

ALCALDE & FAY

GOVERNMENT & PUBLIC AFFAIRS CONSULTANTS

DECEMBER 14, 2011

MEMORANDUM

TO: **Brandon Wagner**

FROM: **Hector Alcalde
Cindy Colenda
Charlotte Hrcir
Garrett McGuire**

SUBJECT: *November Legislative Report*

Executive Summary of Legislative Activities

The legislative activity report that appears below includes discussion of Congressional year-end negotiations that have occurred during the first two weeks of December.

The first FY2012 funding legislation was enacted during November; [H.R. 2112](#), is a \$128 billion minibus containing the Agriculture, Commerce-Justice-Science (CJS) and Transportation-HUD (THUD) spending measures, as well as a continuing resolution to fund through Dec. 16 all government agencies covered by the remaining nine annual appropriations bills.

Congress continues to debate whether to extend the Payroll Tax Cut while continuing to work on spending bills for the remainder of the Fiscal Year. As reported on December 13, the House approved a one-year extension of the payroll tax cut over a presidential veto threat. [H.R. 3630](#), The Middle Class Tax Relief and Job Creation Act, contains the payroll tax extension amongst other items. [Senate Majority Leader Harry Reid](#) (D-NV) vowed to reject it over a number of provisions that the majority find unacceptable.

On December 14, [Senate Minority Leader Mitch McConnell](#) (R-KY), the announced that he does not want this package considered on the Senate floor until legislative activity concludes on the FY'12 omnibus.

The House also passed the Pipeline Safety Act on December 12. More information on these issues is in this report beginning on Page 12, Additional County Priorities.

APPROPRIATIONS/AUTHORIZATIONS

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
<p><u>FY2011 APPROPRIATIONS</u></p>	<p>Early in November, the White House directed the Department of Transportation (DOT) to award the \$527 million in competitive TIGER grants by the end of 2011 – months ahead of schedule. Applications for the third round of the Transportation Investment Generating Economic Recovery (TIGER) grant program were due October 31, 2011.</p> <p>During the month, DOT Secretary LaHood announced that demand for TIGER grants had once again far surpassed the available funding. Applications for TIGER III grants totaled \$14.1 billion, far exceeding the \$527 million set aside for the program. DOT received 828 applications from all 50 states, U.S. territories and the District of Columbia.</p>	<p>Alert County to funding opportunities.</p>	<p>NACo, Delegation</p>
<p><u>HILLSBOROUGH COUNTY 2011 APPROPRIATION PROJECTS AND PROGRAMS FOR FEDERAL FY2012</u></p>	<p>Congress passed a \$128 billion minibus on November 17 that included \$19.8 billion for Agriculture, \$52.7 for CJS and \$55.6 for THUD, as well as a new stopgap spending measure. The measure passed the House by a vote of 298-121 and the Senate by a vote of 70-30. The Community Development Fund received with \$3.3 billion, which is \$192.9 million less than in FY 2011 and \$473.3 million less than what the White House had requested. Including in this fund was \$2.9 billion for CDBG, a 12% cut from FY 2011. The Community Oriented Policing Services (COPS) program was funded at \$200 million. As reported previously, both the House and Senate Appropriations Committees have instituted an earmark moratorium.</p> <p>The Federal Highway Administration (FHWA) announced the availability of FY2012 funding for twelve discretionary programs. The actual amount available for award in each program is subject to change pending final calculations of Federal-aid highway program funding distributions or any additional funding provided by Congress.</p>	<p>Identify programs that are of importance to the County so that we can consider the appropriate strategy to implement and encourage continued funding for the programs.</p> <p>Discuss and develop FY 2012 appropriation requests and monitor submission date.</p> <p>Continue monitoring highway funding opportunities</p>	<p>NACo, Delegation</p>

