

TRANSPORTATION REPORT

From: Terry Whiteside

Date: December 4, 2015



TWO HOT TOPICS THIS WEEK BOTH OF WHICH HAVE POTENTIAL TO ASSIST INDUSTRIAL CAPTIVE SHIPPERS INCLUDING AGRICULTURE SHIPPERS WITH REAL REFORM

CONGRESS SENDS HIGHWAY BILL TO PRESIDENT'S DESK – CURRENT FUNDING RUNS OUT TODAY, DECEMBER 4, 2015

The Senate approved by an 83-16 vote the Fixing America's Surface Transportation (FAST) Act on Dec. 3, just hours after the House signed off on the compromise highway bill. The bill would spend some \$305 billion on highway and \$48 billion on transit projects over the next five years. Critically important in this bill are regulatory relief measures aimed at curbing the rush to more regulation, a provision to restore crop insurance funding for agricultural producers and policies designed to improve the movement of freight. For example, the bill requires (Federal Motor Carrier Safety Administration (FMCSA) of the DOT, "to use the best available science and data" when developing rulemakings and by "establishing a process

under which the public or the motor carrier industry can petition FMCSA to revise or repeal regulations if they are no longer current, consistent, and uniformly enforced.” This FAST Act is a fully funded reauthorization of federal highway and transit program for 5 years. FAST Act will be the first highway funding bill passed to run longer than two years since 2005.

Reading the bicameral conference Committee Explanatory Summary report, specific to motor carriers, the FAST Act reauthorizes the programs of the Federal Motor Carrier Safety Administration through FY 2020 and includes “several reforms to improve truck and bus safety while reducing regulatory burdens.”

House/Senate conference on the bill (ironing out the differences between the House and Senate bills) was accomplished in just a few days. The House/Senate action sends the bill to President Obama to sign-- one day before the current funding extension was to expire, on Dec. 4.

All indications are that the President will sign the FAST Act today, making it the first highway funding bill to run longer than two years passed by Congress since 2005.

SURFACE TRANSPORTATION BOARD (STB) REAUTHORIZATION

(S808) – FIRST REAUTHORIZATION OF STB SINCE 1995

The Rail Customer Coalition filed a letter December 1, 2015, with House leadership (see letter below) urging the House of Representatives to support S. 808, the Surface Transportation Board (STB) Reauthorization Act of 2015. The Rail Customer Coalition is a large collection of trade associations and shipper representative groups representing a broad cross section of manufacturing, agricultural, and energy industries with operations and employees throughout the United States. Members of the coalition represent the largest and most diverse users of freight rail that depend on the railroads to deliver reliable and affordable service in order to remain competitive in a global market. The letter had 118 associations and state level groups as signatories representing shipper organizations whose members/constituents are generally captive. The bill, sponsored by Senate Commerce Committee Chairman John Thune, R-S.D., passed the Senate by unanimous consent on June 18 and is the first STB reauthorization bill since 1995.

Among other things, the legislation:

- Authorizes the STB to initiate investigations of rail practices on its own without having to wait for a formal complaint to be filed by a shipper or other party;
- requires the STB to report quarterly to Congress on the status of filed complaints and proceedings; and

- expands the Board from three to five members, while specifically authorizing up to three of those members to discuss agency proceedings and issues to provide for a more informed and interactive decision-making process without imposing the requirement to call a public meeting (with appropriate transparent summaries of the discussions publicly provided thereafter).

There is talk of a House component bill moving under a suspension of the rules before the end of this years session.

December 1, 2015

The Honorable Paul Ryan

Speaker of the House of Representatives

Washington, DC 20515

The Honorable Nancy Pelosi

Minority Leader of the House of Representatives

Washington, DC 20515

Dear Speaker Ryan and Minority Leader Pelosi:

The Rail Customer Coalition (RCC) strongly supports swift House passage of S. 808, the Surface Transportation Board Reauthorization Act of 2015. The RCC is a large coalition of trade associations representing the manufacturing, energy, and agricultural industries that rely on railroads. The freight rail industry is critically important to US economic competitiveness, and adoption of the reasonable, commonsense, and non-controversial reforms in S. 808 will help ensure a more appropriate balance between the rail industry and their customers.

The RCC actively supported the bicameral and bipartisan effort to provide an extension of the Positive Train Control deadline, and we commend the House and Senate for adopting the

extension in the last short-term highway bill. The RCC is also encouraged to see the productive rail safety and passenger rail provisions advancing in the long-term highway bill.

S. 808 passed the United States Senate by unanimous consent on June 18, 2015 and has been pending in the House for the last several months. Now is the time to finalize these carefully negotiated and important reforms in S. 808 and sign this bill into law.

The Surface Transportation Board (STB) has not been reauthorized since it was created in 1995, and this bill would represent the most comprehensive rail economic legislation since 1980. The bill would make important reforms to better equip the STB to handle today’s freight rail challenges, such as giving the STB investigatory authority, creating a voluntary arbitration system, and requiring the Board to maintain a simplified and more efficient rate review mechanism when a full “stand-alone cost” review is too burdensome. Furthermore, the bill calls on the rail industry to invest appropriate resources to maintain rail service levels to prevent the types of service breakdowns such as were experienced in 2013 and 2014.

