Summary of the Senate Finance Committee Title to the Highway Bill, MAP-21

The Highway Bill (S. 1813) reauthorizes and fully funds the Highway Trust Fund (HTF), the federal funding source for roads, highways, bridges and mass transit projects. These infrastructure projects of regional and national significance ensure safety and mobility, create or sustain good-paying jobs, reduce traffic congestion and improve air quality.

Exempt-Facility Bonds for Sewage and Water Supply Facilities.
Private activity bonds are tax exempt bonds issued by state and local governments for private activities with public benefits, such as construction of low-income housing or hazardous waste facilities. For calendar year 2012, the volume cap limit is $95 per capita, or $284.56 million. This proposal would eliminate the volume cap for water sewage and water facility projects for bonds issued after the date of enactment and before January 1, 2018. This provision is estimated to cost $305 million over ten years.

Source: (3/16/12) Senate Committee on Finance
http://finance.senate.gov/legislation/download/?id=413001ef-d5eb-4e1b-85a3-615ae55d5bf4
Amendment to Senate Version of Highway Bill Contains Water Infrastructure Bonding Provision

February 10, 2012

During the markup of the Senate Finance Committee's portion of the Surface Transportation bill, Sen. Menendez (D-NJ) offered a version of the AGC-supported legislation exempting water and wastewater infrastructure from the private activity bond volume cap as an amendment. The amendment was accepted on a voice vote, because it wasn’t controversial enough to require a roll call vote and AGC is hopeful that the bill will pass. The Menendez amendment lifts the volume cap – the amount of tax-exempt financing available for certain projects – on private activity bonds for water and wastewater projects and permits Indian tribes to issue tax-exempt private activity bonds for water infrastructure. This move is projected to open up $2-5 billion annually in private capital for water infrastructure projects, often in the form of public-private partnerships. AGC supports this policy as a critical element in securing access to all available funding for water infrastructure.

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Senate Transportation Bill Passes With Bipartisan Support

First Posted: 03/14/2012 12:53 pm Updated: 03/14/2012 3:02 pm

The Senate passed a two-year, $109 billion bipartisan transportation bill in a 74-22 vote Wednesday, handing Majority Leader Harry Reid (D-Nev.) significant bragging rights in the race to pass election-year job-creation legislation. Now all eyes turn to the House of Representatives and Speaker John Boehner (R-Ohio), who has struggled to bring his own caucus to terms on a highway bill.

The Senate bill was one of few pieces of major legislation in recent memory to secure broad bipartisan support. The current transportation bill expires on March 31, which means that Congressional leaders are racing against time to get a new bill passed and prevent thousand of construction jobs from being put on hold.

One surprising development was the passage on a 50-47 vote Tuesday of an amendment sponsored by Sen. Jeff Bingaman (D-N.M.) that would make it much more difficult to privatize existing highways and turn them into toll roads. Truckers and the AAA have strongly opposed creating more toll roads. On the Senate floor, Bingaman said his amendment "would simply remove these privatized toll roads from consideration when we allocate highway funds." Privatization watchdogs were enthusiastic. "I think it's a defeat for Wall Street interests that have counted on Congress being asleep at the wheel when it comes to their subsides for private projects," said Phineas Baxandall, federal tax and budget policy analyst at the consumer group U.S. PIRG. He credited rural Republicans and truckers for the amendment's narrow passage.

Another provision that was included in the bill, however, vastly expanded a federal loan program for new transportation projects that often involves so-called "public-private partnerships." Such arrangements often involve outsourcing the management of public infrastructure to Wall Street-backed private companies.

Path forward unclear, as needs soar and federal investment dwindles

Congress is brainstorming ways to deal with an enormous problem lurking out of sight and out of mind for most Americans: How to save the nation's plumbing system. Recent studies estimate that a combination of population growth, long-neglected maintenance needs, regulatory requirements and the effects of climate change -- including rising seas and changing rainfall patterns -- will slap the nation's utilities with costs of as much as $3 trillion between now and 2050. To put that in perspective, U.S. utilities would have to increase overall spending from about $100 billion per year to between $200 billion and $250 billion. On this World Water Day 2012, it is clear that problems facing U.S. waterworks are mild compared to those of many poor and developing nations. But experts and lawmakers agree that without a fundamental rethinking of how the United States finances water infrastructure, our sprawling and aging system of treatment plants and pipelines -- the envy of many in the world -- risks experiencing massive and frequent failures. How these needs will be met remains far from clear.
Federal, state and local leaders are agonizing over ways to cut spending in the face of mounting public debts and declining tax revenues, leaving utilities with few options other than to raise rates in a down economy to levels previously unheard of just to cover mounting capital, operations and maintenance needs. Experts agree that, at the very least, water rates must rise significantly. The start of this trend has already begun to infuriate ratepayers, most of whom view water as a basic right and are accustomed to paying a fraction of what they pay for cable television or cellphone service to keep their faucets running.

**Legislative efforts eye private investment**

Amid proposals to reauthorize the revolving loan programs for the usual amounts, the House Transportation and Infrastructure Committee is crafting legislation that many hope will attract private investment -- seen by some as an essential and largely untapped source of money. Among the fixes advocated at two information-gathering hearings, the most recent of which was held yesterday, banking and industry officials called for Congress to pass legislation that would:

- Lift state caps on private activity bonds that would allow companies to obtain low-interest financing for water projects.
- Reauthorize state revolving funds that are used to finance projects.
- Create a Water Infrastructure Finance Innovations Authority (WIFIA) modeled after a similar transportation program.
- Establish a Clean Water Trust Fund.

The banking industry favors lifting caps on private activity bonds as an essential first step. S. 939, introduced by Sen. Robert Menendez (D-N.J.) to do just that, was inserted into the Senate's major transportation bill last month.

"We don't expect that there will be any significant effort to pursue public-private partnerships in this sector until there is clarity in the ability to remove the private-activity cap," said Stephen Howard, director and head of Infrastructure project finance at Barclays Capital.

The move to grease the skids for private capital and the creation of a WIFIA has touched off debates about whether those programs will replace the revolving loan funds -- which largely finance upgrades for small water systems with small rate bases that might be unattractive to Wall Street investors -- or lead to the outright privatization of utilities. Unions and some environmental groups warn that privatization could lead to unnecessarily high rate increases and a decline in quality of service.

That is what was revealed in a study commissioned when the city of Milwaukee in 2008 was considering a long-term lease of the municipal waterworks, according to Richard Abelson, executive director of District Council 48 of the American Federation of State, County and Municipal Employees. "Our community decided not to trust the claims of a private entity that it had the best solution to our budgetary woes," Abelson told the committee yesterday. "Nor were we willing to take the risk of subjecting our citizens to rate increases, water quality concerns and service problems that cities with privately run water systems had endured."

Ben Grumbles, former EPA water chief turned president of the nonprofit Clean Water America Alliance, an organization that aims to find common ground in these debates, said private investment makes sense in the current climate. But he advocated for "safeguards," warning that a WIFIA should not replace the EPA-administered state revolving loan funds. "It really does makes sense, when federal dollars are scarcer and scarcer," Grumbles said of a WIFIA during testimony yesterday. "But I think there have to be clear safeguards to enforce that philosophy that it's not meant to undermine the SRF."