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
	<p>Delta Region Transportation Development - \$4.7million Ferry Boat - \$22.2 million Highways for Life - \$9.5 million Innovative Bridge Research and Deployment - up to \$4.2 million Interstate Maintenance - \$47.3 million National Historic Covered Bridge Preservation - \$4.7 million National Scenic Byways Program - \$20.6 million Public Lands Highways - \$45 million Rail Highway Crossing Elimination in High Speed Rail Corridors - \$7.1 million Transportation, Community and System Preservation - \$29 million Truck Parking Facilities - \$2.9 million Value Pricing Pilot Program - \$6.9 million</p> <p>The applications are due to FHWA by January 6, 2012, although FDOT has set a December 30, 2011 deadline for those grants that must be coordinated with the State DOT. Detailed information about each program and eligibility requirements can be found at http://www.fhwa.dot.gov/discretionary/</p>		
<p><u>BUDGET CONTROL ACT</u></p>	<p>The Joint Select Committee on Deficit Reduction, created by the Budget Control Act (BCA) to reduce the deficit by \$1.5 trillion over the period through FY 2021, was unable to come to a compromise before the November 23 deadline. Since recommendations from the Super Committee were not made, they will not be voted on by December 23rd. The Budget Control Act will now impose specified spending sequestrations beginning in 2013.</p> <p>The sequestration process created by the Budget Control Act initiates automatic spending cuts equal to the \$1.2 trillion of savings required of the Super Committee. These cuts are split equally between defense and non-defense spending and go into effect January 2, 2013. It remains unclear if the sequestration process will in fact go into effect</p>		<p>NACo, National League of Cities, National Conference of Mayors, U.S. Chamber of Commerce, Delegation</p>

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
	<p>or if there will be legislation introduced to delay or completely nullify the automatic spending cuts. President Obama has vowed that he will veto any legislation that attempts to curb or lessen the automatic spending cuts set for 2013. This will remain one of the more highly debated issues going into the 2012 election cycle.</p>		
<u>WISE</u>	<p>Regional Water Infrastructure and Supply Enhancement Project (WISE) – A letter to Senator Bill Nelson regarding FY 12 funding for the WISE project has been drafted and modified.</p>	<p>Encourage continued grant seeking Send letter to Senator Nelson</p>	<p>Delegation</p>
<u>FY 2013 BUDGET</u>	<p>The Administration is preparing the FY2013 Budget for submission to Congress, and has completed its initial review and pass-back of Department budget proposals. The White House has directed federal departments and agencies to find ways to set their fiscal 2013 budget requests up to 10 percent below current spending levels. In an August 17 memo, the Office of Management and Budget (OMB) said requests for discretionary appropriations for the fiscal year that begins Oct. 1, 2012, should be at least 5 percent below what departments and agencies received for fiscal 2011, unless they received specific direction otherwise. In addition, they should identify additional cuts that would put their requests 10 percent below the current level. Even a 5 percent cut in discretionary appropriations, if carried out across the government, would amount to significantly less than the amount presumed by the just-enacted debt limit deal, the Budget Control Act, which established spending caps for each of the next 10 years.</p>	<p>Identify programs of importance to the County that could be adversely impacted by cuts and communicate with delegation and White House about the need for continued funding.</p>	
<p><u>Water Resources Development Act of 2011</u> <i>Egmont Key</i></p>	<p>During February, House Transportation and Infrastructure Chairman John Mica (R-FL) announced that the Committee would begin work on the next WRDA bill that, depending on the situation with earmarks, can be used to authorize needed work on Egmont Key. The last bill passed in 2007, and the previous bill passed seven years earlier. Senator Barbara Boxer (D-CA) and Senator James Inhofe (R-OK) are now accepting requests for WRDA projects. The deadline for submission into the Senate Environment and Public Works Committee was been extended until September 20, 2011. However, Hillsborough</p>	<p>Continue to inform and follow up with Sen. Bill Nelson on WRDA application. We have sought private as well as federal funding opportunities for</p>	<p>Delegation, State of Florida, Army Corps of Engineers, USFWS, Egmont Key Alliance</p>

