



LEGISLATIVE BULLETIN FOR LAGC LEGISLATIVE COUNCIL/MEMBERSHIP

PREPARED BY CAPITOL PARTNERS

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REPORT FROM THE LAST TWO WEEKS OF THE SESSION

This report is just on what happened during the final two weeks. As you may observe it was a very hectic but sometimes productive time. As you may not observe, there was a lot of bumping, kicking and scratching going on.

SESSION'S BP SETTLEMENT MONEY FOR INFRASTRUCTURE PASSES. BATON ROUGE ADVOCATE TERMS PASSAGE "THE SURPRISE OF SESSION."

HB 578, Rep. Magee, et al., the BP settlement bill for improvements to LA 1 and 415 initially, and other added projects across the state later, was passed by the Senate on June 2nd by a lopsided vote of 37-0. Under the plan from the earlier House-passed measure and the result from the Senate action, \$150 million over a five-year period will go for construction of an 8-mile stretch of elevated highway between Golden Meadow and Leeville. La. 415 would get \$125 million over five years, and after the two projects are finished in the first five years, I-49 South in Lafayette; \$100 million for I-49 in Shreveport; \$50 million for a long-anticipated TIMED project in St. Tammany project, \$40 million for bridge repairs; \$20 million for two new cranes for the Port of Orleans; \$15 million to widen Hooper Road in Baton Rouge and \$20 million to help finance a new ferry in Cameron Parish. A last-minute amendment added non-Federal-aid bridges to the list. These funds, plus federal and private money will amount to \$700 million to \$1 billion over the fifteen-year period. Earlier, the House voted 97-4 on the measure and after Senate-passage the House voted 90-11 to concur in the Senate amendments. The governor has indicated that he will sign the legislation.

Special thanks go to authors Rep. Tanner Magee (R53- Houma) and Sen. Rick Ward (R17-Maringoin), as well as key players Senate Transportation Committee chairman Sen. Page Cortez (R23-Lafayette) and Finance Committee Chairman Eric LaFleur (D28-Ville Platte), Rep. Jerome Zeringue (R52- Houma), Rep. Chad Brown (D60-Plaquemine Sen. Bodi White (R6-Baton Rouge), Rep. Jeremy LaCombe (D18- Livonia), and Rep. Malinda White (D75-Bogalusa), not to speak of all of the co-authors who added their names.

OTHER TRANSPORTATION INFRASTRUCTURE MEASURES DIDN'T RECEIVE APPROVAL BY SENATE COMMITTEE:

We think that two major bills which would spell some long-term relief into the TTF, HB 414, Rep. Davis, placing proceeds of revenues from the state sales tax in the TTF Construction Subfund, though approved by the full House earlier by 70 "yes" votes, was shelved by the Senate Finance Committee. We really appreciate Rep. Paula Davis' leadership and innovation, not to speak of tenacity with HB 414.

HB 313, Rep. Mark Wright, limiting monies deposited into the TTF from being used to pay for certain DOTD expenses also was killed in the Senate Finance Committee. HB 542, Rep. Carter, also had a component that would take retiree benefits from TTF and place those expenses in the general fund.

We're certain that Rep. Davis' bill will re-surface at the next opportunity in the legislature in 2020 and like HB 578 from above, is another instrument to diversify the funding for the state's transportation infrastructure. Just Rep. Davis' bill alone would generate an additional \$240 million per annum over time. Also, there is great interest from the Legislature to deal with the operating side of DOTD's budget. We will see Rep. Wright's bill again or some variation thereof.

NO MOVEMENT IN "SUSTAINED" LONG-TERM FUNDING BUT WE'LL BE BACK NEXT YEAR -- AFTER COALITION GETS HEARING AND OPPORTUNITY TO PLEA ITS CASE THIS SESSION:

The bill designed to provide long term sustained funding for infrastructure projects, HB 542 by Rep. Steve Carter (R68 – Baton Rouge), and the LCFOR coalition was finally heard by the House Ways and Means Committee. We commend Rep. Carter for his tenacious fight all through the session. However, as we predicted earlier there was to be no vote taken at this time. Rep. Carter used the forum to introduce supporters in the wide business-driven coalition to again demonstrate the desperate need roads to better develop the state's economy. Carter also noted that though some of the committee members will not return to the legislature through term limits, the issue will be returning in 2020 through a special session or in 2021. Rep. Carter, though termed out in the House will be running for the Senate this fall and has pledged to not falter from continuing to push for adequate, long term, sustained funding for the state's transportation infrastructure.

The second phase of the campaign to achieve meaningful, long term sustained funding for the desperate needs for infrastructure improvements has begun. Be sure to ask any candidate for the House or Senate you are introduced to, in the coming campaign, their views on adequately funding long-term solutions to the state's major economic development driver – roads, bridges, ports. LAGC PAC has made this a priority in the coming elections.

