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***PAL March 2021 Legislative Update 04/01/21***

***PAL Legislative Affairs Chairman Matt Gresham, Port NOLA***

Folks – 11 days until the 2021 Regular Session of the Louisiana Legislature begins and there is a flurry of activity as the final day to pre-file bills was Wednesday. As of yesterday, 460 bills had been filed for the upcoming fiscal session. One notable bill not filed was Rep. Jack McFarland's GRIT Act to increase infrastructure revenue by a staggered increase in the fuel tax. Due to the recently passed American Rescue Plan Act, Louisiana will receive more than \$5 billion. Of the total, \$3.21 billion is for the state, while local parishes and municipalities receive \$1.9 billion in aid. It is hard to tinker with tax increases with that kind of money coming into government coffers. Now local mayors, parish presidents and legislators' focus has shifted to how to prioritize the one-time dollars to get the biggest bang for the buck.

**Regular Session**

Lawmakers are ready to tackle some hefty tax reform issues, such as the Speaker's Centralized Sales Tax Collection bill, the State's inventory tax, income tax rates and a handful of other issues during the fiscal session. The American Rescue Plan; however, is making real reform difficult, as states are not allowed to take their full shares of the coronavirus relief dollars if lawmakers pass major tax cuts without revenue offsets. The term revenue neutrality will be the buzzword this year.

**GRIT Act Reform**

Rep. McFarland's GRIT Act, which aimed to increase fees on electric and hybrid vehicles and stagger increases to the State's fuel tax - will now be a package of bills that would rededicate and protect existing tax revenue and nearly quintuple the amount of TTF money available for roads and bridges. The package could also revamp certain Department of Transportation and Development fee schedules to make the overall plan revenue neutral.

## **Federal Dollars**

Federal money flowing to Louisiana under the American Rescue Plan will total \$5.188 billion. Of that, the State will receive \$3.2 billion, metro areas will receive \$570 million, municipalities will receive \$320 million, parishes get \$900 million and State capital projects receive \$180 million. Per PAL's executive committee meeting with Secretary Shawn Wilson last month, the Administration is aiming to provide an allocation of \$50 million for port authorities in Louisiana to offset revenue losses, unreimbursed expenses and other costs due to the COVID-19 pandemic. PAL has and will be reaching out to members to support this allocation. The current issue is while we know the amount of federal dollars flowing to the State, there continues to be new guidance issued on how the dollars will be distributed and what they can or cannot be used for. Stay tuned...but reach out to your local representatives and senators to help them understand this is the first eligibility for ports in any of the COVID relief bills passed by Congress in the last year and the funds are critically important to support port capital projects and capital plans throughout the State.

## **Bills of Interest So Far**

Of the more than 460 bills filed, below are the bills we are tracking so far. There will be many more to come and please let us know of anything that interests you or your board members.

**HB 40** by Rep. Mark Wright limits certain monies from being used to pay for certain Dept. of Transportation and Development expenses.

**HB 43** by Rep. Philip Devilier exempts certain business utilities from state sales and use taxes.

**HB 105** by Rep. Thomas Pressly amends the rights and powers of the Caddo-Bossier Parish Port Commission.

**HB 289** by Rep. Jack McFarland establishes an income and corporate franchise tax credit for Class II and Class III railroads.

**SB 1** by Sen. Barrow Peacock phases in the dedication of the temporary state sales tax levy to the Transportation Trust Fund.

**SB30** by Sen. Stewart Cathey dedicates a portion of the state sales tax to the Transportation Trust Fund.

**SB 40** by Sen. Rick Ward is a Constitutional amendment to authorize a parish governing authority to levy sales tax on motor fuels with the approval of the parish electors

**SB 45** by Sen. Jimmy Harris extends the sunset date for Ports of Louisiana tax credits.

## On the Hill...

The big news of the day is President Biden's release of his infrastructure proposal March 31, an outline of which can be found by clicking on the title, ["The American Jobs Plan"](#) The plan at first look is not a traditional infrastructure bill for roads, bridges and ports. It focuses on climate change and addresses disadvantaged and rural community challenges. The plan provides a framework to Congress on the president's priorities as the chambers move to work on a larger infrastructure package in the coming months.