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
	<p>County provided the WRDA submission to Senator Nelson by the first deadline established by the Senator's office of April 18. In addition, we talked with Senator Nelson and staff numerous times in regard to the Egmont Key submission, the details of the project, the impediments with the Army Corps of Engineers language passed by the House Committee last year, and other methods, congressional support, and agencies involved in achieving a final solution on the beach revitalization project. Senator Rubio's office is not accepting WRDA requests.</p>	<p>Egmont Key.</p>	
<p><u>SURFACE TRANSPORTATION AUTHORIZATION ACT 2011</u></p>	<p>The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and current gas tax provisions have been extended through March 31, 2012. The provisions have been extended eight times since the original authorization expired on September 30, 2009.</p> <p>The Senate Environment and Public Works Committee marked up S. 1813, Moving Ahead for Progress in the 21st Century Act (MAP-21), on November 9. The 600 page bipartisan bill reauthorizes Federal-aid highway programs at the Congressional Budget Office's baseline level – equal to current funding levels plus inflation – for two fiscal years. Financing for the bill, along with transit, rail and vehicle safety provisions will be developed by other Senate Committees before the bill is brought to the Senate floor for a vote. The bill includes no earmarks and proposes to provide \$1 billion for grants to major Projects of National and Regional Significance. In addition, it modifies the Transportation Infrastructure Finance and Innovation (TIFIA) program and increased funding for the loan and loan guarantee program to \$1 billion a year.</p> <p>MAP-21 proposes to consolidate numerous federal highway programs and reduce the number of core programs from seven to five:</p> <p>National Highway Performance Program (NHPP): This program focuses on repairing and improving an</p>	<p>Identify programs that are essential to the County and any changes that the County might wish to propose in existing surface transportation law and communicate that position to the delegation.</p>	<p>NACo, Delegation</p>

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
	<p>expanded National Highway System (NHS). The NHS is expanded from ~160,000 miles to ~220,000 miles. States are required to develop asset management plans and as a part of these plans establish performance targets for the condition of roads and bridges and the performance of the system. In addition, the program includes provisions to hold states accountable for the repair of Interstate pavement and NHS bridges by requiring that they spend a certain amount of funding on the repair of those facilities if they fall below minimum standards established by USDOT.</p> <p>Transportation Mobility Program (TMP): This program replaces the existing Surface Transportation Program (STP) and allows states and regions to invest flexible dollars in a broad set of highways, transit projects, freight rail projects, and bicycle and pedestrian projects, as well as other activities like travel demand management. Fifty percent of these funds are sub-allocated to areas in the state based on their population. While this percentage is lower than the current 62.5 percent, the absolute amount of funding to be sub-allocated will remain the same due to an increase in program size.</p> <p>Highway Safety Improvement Program (HSIP): This program provides funding to states to improve safety for all road users on all public roads. A road user is defined as both motorists and non-motorized users. States are required to collect extensive data on crashes and create a database containing information on safety issues for all public roads including identification of hazard locations. (8% of all funds in this program are set aside for data collection.) States must also develop a strategic highway safety plan using the data collected. If states do not develop a strategic highway safety plan within a year using a process approved by USDOT, they are required to spend additional funding on safety projects.</p>		

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
	<p>States are also required to develop performance targets on fatalities and serious injuries.</p> <p>Congestion Mitigation Air Quality Program (CMAQ): In the CMAQ program, there are two funding accounts – one that funds typical CMAQ projects and another “reserved” fund.</p> <p>CMAQ. Funds are provided to states and Tier I Metropolitan Planning Organizations (MPOs) to address the impacts of the transportation system on national ambient air quality standards. In states with non-attainment or maintenance areas, 50 percent of the funds are sub allocated to Tier I MPOs based on the area’s status with national ambient air quality standards. Funds cannot be used to construct new travel lanes except for HOV or HOT lanes. USDOT is required to develop performance measures for air quality and congestion reduction. Tier I MPOs that receive funds under this program are required to develop a performance plan that outlines baseline conditions, targets for each of the performance measures developed by USDOT, and a description of projects to be funded, including how those projects will help meet the targets.</p> <p>“Reserved”. This funding is equal to the amount of funds provided for the Transportation Enhancements set-aside in FY09. Eligible activities include the following: transportation enhancements, safe routes to school, recreational trails, environmental mitigation, and certain types of road projects (including street redesigns and HOV lanes). States may use these funds for CMAQ projects if they build up an unspent balance of a year and a half worth of funds.</p> <p>National Freight Program:</p>		

