

2003 LEGISLATIVE SESSION – WEEK 5

Keep the TRUST in Trust Fund

Transportation
Revenues
Used
Strictly for
Transportation

FTBA MAJOR ISSUES:

BUDGET – Both the House and Senate debated their prospective budgets on the floor and will have final passage early this week. They will then meet in “conference” to hash out the differences between the House and Senate. There certainly are differences. The House passed a \$52 billion budget, which slashes education and health programs but does not raise taxes. The Senate, meanwhile, voted to add \$1.4 billion to restore funding for the state’s schools, the poor, the sick and the elderly. About \$950 million of the Senate’s proposal would have to come from increased taxes or new funding sources. Precisely where this new money comes from is yet to be determined. The remaining \$450 million dollars (\$200 million from the STTF) would come from a raid on trust funds, which is widely opposed by the business community and specially affected interest groups. The House proposal also diverts money from trust funds.

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).

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 – Marina Gas Tax

We have been working with the FDOT, legislators and lobbyists for the “boat people” to try to reach a compromise on this issue. The marina industry wants what they believe is theirs...gas tax money collected at marinas from boaters. They don’t consider the \$40 million plus the FDOT spends annually on boater-related activities. We have floated language, which we believe should please everyone.

The language captures the administrative and service charge fees that currently are diverted to the Department of Revenue and redirects them to the STTF. Money would then be given to meet the needs of the boaters.

We hope to know something soon from the bill sponsors

As currently proposed, HB 1305 by Rep. Greg Evers (R-Milton), HB 1319 by Rep. Lindsey Harrington (R-Punta Gorda) and SB 2586 by Sen. Paula Dockery (R-Lakeland) all divert \$ 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)

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. **Position: SUPPORT**

HB 1373 by Rep. Reagan (R-Sarasota) being heard in Commerce Committee on Monday, April 7th.

SB 2658 by Sen. Jim Sebesta (R-St. Petersburg) being heard in Transportation on Tuesday, April 8th.

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) will be heard next in the Appropriations Committee.. 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 – Lieutenant Governor Toni Jennings announced that "...any legislation dealing with workers' compensation this year must include provisions that will create the equivalent of a 15% roll back in rates."

The House Insurance Committee has a Proposed Committee Bill they will be taking up this week. The Senate has a "working group" that is putting together a new proposal. We hope to see it this week. More on W.C. as it develops.

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 will be heard next in Insurance Committee; SB 718 passed its 1st Committee last week.

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) – no committee hearing yet
Senate Bill 1986 by Senator Jim Sebesta (R- St. Petersburg) – On Special Order for 4/8

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) – No committee hearing yet
Senate Bill 2458 by Senator Nancy Argenziano (R-Crystal River) – On agenda 4/9/03 – amendments will be offered.

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), passed 1st Committee
Senate Bill 1724 by Senator Michael Bennett (R-Sarasota) – on agenda 4/7

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.

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