, staff will bring forward recommendations for federal advocacy to the Strategic Planning Committee and the Board of Directors (the Government Relations & Public Affairs Committee will not meet in January).

Approved by:

Mike McKeever
Chief Executive Officer

Attachment

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Attachment A

To: Sacramento Area Council of Governments
From: Mike Miller
Re: Capitol Hill Update
Date: November 9, 2012

Public Laws – Historically Low Number of Bills Enacted

The 112th Congress will return to Capitol Hill on November 13 for a high stakes lame duck session. It is possible Congress will pass more legislation before the Congress adjourns *sine die* but even with additional legislative days it is unlikely Congress will add significantly to its extraordinarily low bill passage count. To date, the 112th Congress has passed and the President has signed 196 bills. The merits of high rates of enacted legislation are debatable, but the difference between this Congress and the nineteen prior is striking. The list below shows the most recent ten Congresses with the number of public laws enacted during each.

<u>Congress</u>	<u>Public Laws (enacted legislation)</u>
<i>112th Congress (2011-12):</i>	<i>196</i>
111th Congress (2009-10):	383
110th Congress (2007-08):	460
109th Congress (2005-06):	482
108th Congress (2003-04):	498
107th Congress (2001-02):	377
106th Congress (1999-00):	580
105th Congress (1997-98):	394
104th Congress (1995-96):	333
103rd Congress (1993-94):	465

Lame Duck Session

Congress will reconvene during the week of November 12 to contend with several critical issues including a collection of possible tax increases and budget cuts known as the “fiscal cliff.” On November 9 The Ferguson Group published and provided to SACOG two special post-election reports focusing on the upcoming lame duck session of Congress: the first presents a menu of possible issues and legislation to be considered, and the second report focuses specifically on water resource issues.

2012 – Highlights

Another One-Year Earmark Moratorium in 2012

On February 2 during Senate consideration of a bill banning insider trading by lawmakers and executive branch officials, lawmakers rejected an amendment by a vote of 40 – 59 to impose a ban on earmarks. In an effort to defeat the amendment and protect the right of Congress to direct appropriations, Senate Appropriations Chairman Daniel K. Inouye (D-HI) announced in advance of the vote that his committee would continue their temporary moratorium on earmarks for all FY 2013 spending bills. The House of Representatives also adopted an earmark moratorium in 2012. Many legislators continue to support earmarking; it is unclear whether Congress will reinstitute the moratorium in 2013.

Status of FY 2013 Appropriations Bills

In late September Congress approved a stopgap continuing resolution to keep the government operating through March 27, 2013. Neither the House nor the Senate took additional action on the appropriations front during the eight days the House and Senate were in session in September. However, on September 25, after both the House and Senate recessed for the election, the Senate Interior-Environment Appropriations Subcommittee released the Chairman's mark of the FY 2013 bill. The unusual move was seen as reinforcing the Senate appropriators' intention to push for action on the FY 2013 appropriations bills in the lame duck session.

Three possible scenarios have emerged for completing action on appropriations bills for FY 2013. First, Congress could complete action on an omnibus appropriations bill during the upcoming lame duck session as mentioned above. Completing the bills in 2012 is less likely than the second alternative; Congressional leaders deferring FY 2013 appropriation work until early next year when the 113th Congress meets. The third option has Congress simply extending the current short term CR for the full 2013 fiscal year and essentially pegging FY 2013 funding at FY 2012 levels.

Transportation Policy – MAP-21

Surprising many, Congress passed and the President signed MAP-21, legislation authorizing transportation programs and projects through October 1, 2014. The two year bill purports to make significant changes to program priorities; whether significant change does occur will not be clear until DOT agencies actually begin administering the new law. The Ferguson Group provided a detailed side-by-side analysis of MAP-21 immediately after passage and, since then, has hosted several webinars focusing on key aspects of MAP-21, including most recently a webinar focused on transportation alternatives funding.