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
	<p>USDOT is directed to establish a primary freight network consisting of 27,000 miles of key freight corridors. States can use funds for highway projects that improve freight movement with a focus on the primary freight network and key rural freight corridors. A state may use up to 5 percent of funds for rail or maritime projects subject to certain conditions. USDOT must also develop a National Freight Strategic Plan, which will analyze performance and conditions on the primary freight network, identify bottlenecks, estimate future freight volumes and identify best practices for mitigating impacts of freight movement on communities. USDOT shall publish a Freight Condition and Performance Report on a biennial basis. States must establish performance targets and report on progress every two years.</p> <p>HOUSE BILL TO BE INTRODUCED</p> <p>In mid-November, Speaker of the House John Boehner (R-OH) announced that the House would formally introduce the <i>American Energy Infrastructure Jobs Act</i>, a five-year authorization that would link new American energy production to high-priority infrastructure projects. However, late in the month House Transportation and Infrastructure Committee Majority staff reported that the bill would not be marked up prior to the end of the year.</p> <p>Specifically, the <i>American Energy Infrastructure Jobs Act</i> includes:</p> <ul style="list-style-type: none"> • The <i>Energy Security and Transportation Jobs Act</i>, which would lift the drilling ban on new offshore areas by requiring the administration to lease offshore areas estimated to contain the most oil and natural gas resources. • The <i>Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act</i> ("PIONEERS" Act), which would set clear rules for the 		

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
	<p>development of U.S. oil shale resources and promote shale technology research and development.</p> <ul style="list-style-type: none"> • The <i>Alaskan Energy for American Jobs Act</i>, which would open less than three percent of ANWR's 19 million acres in the North Slope for oil and natural gas development. • Fund High-Priority Projects. Remove federal requirements that currently force states to spend highway money on non-highway activities. • Speed Up Approvals. Speed up approvals and streamline the project delivery process with reforms like concurrent review that will cut the project review and permitting process in half. • Eliminate Programs. Eliminate and consolidate nearly 70 surface transportation programs that are considered either duplicative or not in the federal interest. • Embrace More Private-Sector Involvement. Reform financing programs to increase private sector involvement in infrastructure. • Enhance Safety Programs. Strengthen safety programs and gives states more flexibility to develop innovative safety initiatives that save lives. • Include No Earmarks. 		

POLICY ISSUES

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
<p><u>AMERICAN JOBS ACT</u></p>	<p>The Senate considered two jobs/infrastructure bills in November, but neither bill attracted sufficient votes to permit continued consideration.</p> <p>S.1769, which contained elements of the President's American Jobs Act, would have provided an immediate \$50 billion investment in roads, bridges, airports and transit systems. It also would establish a \$10 billion bank to leverage private and public capital for longer-term infrastructure projects. The measure would have been financed by a 0.7 percent surcharge on income over \$1 million.</p> <p>S.1786, the Long-Term Surface Transportation Extension Act of 2011, introduced by Sen. Orin Hatch (R-UT), would have extended the current SAFETEA-LU extension provisions through Sept. 2013 and included a provision to rescind all appropriated discretionary funds remaining unobligated when the bill is enacted, an estimated \$40 billion in funding for domestic programs.</p>		
<p><u>THREE PERCENT (3%) WITHHOLDING REQUIREMENT</u></p>	<p>We were pleased to report that the 3% withholding requirement has been repealed. On October 27, the House passed H.R. 674 (405-16) to repeal the law that requires governmental and non-governmental entities to withhold three percent of their payments to vendors and to remit those monies to the IRS. To offset the cost of repeal, the House also passed legislation to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs under the new health care reform law. The Senate amended H.R. 674 to include measures to boost veterans' employment. The bill would provide tax credits of up to \$9,600 to firms that hire veterans with service-connected disabilities who had been unemployed for at least six months out of the past year. The measure also would extend existing tax credits for hiring veterans through 2012. The House voted, 422-0, to agree to the Senate amendments. The bill was signed into law November 21.</p>	<p>Continue to inform and follow up with Hillsborough Delegation.</p>	<p>U.S. Chamber of Commerce, NACo</p>

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
<u>MORATORIUM ON DRILLING IN THE GULF OF MEXICO</u>	On October 11, the Obama Administration lifted its moratorium on oil and gas drilling in the deep waters of the Gulf of Mexico. British Petroleum (BP) announced October 26, that it had earned its first permit to drill for oil in the Gulf and that a resumption of drilling is imminent.	Continue to monitor and report.	

