

TRANSPORTATION WEEKLY

UPDATE – 3-MONTH HIGHWAY EXTENSION HITS SNAG IN HOUSE

WEDNESDAY, SEPTEMBER 23, 2009 – 1:20 P.M.

Attempts to move a three-month extension of federal surface transportation program spending (H.R. 3617) quickly through the House of Representatives hit a snag today when the Republican leadership decided it would urge its members to oppose the bill.

Though Republicans only hold 41 percent of the seats in the House at present, today started with plans to move H.R. 3617 through the House under the expedited “suspension of the rules” procedure which requires a two-thirds vote margin for passage, making some Republican participation necessary.

So the House leadership pulled H.R. 3617 from its place at the end of the list of suspension bills today. The House has now moved on from suspensions and begun debate on a public lands bill. However, under House rules, the House can entertain motions to suspend the rules at any time on a Monday, Tuesday or Wednesday at the discretion of the Speaker, so the bill might come back up (more on that below).

Republicans have not yet made a public announcement as to what their objections to the three-month extension are, but one GOP staffer said that there should be a longer extension until the Democrats take the issue of a gasoline tax increase to pay for House Transportation and Infrastructure Chairman James Oberstar’s (D-MN) \$450 billion, six-year bill off the table. Therefore, this could represent a real breaking point between Oberstar and his ranking Republican, John Mica (R-FL), who has so far been in lockstep with Oberstar (at least in public) on moving the highway bill forward.

One Democratic aide speculated that the GOP could be motivated by this scenario: if Oberstar is given time to mobilize business and stakeholder support for a gas tax increase, coupled with the time-honored strategy of buying off individual GOP votes through earmarked highway and transit projects, the end result could be that the national GOP message for the 2010 elections (no tax increases, less federal spending, less earmarks/pork/corruption etc.) would be significantly undercut by having many Republicans voting for a tax-increasing, big-spending, earmark-laden highway bill.

Several persons briefed by persons present in this morning’s GOP staff meeting said that the Republican leadership would instead endorse the White House/DOT/Senate plan for an eighteen-month extension of existing surface transportation policies and spending levels (though GOP leaders

on the Transportation and Infrastructure Committee will not confirm this). This would be a logical GOP strategy, since current political trends make it seem that the GOP will be in a much stronger bargaining position in the House in the next Congress after gaining a significant number of seats in the 2010 elections.

As of this writing (note the timecode at the start of the email), Democrats were still mulling over their strategy. They could go straight to the Rules Committee at its scheduled late afternoon meeting on the continuing resolution and get a special rule allowing the House to vote on H.R. 3617 tomorrow by a simple majority vote. Or, Oberstar could force the Republican's hand by bringing up H.R. 3617 under suspension of the rules later this afternoon, allowing the Republicans to vote it down under suspension (if they dare), then go to Rules immediately afterwards and be on the floor tomorrow under the same majority-vote scenario.

One thing to note: if H.R. 3617 receives a rule from the Rules Committee, watch to see if the rule waives clause 9 of House rule XXI (earmark disclosure requirements) against consideration of the bill. If the bill does not waive the point of order, that could mean that the House Parliamentarian has determined that simply providing new appropriations or contract authority to prior year earmarks, as H.R. 3617 does in a few instances, does not constitute "new" earmarking.