

Federal Update

March 15, 2017

This week I attended the APTA legislative conference in Washington DC. While I left with more questions than answers, this synopsis will hopefully provide you a framework for understanding, as 2017 unfolds, what is happening, critical deadlines, and the impact on your agency's funding and regulatory environment. As always in DC, several factors are moving simultaneously to make for a complex and complicated situation. I will first outline four significant issues, and then the anticipated timeline.

Issues

1. Repealing the Affordable Care Act. This will be the first big indicator of how the Trump Administration and the Republican-led Congress work together. The Republicans have campaigned on repealing the ACA since the day the act was signed into law, but it is easier to build a coalition around "No" than on difficult policy issues.

Why should you care? Besides the personal impact on many of us, this issue's progress will indicate the administration and congress' ability to build coalitions, come to consensus, and thwart the opposition.

2. Tax Reform. House Speaker Paul Ryan has been working on tax reform since he came to office. There is widespread agreement that a simpler, and fairer tax code would benefit the country. It's the how that is contentious. Proposals include collapsing brackets, eliminating benefits and credits, and repatriating overseas corporate money.

Why should you care? Congress has been unable to raise the gas tax for more than 30 years; tax reform may be our only chance to fund a significant infrastructure bill (see below). Other proposals for spending the tax reform dividend are to lower tax rates or pay down the deficit.

3. Infrastructure investment. President Trump referenced infrastructure investment during his campaign, and included a \$1 trillion infrastructure investment proposal in his goals for his first 100 days. The administration's proposal does not identify a funding source or how/where the funds would be allocated. The administration recently indicated that they would like to postpone action on this until 2018 -- thereby missing the opportunity of using the tax reform dividend as a funding source (see above.) Remember that while the FAST bill provided 5 years of reliability, it did not solve the insolvency of the Highway Trust Fund and the Mass Transit Account.

Why should you care? The critical issue for CASTA members is whether the funding mechanisms would follow the formulas and programs established in the FAST act, or designate a shorter list of high-profile major investments. The former would provide for reliable funding through existing channels. The latter would most likely include mostly urban projects of significant size. We are especially wary of proposals funded through public-private partnerships, as private equity is typically attracted to urban infrastructure with the opportunity to generate revenue (toll roads and rail in high-density corridors.)

4. Roll back of federal regulations. President Trump put on hold anything sent to the Federal Register in the final days of the Obama administration, including the FTA's Safety and Security regulations.

Why should you care? CASTA will continue to advocate for safety regulations based on risk-based assessments. Standards written for the legacy rail systems are not applicable to Colorado transit agencies. Safety and security regulations should be right-sized for the community.

Timing

President Trump and his administration are disrupting the status quo in Washington and forcing many of the traditional players to change the way they do business. Many of the assumed ways of getting things done has changed. Even the cherry blossoms are early this year (see picture at right). President Trump prefers short, pithy policy statements and is guided more by political realities and instinct than by ideology.



Seventy-five percent of the House Republicans and 62% of the Senate Republicans have only served under a Democratic president. The party will have to shift from being the party of opposition to one of, as Speaker Ryan says, “the party of proposition.”

You can think of 2017 as divided into three phases.

Phase 1 (January - March). This phase was dominated by the Administration. The Congressional Review act, passed in 1996 as part of the Contract with America empowers Congress to review and overrule new federal regulations issued by government agencies. The authority lasts through May 1, 2017. Also dominating this first stage were numerous confirmations. Because then-Senate majority leader Harry Reid reduced the number of votes needed to confirm appointees from 60 to 51 to fast track President Obama's appointees, Democrats can no longer block nominees. However, they are doing their best to throw sand in the engine, and as a result of their efforts, President Trump has fewer nominations approved than any president since George Washington.

Phase 2 - April - July. In a typical year, power would pivot back to Congress as they take up the ACA Reform/Repeal, Tax Reform, and some other calendar-dictated issues such as:

- 1) The debt ceiling limit will be reached sometime this month, necessitating either a lifting of the ceiling or a government shut-down.
- 2) Congress passed one appropriations bill in 2016, leaving 11 bills to be passed in 2017 before they leave for recess in April.
- 3) As the federal fiscal year ends on September 30, Congress will have to begin budget negotiations before adjourning in late July.

Phase 3 - August - December. Depending on the process and outcomes of issues mention above, look for the Administration and Congress to either share power or to play tug-of-war as they negotiate the 2018 budget and infrastructure investment.