ADDITIONAL PRIORITIES

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
<u>DRAFT INTERNET TRAVEL FAIRNESS ACT</u>	We continue to monitor the internet hotel tax issue. Across the country, dozens of lawsuits and appeals are pending involving online travel companies and municipalities over the issue of lodging taxes. Several recent court decisions support the online travel companies while some states such as Missouri have forged legislation preventing local cities and towns from taxing the online travel companies. California courts in three cases recently ruled in favor of online travel companies. In a May 2011 Georgia Supreme Court decision, the courts ruled that the online travel companies should pay lodging taxes based on the price they charge consumers, not the wholesale price they paid the hotels, but declined to order the companies to pay back taxes. In January this year, a Texas trial judge dismissed Houston's hotel-tax lawsuit against online travel companies. Last month the Texas 14th Court of Appeals affirmed the ruling. However, in July, a U.S. District judge in San Antonio affirmed a 2009 jury's decision, ruling that the online travel companies should collect taxes on the full retail price they charge consumers and ordered the companies to pay 173 Texas cities at least \$20 million in occupancy taxes.	The American Hotel and Lodging Association has begun an effort to publicize the impact that the proposed provisions would have on local jurisdictions. Continue to inform and follow up with Hillsborough Delegation.	NACo, AHLA, U.S. Conference of Mayors
<u>PAYROLL TAX</u>	Under the law (PL 111-312), which also temporarily extended tax cuts enacted in 2001 and 2003, the employee-paid share of the Social Security tax was reduced to 4.2 percent from 6.2 percent. Democrats want to further reduce the worker share to 3.1 percent next year and allow employers to pay the same rate for the first \$5 million of their	Continue to monitor and inform Hillsborough of any final legislative activity prior to December	NACo, AHLA, U.S. Conference of Mayors. U.S. Chamber of Commerce & Other business groups;

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
	<p>company's wage costs. Republicans, while endorsing a one-year extension of the payroll tax cut, have resisted an expansion of it and also have rejected the surtax on millionaires that Democrats have tried to use to offset the cost of renewal. The Senate rejected, 51-49, a motion to proceed to the Democratic bill (S 1917), short of the 60 votes required. Only 20 voted to proceed to the GOP measure (S 1931).</p> <p>To finance the payroll tax cut, Republicans had proposed continuing the current pay freeze for federal workers for three years beyond 2012. They also suggested shrinking the number of federal civilian workers by 10 percent by 2015 through attrition. Moreover, among other things, they wanted taxpayers with annual earnings above \$1 million to pay higher premiums for Medicare.</p> <p>As in previous years when Congress dealt with expiring programs, a December agreement is likely to carry a high price tag. Extending the payroll tax cut for 12 months would cost about \$120 billion, while renewing jobless benefits might cost around \$50 billion. Preventing the Medicare payment reduction would cost at least \$20 billion.</p>	Congressional adjournment.	Delegation
<u>PIPELINE SAFETY ACT</u>	<p>On Monday, December 12, the House signed off on legislation to update the federal safety standards for pipeline infrastructure. H.R. 2845 passed by voice vote. The measure would reauthorize the Pipeline and Hazardous Materials Safety Administration through 2015 and codify a number of recommendations the National Transportation Safety Board made after the pipeline accidents. It would limit some of the agency's authority and keep regulators on a tight leash.</p> <p>The bill would increase civil penalties for major violations to \$200,000 per incident, up from the current \$100,000 limit, and cap them at \$2 million. It also would permit the Transportation Department to require the installation of automatic and remote-controlled shutoff valves on newly built or replaced transmission pipelines, but would not mandate the valves in existing pipelines.</p>	Continue to monitor Year-end legislative activity.	NACo, AHLA, U.S. Conference of Mayors, Pipeline owners and operators, Delegation

OTHER

PROJECT	CURRENT STATUS	RECOMMENDED STRATEGY	INTERESTED PARTIES
<p><u>NATIONAL FLOOD INSURANCE LEGISLATION</u></p>	<p>On July 12, the House passed H.R. 1309 reauthorizing the National Flood Insurance Program (NFIP) through September 30, 2016. It would give authority to temporarily suspend mandatory purchase requirements for those in special flood hazards areas, and provide a five-year phase-in of flood insurance rates for newly mapped areas. On September 8, 2011, the Senate Committee on Banking, Housing, and Urban Affairs unanimously approved the "Flood Insurance Reform and Modernization Act," sending it to the full Senate for consideration. Similar to the House bill, it would also provide for a 5-year extension as well as premium-rate and flood-mapping reforms that ensure the continuation of the program long term. As of the end of October, this legislation had not been taken up in the full Senate. On October 4, Congress passed a temporary extension to the NFIP until November 18. On November 18, Congress approved another short-term extension of NFIP through December 16.</p>	<p>Continue to monitor status in Senate.</p>	