



International Right of Way Association Weekly Update

Monday, July 31, 2017

Trump Administration

- The White House will shift its primary policy objective to tax reform this week, after the health care efforts failed last week. While there have been different messages thus far about infrastructure moving as part of a larger tax reform package, at this point no one can rule that out as a possibility. <https://www.axios.com/after-health-care-loss-trump-pitching-tax-reform-2467507071.html> <https://www.whitehouse.gov/the-press-office/2017/07/27/joint-statement-tax-reform>
- White House staff is under the new leadership of General John Kelly, a retired four star Marine Corps General who most recently served as Secretary of Homeland Security. It is unclear how the new Chief of Staff will affect the internal dynamics at the White House. http://www.politico.com/story/2017/07/31/john-kelly-sworn-in-chief-of-staff-241166?lo=ap_b1

Congress

- August recess has begun for the House of Representatives, so D.C. will quiet down significantly as Members and staff head off for vacations and district meetings. Senate Majority Leader McConnell had previously cancelled the first two weeks of the Senate August recess to work on health care reform and nominations, and Senate Republicans will meet on Monday, July 31 to discuss their path forward. <http://www.politico.com/story/2017/07/28/save-obamacare-bipartisan-effort-241103>
- Before leaving town, the House of Representatives passed a minibus of appropriations bills, to include the Departments of Defense (including the Army Corps of Engineers), Energy, Veterans Affairs, some of the Department of the Interior, as well as the Legislative Branch.
- Senate Majority Leader Mitch McConnell failed in his efforts to pass any form of health care reform. Senators Susan Collins (R-ME), Lisa Murkowski (R-AK), and John McCain (R-AZ), voted no on a very stripped down version called the “skinny” repeal, which would have eliminated the individual mandate, among several other changes.
- The nominations process in the Senate continues to move forward, and the decision whether to have the Senate stay in session in August could move additional nominees. The Department of Transportation has 18 confirmable positions, with 2 confirmed (Secretary and Deputy Secretary), and 5 more have been nominated. Overall, 575 key positions require Senate confirmation, with 50 confirmed, 165 formally nominated, 3 awaiting nomination, and 357 with no nominee announced.

- The House Energy and Commerce Committee approved “H.R. 3387 the “Drinking Water System Improvement Act” on July 27, which amends the Safe Drinking Water Act. <https://energycommerce.house.gov/hearings-and-votes/markups/energy-and-commerce-committee-vote-hr-767-hr-772-hr-880-hr-931-hr-2422-hr>
- The Senate Appropriations Committee unanimously approved the Transportation, Housing and Urban Development, and Related Agencies FY18 funding bill on July 27. <https://www.appropriations.senate.gov/news/majority/committee-advances-fy2018-transportation-hud-appropriations-bill>
 - The bill includes \$19.47 billion in discretionary appropriations for the U.S. Department of Transportation for fiscal year 2018. This is \$978 million above the FY2017 enacted level.
 - The bill increases TIGER (Transportation Investment Generating Economic Recovery) grant funding by \$50M to \$550M, contrasted with the House committee-passed bill which would eliminated funding for the program entirely. This is an extremely popular federal grant program for road, rail, transit and port projects around the country. TIGER grant funding will be a significant issue during the House-Senate conference.
- Democrats on the House Transportation and Infrastructure Committee sent a letter to Secretary Chao criticizing the Notice of Funding Opportunity for the INFRA program as not being true to the legislative intent of the FAST Act because it prioritizes projects utilizing innovative financing methods. http://democrats.transportation.house.gov/sites/democrats.transportation.house.gov/files/wysiwyg_uploaded/2017-07-11%20LTR%20CHAO%20INFRA.pdf

Analysis

- House Republicans leave for August recess distressed that the Senate failed to pass any healthcare repeal legislation. As one Member said privately Thursday night, “now we have to go home and explain this mess.” Publicly House Republicans are blaming the Senate for not doing its job, and hoping to pivot the conversation to the appropriations process, a budget resolution and tax reform, while still urging the Senate to act. Some Members and Senators are hopeful a bipartisan package can be cobbled together, but that is uncertain at best. <http://www.politico.com/story/2017/07/28/obamacare-repeal-failure-house-republicans-react-241086>
- Structurally, it is just easier to get bills passed through the House with majority rule voting. Congress was deliberately designed with one house “closer to the people” and one house set up with longer terms and fewer representatives. The legislative process is intended to force the two houses to agree with each other by either taking up the other body’s bills or going to conference to hash out the differences with everybody giving up a little of what they want to get something finalized. But this process has broken down in recent years as the noisy electorate has polarized, redistricting has created fewer swing districts, and the press pushes for any and all tidbits of information to report, which inflames one end of the political spectrum or another. For example, at one point this spring, Senator Rand Paul was wandering around the Capitol building, press in tow,

sarcastically looking for the House's "secret" healthcare bill. That is one of the reasons why tax reform and infrastructure have been floated as a package deal – in theory, there should be enough for a majority of folks in each party to like to get something done.

- These dynamics are extremely difficult, and on top of them the new Administration seems to be handling Congress poorly. For example, Interior Secretary Zinke called Alaska Republican Senators Dan Sullivan and Lisa Murkowski to warn that Murkowski's "no" votes on healthcare could jeopardize energy and other policy issues in her state. (Zinke was likely directed to do so by the White House.) Senator Murkowski is shrugging off these threats – she is not up for reelection until 2022, after the current presidential term runs out. She is also the chair of the appropriations subcommittee that funds the Interior Department, and she is the chair of the authorizing committee that approves nominations for the Department. It seems tone deaf to have Zinke threaten activities in her home state when she has massive oversight and control of his agency.
- The other distractions out of the White House, from internal power struggles to unexpected tweets setting new administration policies, do not help Congressional Republicans focus on their legislative priorities. House Speaker Paul Ryan cannot speak to the press without being asked about the latest tweets from President Trump, when he really just wants to focus on tax reform, a major personal policy interest for him. Privately, Republicans cannot believe what keeps coming out of the White House, while publicly, they continue to give the new administration something of a pass (an exception is Trump's treatment of Attorney General Jeff Sessions; Senators are a small and tightly knit group – they do not take kindly to one of their own being publicly belittled). It is unclear if or when Congressional Republicans start aggressively and publicly pushing back on the Trump Administration, and how the Administration would react to it.