



ML Strategies Legislative Update

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MLS 2017 Outlook: Infrastructure

Following a presidential campaign that promised significant infrastructure investments, and just over 60 years after President Eisenhower launched the federal highway system in 1956, a national infrastructure commitment is rising near the top of issues to be addressed this year.

Executive Branch Agenda

While President-elect Trump has not sketched out in detail his \$1 trillion, 10-year infrastructure plan, he proposed a blueprint during the campaign that may receive congressional attention in 2017. Infrastructure affords potentially one of the few areas of agreement between congressional Democrats and the president-elect, but Mr. Trump's plan relies primarily on tax incentives designed to leverage public-private partnerships, and Democratic legislators heavily favor direct federal spending. Congressional Democrats had hoped last Congress to form a national infrastructure bank, but their Republican colleagues vehemently opposed the bank. That being said, Congress did pass a 6-year highway bill and a new Water Resources Development Act last Congress, but a \$1 trillion price tag for infrastructure investments will be difficult for many in Congress to approve. Senate Majority Leader Mitch McConnell (R-KY), for example, has repeatedly said that the 115th Congress will not approve another Recovery Act – which “only” cost \$800 billion – and he is joined by many of his colleagues in opposing significant new federal infrastructure spending, especially in light of the country's national debt.

The American Society of Civil Engineers released a report suggesting that the country could easily use another \$8 billion per year for bridge repairs, \$2-4 billion per year for airports, \$80 billion for roads, and \$121 billion for dams and levees. Additional infrastructure expenditures for the electric grid, water and sewer systems, schools, and more could raise the cost to well over President-elect Trump's figure, but identifying sufficient funding sources could prove difficult, particularly when considering that the non-defense, discretionary spending in the \$3.9 trillion federal budget totals only \$585 billion and President-elect Trump has committed to tax cuts rather than tax increases.

That being said, President-elect Trump is likely to present a more detailed infrastructure plan at some point this year. Earlier this month, the president-elect released a priority list of 50 emergency and national security projects that could serve as the basis of his infrastructure package. Initially slated for

the first 100 days, it is increasingly likely that timing may slip to the fall or later, as other issues such as nominations, appropriations, Congressional Review Act repeal attempts, healthcare, and tax reform are taking a higher priority, though an infrastructure effort may be tied to work on tax reform.

Key Trump Administration Political Appointees

President-elect Trump has nominated Elaine Chao to serve as Secretary of Transportation. Her confirmation process is underway. Elaine Chao served as Secretary of Labor in the George W. Bush administration, and as a deputy secretary of Transportation in the George H. W. Bush administration. In addition to sitting on a number of nonprofit and corporate boards, she is currently a distinguished fellow at the Hudson Institute and is, of course, the wife of Senate Majority Leader Mitch McConnell (R-KY). Given her history with the Senate and her extensive previous vetting, Secretary Chao is likely slated for an easy confirmation process, and members on both sides of the aisle have expressed a willingness to work with her.

Notable Congressional Committee Changes

The Senate Commerce, Science, and Transportation Committee will not experience changes at the top, with Sens. John Thune (R-SD) and Bill Nelson (D-FL) retaining their leadership positions. However, following some election losses and other rotations off the committee, Sens. James Inhofe (R-OK), Shelley Moore Capito (R-WV), Mike Lee (R-UT), Todd Young (R-IN), Tammy Baldwin (D-WI), Tammy Duckworth (D-IL), Maggie Hassan (D-NH), and Catherine Cortez Masto (D-NV) will join the committee's ranks.

Due to term limits on former chair Sen. James Inhofe (R-OK) and the retirement of former ranking member Sen. Barbara Boxer (D-CA), the Senate Environment and Public Works Committee, which has jurisdiction over highways and water infrastructure, will have new leadership in Sens. John Barrasso (R-WY) and Tom Carper (D-DE), and Sens. Jerry Moran (R-KS), Joni Ernst (R-IA), Tammy Duckworth (D-IL), and Kamala Harris (D-CA) will also join the committee.

Term limits also result in Senate Banking, Housing, and Urban Affairs Committee Chair Richard Shelby (R-AL) handing his gavel over to Sen. Mike Crapo (R-ID). Sen. Sherrod Brown (D-OH) will retain his current ranking member position over the committee, which has jurisdiction over transit issues. New members include Sens. David Perdue (R-GA), Thom Tillis (R-NC), John Kennedy (R-LA), Brian Schatz (D-HI), Chris Van Hollen (D-MD), and Catherine Cortez Masto (D-NV).

Reps. Bill Shuster (R-PA) and Peter DeFazio (D-OR) will remain at the helm of the House Transportation and Infrastructure Committee.

Potential Legislative Activity

Congressional Democrats led by Senate Minority Leader Chuck Schumer (D-NY) and House Minority Leader Nancy Pelosi (D-CA) have expressed a willingness to work with Secretary Chao, noting that infrastructure is an area where they hope to collaborate with the new administration.

Despite Democratic support, however, questions of funding – private-public partnerships and tax incentives versus direct federal spending, including potentially an infrastructure bank – combined with an already full legislative agenda for the first part of the year, may cause a serious infrastructure debate to be delayed at least until the fall. That being said, Sen. Schumer has suggested using revenue from international corporate tax reform to fund an infrastructure bank, which may present an opportunity during tax reform negotiations. And even if a comprehensive tax rewrite loses

traction, there is bipartisan agreement that the international tax system needs to be overhauled. Senate Finance Committee leadership Sens. Orrin Hatch (R-UT) and Ron Wyden (D-OR) have suggested that tax reform, particularly a limited international package, and infrastructure could be linked together along the lines of an outline Sens. Schumer and Hatch and Speaker of the House Paul Ryan (R-WI) discussed last year. House Ways and Means Committee Chair Kevin Brady (R-TX), however, has said that an infrastructure and international tax package should be a last resort in Congress' attempt to accomplish comprehensive tax reform.

Questions still remain over how to fund the five-year surface transportation bill that President Obama signed in December 2015, and Congress needs to find long-term, sustainable funding sources to support or replace declining Highway Maintenance Trust Fund revenues.

A 14-month authorization for the Federal Aviation Administration and airport funding programs expires September 30. Rep. Shuster plans to renew his air traffic control spinoff effort despite bipartisan opposition, which could ultimately stall unrelated provisions such as streamlining the administration's process for approving aircrafts and components. The 115th Congress will need to either finalize a long term reauthorization or approve another short-term extension.

Congress approved at the end of last year a new water resources bill and reauthorized surface transportation legislation through fiscal year 2020, but funding these programs is the next step to achieve the economic benefits associated with updated infrastructure. The 115th Congress is also likely to take up the Water Resources Development Act again, and funds for the Water Infrastructure Finance and Innovation Act loan program are expected to begin to be released this year as well.

As transportation technologies continue to change rapidly, autonomous vehicles, shared mobility, vehicle ownership and usage patterns, urban revitalization, and high speed rail will all present opportunities for the public and private sectors to collaboratively invest in infrastructure improvements and encourage the development of new technologies while also addressing regulatory requirements and questions of oversight.

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