SURPLUS DOLLARS FOR CAPITAL OUTLAY

For the first time in quite a long time, there was a surplus in general revenues. In the waning moments of the session, the legislature approved several funding measures, spending the state's extra cash. All of the allocations were based on constitutional requirements for spending surpluses. Among the monies available for expenditure were \$308 million from last fiscal year

and \$110 million from the current fiscal year. Some earmarks were: coastal restoration (\$550 million) and highways and building maintenance (\$145 million). For this fiscal year \$25 million was allocated for the paying down of FEMA debt.

PRIVATE WORKS ACT LEGISLATION PASSES:

HB 203, Rep. Miller, the Law Institute Private Works Act revisions has won approval by the Senate and House concurrence with Senate amendments. LAGC, though initially opposed in the beginning, changed its position to support once needed improvements were made to the massive re-write of what we call the Private Works Lien Law. All parties (AGC, ABC, the La. Homebuilders Association, subcontractor and supplier groups) were in support in the final stages of the legislation's process.

In the waning days there were 3 amendments that LAGC agreed to. The first deals with labor or service sub-subcontractors. It affords a subcontractor with a contractual relationship with another subcontractor, but no direct contractual relation with the prime contractor, a right of action to enforce a claim against the prime and surety, the sub-subcontractor must give written notice to the prime contractor at least thirty days prior to an action against the prime and must state with substantial accuracy the amount claimed and the name of the other subcontractor for whom the labor or service was done or performed.

The second amendment relates only to residential construction and deletes troublesome language added by the House. Before expiration of the period provided in Subsection A of this Section, and at least ten days before filing his statement of claim or privilege, a person granted a privilege under R.S. 9:4801(3) or (4), or a claim and privilege under R.S. 9:4802, in connection with residential work for which a timely notice of contract was not filed gives notice of nonpayment to the owner, setting forth the amount and nature of the obligation giving rise to the claim and privilege, then the period in which the person is permitted to file his statement of privilege or claim shall expire seventy days after: (1) The filing of a notice of termination of the work, and (2) The substantial completion or abandonment of the work, if a notice of termination is not filed.

Finally, the last amendment relates to lessors of equipment, and states that a lessor shall not be required to respond to a request made by an owner or prime contractor relating to a lease with a subcontractor unless the lessor has previously given notice to the owner or prime making the request.

LAGC was able to hold the line on current law provisions that deals with liens and privileges already in statute. One main area we were able to maintain is the requirements that deal with liens allowed by material suppliers to subcontractors, the time periods and notification requirements.

The general effective date of the new law is January 1, 2020. It will not affect contracts recorded before that effective date. LAGC is already planning a series of seminar for the members to go over the changes to the Private Works Lien Law and to review those provisions not affected by the changes.

LOCAL SALES/USE TAXES ON MATERIALS CONVERTED INTO ASPHALTIC CONCRETE AT NEXT TO FINAL STAGE

HB 494, by Rep. Abramson, relative to sales and use taxes on materials converted into asphaltic concrete and the determination of where they are due, was finally passed by the Senate in the waning days of the session. LAGC supported the LAPA effort and commends Jason Decuir with the firm of Ryan Advocacy for his hard work in shepherding the bill through the process.

CAPITAL OUTLAY SLOWLY IMPROVING

HB 2, Rep. Abramson, the state's capital outlay bill, saw some improvement over the past several years. This year's program is at \$3.9 million, which is up from the prior year's \$3.4 million. \$540 million in bonds are available in the next fiscal year (beginning July 1). HB 2 has been on an austerity diet for the past few years, with a cleanup of projects that were on the "list" but with no authorization available. This year sees the amount of money available for projects about equal to projects that actually have received authority.

PUBLIC WORKS A+B BIDDING

SB 200 by Sen. Cortez allows any public entity to utilize A+B bidding. The legislation passed both the House and Senate and awaits the Governor's signature. The law will track what DOTD uses for A+B bidding. It is limited to 15 projects and each project must be approved by the Joint House and Senate Transportation Committee. The public owner must report to the Joint Committee the bid results and award. Also, upon completion of the project, the owner must report back to the Committee final cost, final time and whether the A+B bidding was a positive for the project.

Under A+B bidding, the bidding documents ask for a hard cost of the project and establishes a day value. The bidding documents will set forth whether the project will be awarded by the lowest hard cost or cost plus time.

INFRASTRUCTURE BANK BILLS DIE IN WANING DAYS

Three bills designed to create an Infrastructure Bank and foster borrowing by local governmental entities such as small towns and municipalities, for needed water and sewer projects passed the House but did not fare so well in the Senate. HB 291 and 292 by Speaker Taylor Barras (R48- New Iberia) and HB 496 by Rep. Neil Abramson (D98-New Orleans) were backed by State Treasurer John Schroder (R). The Senate Finance Committee "parked" each of them.

Please email me if you have any questions.

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