The Association of American Railroads has recognized the legislation, “stri(ke)s the right balance of preserving the market-based structure for shippers and railroads.” Sen. Thune has noted that while the STB has made “good faith efforts” to reform some of their policies, “the current inefficiencies in the STB’s operations are symptomatic of the need for common-sense reforms.”

The National Research Council, a division of the National Academies of Sciences, also recently released a comprehensive report calling for fundamental reforms to modernize the nation’s freight rail policies. The report highlighted major problems with the STB’s ability to fulfill its mandate to maintain reasonable rates for shippers that lack effective competition. The report concludes that the STB’s rate review procedures have become so costly and burdensome that they are now “unusable by most shippers.”

The RCC strongly urges Congress to take advantage of the unprecedented agreement between rail shippers and the freight rail industry to enact S. 808 as soon as possible in order to provide the STB with the tools it needs to oversee today's modern freight rail industry.

Sincerely,

Agribusiness Council of Indiana

Agricultural Retailers Association

Agriculture Transportation Coalition

Alabama Crop Management Association

Alliance for Rail Competition

Alliance of Automobile Manufacturers

American Chemistry Council

American Farm Bureau Federation

American Forest & Paper Association

American Fuel & Petrochemical Manufacturers Association

American Iron and Steel Institute

American Malting Barley Association, Inc.

American Public Power Association

American Soybean Association

Association of Global Automakers, Inc.

Auto Care Association

Chemical Industry Council of Delaware

Chemical Industry Council of Illinois

Chemistry Council of Missouri

Chemistry Council of New Jersey

Colorado Association of Wheat Growers

Connecticut Business & Industry Association

Corn Refiners Association

Edison Electric Institute

The Fertilizer Institute
Florida Fertilizer & Agrichemical Association
Foundry Association of Michigan
Freight Rail Customer Alliance
Georgia Agribusiness Council
Georgia Chemistry Council
Glass Packaging Institute
Glass Producers Transportation Council
Green Coffee Association
Grocery Manufacturers Association
Growth Energy
Idaho Barley Commission
Idaho Grain Producers Association
Idaho Wheat Commission
Illinois Fertilizer & Chemical Association
Indiana Corn Growers Association
Indiana Farm Bureau
Indiana Soybean Alliance
Institute of Makers of Explosives
Institute of Scrap Recycling Industries, Inc.
International Liquid Terminals Association
International Warehouse Logistics Association
Louisiana Chemical Association
Manufacture Alabama
Manufacturers Association of Florida
Massachusetts Chemistry & Technology Alliance
Michigan Agri-Business Association
Michigan Bean Shippers
Michigan Chemistry Council
Minnesota AgriGrowth Council

Minnesota Crop Production Retailers
Mississippi Manufacturers Association
Missouri Agribusiness Association
Montana Agricultural Business Association
Montana Farmers Union
Montana Grain Elevators Association
Motorcycle Industry Council
National Association of Chemical Distributors
National Association of State Departments of Agriculture
National Association of Wheat Growers
National Barley Growers Association
National Corn Growers Association
National Cotton Council of America
National Council of Farmer Cooperatives
National Farmers Union
The National Industrial Transportation League
National Onion Association
National Retail Federation
National Rural Electric Cooperative Association
National Shippers Strategic Transportation Council
National Sunflower Association
Nebraska Agri-Business Association, Inc.
Nebraska Wheat Board
New York State Agribusiness Association
New York State Chemistry Council
North Carolina Manufacturers Alliance
North Dakota Grain Dealers Association
Ohio Agribusiness Association
Ohio Chemistry Technology Council
Oklahoma Agribusiness Retailers Association

Oklahoma Grain and Feed Association
Oregon Wheat Growers League
Outdoor Power Equipment Association, Inc.
Pennsylvania Chemical Industry Council
Plastics Pipe and Fittings Association
Promotional Products Association International
PVC Pipe Association
Rail Customer Coalition
Renewable Fuels Association
Rocky Mountain Agribusiness Association
Society of Chemical Manufacturers and Affiliates
South Carolina Fertilizer and Agrichemicals Association
South Carolina Manufacturers Alliance
South Dakota Wheat Inc.
SPI: The Plastics Industry Trade Association
Steel Manufacturers Association
The Sulphur Institute
Texas Ag Industries Association
Texas Chemical Council
Texas Wheat Producers Association
United States Fashion Industry Association
US Dry Bean Council
US Dry Pea & Lentil Council
Vinyl Building Council
The Vinyl Institute
Vinyl Siding Institute, Inc.
Washington Association of Wheat Growers
Washington Grain Commission
West Virginia Manufacturers Association
Western Fuels Association

Western Plant Health Association

Wisconsin Agri-Business Association

Wyoming Ag Business Association

Wyoming Wheat Marketing Commission

**cc: The Honorable William Shuster, Chairman, Committee on Transportation and
Infrastructure**

**The Honorable Peter DeFazio, Ranking Member, Committee on Transportation and
Infrastructure**