

2003 LEGISLATIVE SESSION – WEEK 4

Keep the TRUST in Trust Fund

Transportation

Revenues

Used

Strictly for

Transportation

FTBA MAJOR ISSUES:

BUDGET – Both the House and Senate have printed their respective budgets and we will soon see debate on the floor. Both budgets take \$200 million from the State Transportation Trust Fund and put into General Revenue. The bad news...it is highly unlikely we will get the \$200 million back this year. The good news (if you want to look at it that way)...is that the [Senate position](#) is to take the money for [only 1 year](#). The Senate also has a bill (SB 406) that will advance the planned toll increase a year, bond the money and use for revenue producing projects. They are trying to replace what they are taking (but we would have a lot more if they did this and didn't take any money away).

BOTTOM LINE: FTBA favors the Senate budget position on transportation funding. It is very important that if the \$200 million is going to be taken, that it only be a 1-year hit. SB 406 will be considered by the full Senate this week. It is necessary that this bill pass to ease the hardship of the diversion of funds.

STTF DIVERSION BILL

HB 1305 by Rep. Greg Evers (R-Milton) was amended into **HB 1319** by Rep. Lindsey Harrington (R-Punta Gorda). **The bill to oppose is now HB 1319.** It diverts \$ 51.2 million from the STTF over the next 5 years. **Project commitment reductions of \$80.2 million from the existing 5-year work program would be required to offset the \$51.2 million negative cash impact.** (FYI - Rep. Harrington is the Speaker Pro Tempore, which means many House members will have a problem voting against his bill)

We have met with proponents to try to come up with alternative funding proposals. **We hope to find some resolution but in the meantime need each of you to contact your legislator to inform them of the negative fiscal impact this bill will have on their road projects.**

SB 2586 by Sen. Paula Dockery (R-Lakeland) also has the identical diversion. Her bill has not been heard in committee yet, but we expect to see it in the near future.

FDOT ISSUES

PREQUALIFICATION – Last year we were able to pass legislation that said if you were prequalified and eligible to bid work with FDOT that you were deemed prequalified with counties and expressway authorities. Some how city work slipped through the cracks.

HB 1373 by Rep. Reagan (R-Sarasota) passed subcommittee last week and is on the full Transportation Committee agenda this Wednesday. **Position: SUPPORT**

SB 2658 by Sen. Jim Sebesta (R-St. Petersburg) contains the Prequalification provision.

HIGH SPEED RAIL -- HB 309 by Rep. Bob Allen (R-Melbourne) puts the issue back on the ballot. This bill has passed all House committees and is ready for the House floor.

HB 855 by Rep. Dennis Ross (R-Lakeland) is the bill that provides funding of \$75 million annually for HSR. His bill takes the money out of Public Transportation funds, not highway funds. His bill has passed the Transportation Committee. (It is interesting to note that while the Ross bill takes the money out of Public Transportation dollars, the House budget is unclear on where the money is from)

SB 2140 by Sen. Paula Dockery (R-Lakeland) is the companion to the Ross bill. It has not been heard in committee.

MINING BILL – HB 673 by Rep. Barreiro (R-Miami) passed the Insurance Committee last week. SB 472 by Sen. Smith (D-Gainesville) has already passed the full Senate. **This bill is supported by industry** and creates a streamlined administrative hearing and procedures process for allegations of property damage caused by the use of explosives and blasting associated with construction materials mining.

OTHER ISSUES OF INTEREST:

WORKERS' COMPENSATION – Numerous legislators are proposing major reform on this issue. We hope to see more on this in the coming weeks. Rumor is that there may have to be a Special Session to address the WC problem.

GENERAL CONSTRUCTION BILLS:

Owner/Contractor Controlled Insurance Programs Position: SUPPORT

HB 1087 by Rep. Don Brown (R-DeFuniak Springs)

SB 718 by Sen. Steve Wise (R-Jacksonville)

Prohibits all OCIP programs. Interested groups are continuing to work with representatives from insurance companies and local governments on a compromise that might include limiting OCIP's to single project over \$75 million and requiring either 15 years of completed operations coverage or a provision that the contractor's liability ends when the coverage ends. This bill DOES NOT affect FDOT – OCIP's cannot be done on FDOT projects.

HB 1087 passed an Insurance Subcommittee last week; SB 718 will be heard this Thursday.

Thanks to Allen Douglas, Executive Director, Florida AGC Council for the updates on the following general Construction-related bills:

MANDATORY PUBLIC CONSTRUCTION BOND FORM

[House Bill 485](#) by Representative Dave Murzin (R - Pensacola)

[Senate Bill 1986](#) by Senator Jim Sebesta (R- St. Petersburg)

Current law states that a public construction bond form "may be substantially in the form" set forth in the statutes. In a recent decision, a court held that the bond form differed substantially from the statutory form, and therefore was a common law bond rather than a statutory bond. In addition, the court ruled that notice requirements set forth in the statute were not enforceable under a common law bond. AGC supports.

CONSTRUCTION LIEN LAW

[House Bill 1719](#) by Representative Charles Dean (R - Inverness)

[Senate Bill 2458](#) by Senator Nancy Argenziano (R-Crystal River)

The bill requires mandatory contract language warning the owner of the possibility of having to pay twice. It limits the amount of the lien to the amount owed by the owner to the contractor at the time the lien is filed. It requires a statutory affidavit form to inform the owner that all potential lienors have been paid in full, or provide a list of potential lienors and the amounts they are owed. It also requires contracts between lenders & owners to contain clauses providing owners with the option to be endorsers of checks on construction. Finally, it requires a state attorney or prosecutor to notify the Department of Business and Professional Regulation when filing against a contractor. AGC is OPPOSED to this bill.

Comments: This bill is the result of numerous homeowners having liens filed against their properties when a contractor failed to pay the subs and suppliers, forcing the owners to pay twice for the same materials and services.

PROMPT PAYMENT / RETAINAGE ON PUBLIC PROJECTS

[House Bill 1169](#) by Representative Ron Reagan (R - Sarasota)

[Senate Bill 1724](#) by Senator Michael Bennett (R-Sarasota)

Applies Local Government Prompt Payment Act to all public entities, mandating payment from owner to contractor within 25 days after receipt of payment request. Mandates payment by contractor to subcontractor within 10 days after receipt of payment from owner. Mandates 50% reduction in retainage after 50% completion. Allows contractor to request 50% of retainage held. Allows contractor to continue withholding higher retainage on subcontractors. Mandates one official punchlist, with other punchlists considered warranty work. Upon completion of punchlist and submission of payment request, mandates owner make final payment within 25 days. Prohibits claim against payment bond for purposes of retainage for 60 days after owner receives final payment request. This bill does not apply to work performed or contracts for the FDOT. AGC Supports.

You can contact members of the Florida Legislature by using the [blue](#) links below.

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