Key components relevant to port and waterways are:

- **\$17 billion for ports and inland waterways** (Note: the proposal does not note from which federal agencies funding will come). The blueprint also includes a Healthy Ports program "to mitigate the cumulative impacts of air pollution on neighborhoods near ports, often communities of color."
- **\$50 billion in dedicated infrastructure resilience investments** to help make the nation's infrastructure (water, electric grid, etc.) stronger in the face of natural disasters.
- **\$115 billion to upgrade roads, bridges and highways.**
- **\$56 billion in grants and loans for water, wastewater and storm water systems** through the U.S. Environmental Protection Agency's Clean Water State Revolving Fund.
- **\$45 billion to replace the nation's lead pipes/connections for drinking water systems nationally** through grants and loans from the U.S. Environmental Protection Agency's Drinking Water State Revolving Fund and through Water Infrastructure Improvements for the Nation Act grants.
- **\$20 billion in regional innovation hubs and a Community Revitalization fund** to drive regional innovation and more.

To pay for this plan, President Biden proposed to modify (or raise) the corporate tax code to pay for over \$2 trillion in investments over 15 years.

The package has a long way to go. Far left members say the plan is not nearly enough to address the nation's "infrastructure." Moderate democrats want concessions, such as state and local tax deductions and are afraid of tax increases on corporations, while Republican leadership calls the bill a Trojan horse with pet projects and funding for programs that have little to do with real infrastructure. Nonetheless, the conversation and debate has begun and the Administration wants "significant progress" made by Memorial Day. The Administration has also said they want the package to be bipartisan but there will be pushback on tax increases,

so budget reconciliation hangs in the balance to pass a package without Republican support.

### **Earmarks Returning**

The House Republican Conference voted March 17 to approve an amendment to allow earmarks back in the legislative process. Earmarks will now be known as “community project funding” and will be 1 percent of discretionary spending and nonprofits will not be eligible. Members can request up to 10 per fiscal year, which will be posted a day ahead of any scheduled mark-up of spending bills.

### **Port Infrastructure Development Program NOFO Posted**

The FY 2021 notice of funding opportunity for the Port Infrastructure Development Program (PIDP) has been posted on the Grants.gov website. In its FY21 appropriations bill, Congress made \$230 million available for PIDP grants, a slight increase from last year’s \$225 million. The full NOFO can be found [here](#). Applications are due July 30, 2021.

#### Overview

- **Funding Restrictions**

- Of the total \$230 million available, at least \$205 million will be reserved for grants to coastal seaports or Great Lake ports. Additionally, USDOT estimates approximately \$20 million in prior year funds may be awarded under this solicitation
- As mandated by the FY21 National Defense Authorization Act, \$41.4 million (18%) of funding is reserved for “small projects at small ports” that meet the following two conditions: 1) the eligible applicant is a port with average annual cargo tonnage during the last three calendar years of less than 8,000,000 short tons, and 2) applications must seek awards of \$4.14 million or less. Of the total reserved amount, a maximum of 10% or \$4.14 million may be used for planning grants.
- Of the funds not reserved for small projects at small ports, a maximum of 10% or \$18.4 million may be awarded for planning grants for large projects. According to the NOFO, development-phase applications will be evaluated against the same criteria as capital grant applications and will be considered less competitive.
- The minimum award size is \$1 million and there is no maximum award size.
- No more than 25 percent of funds or \$57.5 million may be awarded to a single state.

- **Cost Sharing or Matching**

- The Federal share for projects receiving a PIDP grant generally may not exceed 80 percent; however, the Federal share may be increased at the Secretary's discretion for large project grant awards under \$10 million or grants awarded to small projects at small ports.
- **Eligible Projects**
  - Eligible projects are limited to port gate improvements, road improvements within and connecting to the port, rail improvements within and connecting to the port, berth improvements, fixed landside improvements in support of cargo operations, and utilities necessary for safe operations. Other project components (including those addressing environmental mitigation measures, freight intelligent transportation systems, and digital infrastructure systems) may be eligible if they support the project types previously listed.
  - Climate Change and Environmental Justice (new this year): USDOT will assess whether the project has incorporated climate change and environmental justice within its planning & policy and/or design components.
  - Racial Equity and Barriers to Opportunity (new this year): each application will be assigned a Racial Equity and Barriers to Opportunity rating based on how it addresses racial equity and barriers to equal opportunity in planning & policies and project investments.

### **Corps Personnel**

Taylor Ferrell has been named Acting Assistant Secretary of the USACE's Civil Works. Ferrell previously served as Deputy General Counsel, Office of General Counsel in the Department of Defense.

### **Upcoming Events**

Waterway Conference Inc. will hold its virtual Capitol Hill fly-in between April 12 and April 22. WCI plans about 35 meetings with pre-recorded videos of specific asks. WCI members are encouraged to reach out to WCI CEO Tracy Zea to for more information.

National Waterways Conference Legislative Summit is set for April 8-9. Agenda can be found [here](#) and you can register [here](#).