The short horizon of MAP-21 – two years – leads many to assume Congress will begin working on the next authorization bill early in the 113th Congress. It is clear the biggest obstacle to passing long term, meaningful transportation legislation is finding a way to raise sufficient revenue to fund a robust bill. The MAP-21 process failed to establish meaningful and reliable

revenue sources; in fact, the process even failed to establish a useful baseline or course of action for dealing with the revenue requirements of our transportation system in the coming years. Hopefully the 113th Congress will find a way to work toward a transportation revenue solution.

TIGER IV \$500 Million Grant Round and TIGER V Outlook

The Department of Transportation administered a \$500 million fourth round of competition for the Transportation Investment Generating Economic Recover Grant Program (TIGER IV) in 2012. Looking forward into 2013, funding for TIGER V faces an interesting and uncertain future. The Senate version of the FY 2013 Transportation Appropriations bill included \$500 million for TIGER V, but the House of Representative's version of the bill, passed on July 6, zeroed out the program. In the report accompanying the House bill, the committee provided an explanation for its action.

The Committee does not recommend additional funds for the national infrastructure investment program (also known as "TIGER grants") as proposed by the budget request. The Congress appropriated \$500,000,000 for this purpose in fiscal year 2012. While the Committee agrees that the Nation is in desperate need for infrastructure investment and improvements, the administration has yet to demonstrate or define the process, priority or criteria for how these grants are awarded.

Further clouding the future of TIGER are two additional facts involving both authorization and appropriations. First, the TIGER program was not included in MAP-21. While authorization apparently is not viewed by some appropriators as requirement for funding a program, TIGER's absence in authorizing legislation weakens its position when compared to other programs specifically authorized in MAP-21. Second, while appropriations bills could, in theory, be passed prior to the expiration of the current Continuing Resolution (valid through March 2013), it is unlikely that much action will occur on FY 2013 appropriations until well into 2013. Thus, we will not know until the second federal fiscal quarter at the earliest whether the Senate's position on funding TIGER V at \$500 million will be accepted in the final version of FY 2013 appropriations legislation.

DOT Moving Ahead on TIFIA

On July 27 the USDOT published a Notice of Funding Availability for FY 2013-2014 Transportation Infrastructure Finance and Innovation Act (TIFIA) funds. MAP-21 increased TIFIA funding from \$120 million in FY 2012 to \$750 million in FY 2013 and \$1 billion in FY 2014.

TIFIA authorizes USDOT to provide credit assistance in the form of direct loans, lines of credit and loan guarantees to public and private applicants for eligible surface transportation projects. Generally, the minimum size for TIFIA projects is \$50 million total eligible project costs although Intelligent Transportation System and rural infrastructure projects have lower minimums of \$15 million and \$25 million, respectively.

Many large scale projects – highway, transit, railroad, intermodal freight, and port access – are eligible for assistance and eligible applicants include state and local governments, transit agencies, railroad companies, special authorities, special districts, and private entities. The TIFIA credit program is designed to fill market gaps and leverage substantial private co-investment by providing supplemental and subordinate capital. The program's fundamental goal is to leverage federal funds by attracting substantial private and other non-federal co-investment in critical improvements to the nation's surface transportation system. According to the TIFIA office, credit assistance offered by TIFIA is often available on more advantageous terms than in the financial market making it possible to obtain financing for needed projects when it might not otherwise be possible.

The Notice of Funding Availability is located at <http://www.dot.gov/cfo/doc/tifia-nofa.PDF>.

The TIFIA home website is located at <http://www.fhwa.dot.gov/ipd/tifia/index.htm>.

Deadlines for Sign Replacement Eliminated by DOT

On May 10, Transportation Secretary Ray LaHood announced that the Department of Transportation (DOT) eliminated certain across-the-board deadlines for sign replacement. The DOT's Manual on Uniform Traffic Control Devices requires state and local governments to replace regulatory, warning and ground-mounted guide signs by January 2015, and overhead guide signs and street name signs by January 2018 to meet a minimum retroreflectivity standard. These across-the-board deadlines would have placed an enormous financial burden on state and local governments at a time when local economies are struggling. Now, while all new signs must meet the minimum retroreflectivity standard, they do not have to be replaced until they reach the end of the useful life.

Farm Bill Stalled

Despite the fact that the House Agriculture Committee passed its 2012 farm bill in July (H.R. 6083) and the Senate passed its version of the five-year farm bill (S. 3240) in June, Congress left town for the November elections without extending current law or approving a final bill. This let farm programs expire on September 30, 2012. It is unclear whether the 112th Congress will make any progress on the Farm Bill in the upcoming lame duck session.

Water Resources Development Act Pending

Requests for a new Water Resources Development Act (WRDA) are mounting after a Senate Environment and Public Works Committee hearing on September 20 showed strong support from port authorities, engineers, and the U.S. Chamber of Commerce. The hearing was intended to kick start what Committee Chair Barbara Boxer (D-CA) says can be a successful effort to advance WRDA in the lame duck session of Congress.

WRDA bills authorize Corps construction projects and studies, as well as provide the statutory authority for Corps policies and programs. Traditionally Congress has tried to enact a WRDA

bill every two years, but that hasn't happened often in the past decade. The last WRDA bill was enacted in late 2007. Disputes over Corps policy have been the most frequent hurdle to WRDA passage, despite general bipartisan support for the water projects bill. In addition, the moratorium on earmarks has been a seemingly insurmountable obstacle to enactment of a WRDA by the 112th Congress. The earmark moratorium, coupled with deficit-conscious reluctance to authorize new Corps projects while hundreds of existing projects remain unfunded, make WRDA passage this year highly unlikely. Still, Senator Boxer said at the September 20 hearing that she believes it can be done. The Senate Environment and Public Works Committee staff have begun to assemble a draft WRDA bill for circulation among committee members in preparation for a possible markup on the bill during the lame duck. In general, both Democrats and Republicans on the committee expressed strong support for moving forward with a WRDA bill in the lame duck session or early next year.

Although both Republican and Democratic House committee leaders have said that they want to move a WRDA bill, House Transportation and Infrastructure Committee staffers remain skeptical that the Senate will be able to craft a bill that won't run afoul of the House earmark moratorium.

Water Infrastructure Finance & Innovation Act (WIFIA)

House and Senate lawmakers from both sides of the aisle expect to introduce their own versions of the Water Infrastructure Finance and Innovation Act (WIFIA) during the lame duck session. The draft WIFIA bills are modeled after the Transportation Infrastructure Finance and Innovation Act (TIFIA) program that provides assistance to large-scale transportation projects (see *supra*). WIFIA is gaining support because it would allow lawmakers to leverage a relatively modest investment into significant new water infrastructure improvements. Estimates show every dollar appropriated would provide project sponsors with access to \$15 in low-cost, long-term financing.

Senate Committee Supports Sustainable Communities Initiative – Future Uncertain

On April 19 the Senate Appropriations Committee voted to approve \$50 million in FY 2013 funding for the Department of Housing and Urban Development's (HUD) Sustainable Communities Initiative. This initiative, the cornerstone of the federal interagency Partnership for Sustainable Communities, includes Community Challenge grants supporting local planning efforts and the Regional Integrated Planning grants that support the development of regional plans. Both grant programs were funded in FY 2010 and FY 2011 but failed to receive any funding in FY 2012; the FY 2013 appropriations outlook is unclear.

National Flood Insurance Program Reauthorized

On June 29, legislation to reauthorize the National Flood Insurance Program (NFIP) was approved by Congress and later signed by President Obama. A large bipartisan group of Senators removed provisions in the bill requiring mandatory flood insurance in areas of residual risk notwithstanding existing protection provided by dams and levees. The legislation extends

the NFIP through September 30, 2017 and provides a series of key reforms for the program, including (a) phasing out of subsidies for many properties, (b) raising the cap on annual premium increases from 10 to 20 percent, (c) allowing multifamily properties to purchase NFIP policies, (d) imposing minimum deductibles for flood claims, (e) requiring the NFIP Administrator to develop a plan for repaying the debt incurred from Hurricane Katrina, and (f) establishing a technical mapping advisory council to deal with map modernization issues.

SACOG Federal Advocacy Principles

The principles outlined below help support SACOG's work in linking transportation, air quality, and land use. SACOG will work to advance the interests of the Sacramento region. In order to accomplish these principles, SACOG will advocate for sufficient funding in legislation and seek out grants to effectively plan for and deliver projects that meet these principles. SACOG will also advocate for innovative financing options, such as subsidized bonds, public-private partnerships, and a national infrastructure bank.

Economic Vitality

Efficiently connect people to jobs and get goods to market.

- Ensure stable funding sources for all modes of transportation infrastructure investments.
- Include hard-to-fund, MTP projects in the transportation authorization bill for transit, urban complete streets (e.g., Auburn Boulevard) and rural complete corridors (e.g., Beale Air Force Base Gateway), and major infrastructure projects, such as the Intermodal Transportation Facility, South Line and Green Line rail extensions, West Sacramento-Sacramento streetcar, Rancho Cordova streetcar, the Watt Avenue at Highway 50 Interchange, Highway 113 at I-5 interchange, and Blueprint implementation planning for hard-to-fund projects such as river crossings in the Sacramento urban core.
- Adjust funding formulas to support rural roads and other infrastructure needs, including rural farm-to-market roads.
- Fund local food access and national food security, especially to assist with promoting a connection between rural and urban areas of the region, and also to help producers get their products to all markets.
- Fund evacuation planning and supportive transportation infrastructure including bridges, local roads, as well as state and federal highway connections.

Smart Land Use

Design a transportation system to support good growth patterns, including increased housing and transportation options, focusing more growth inward and improving the economic viability of rural areas.

- Support continued funding for transportation and land use linked planning and formula incentives for high performing projects resulting from integrated planning, support for regional planning tools for modeling and data gathering, and ongoing public education and engagement related to travel behavior.
- Fund SACOG to implement the Blueprint preferred growth scenario, and continue technical assistance for cities and counties.
- Enact greenhouse gas reduction measures that support and incentivize land use benefits from implementation of Blueprint and MTP/SCS objectives.
- Encourage implementation of Blueprint preferred growth scenario with unique funding sources for new and improved infrastructure to support concentrated housing and employment in high frequency transit corridors.
- Support regional economic development planning and fund implementation.

Equity and Choice

Provide real, viable travel choices for all people throughout our diverse region.

- Support planning and fund Complete Streets in rural and urban communities designed to accommodate cars, transit, bicyclists, and pedestrians including education, encouragement and infrastructure for Safe Routes to School.
- Provide discretionary funding for a balanced transit network. To support an integrated rail network that includes Northeast and Folsom light rail double tracking, passenger railcar rehabilitation, and streetcars that offer a cost-effective expansion of the areas served. To support buses: fund replacements and bus facilities to serve both lifeline and choice riders. To support regional rail: fund enhanced passenger rail service on Capitol Corridor.

Environmental Quality & Sustainability

Minimize direct and indirect transportation impacts on the environment for cleaner air and natural resource protection.

- Encourage continued application of regulatory strategy with the Army Corps of Engineers that incentivizes Blueprint implementation.
- Fund RUCS-identified innovations that link natural resource mitigation and habitat valuation on agricultural lands.
- Incentivize energy conservation, for regional efforts as well as local implementation.
- Fund natural resources data development, including implementation of the Six-County Aquatic Resources Inventory, and overall planning to support habitat conservation plans in the region.
- Improve public safety and fund local flood protection efforts, while protecting local land use authority, not penalizing communities based on floodplain designation through pursuit of streamlining and integrated planning opportunities with federal agencies to expedite construction of federally identified levee improvement projects.
- Continue eligibility for diesel engine replacement/retrofit programs.