



## **Alliance Legislative Update**

June 3, 2011

### ***The Big Question: Will There Be A State Government Shut Down and What Does That Mean for Transportation?***

The question of how a potential state government shut down will impact transportation in the state is hot topic right now. Unfortunately, we have more questions than answers at this point, but some information is available from the last shutdown in 2005 – which may or may not be relevant to what may happen this year.

Here are some basic points to keep in mind about transportation funding in Minnesota:

- Although the budget debate involves the general fund, no funds can be spent by MnDOT from the Trunk Highway Fund without a direct appropriation. Federal highway funds are deposited into the Trunk Highway Fund.
- CSAH and MSA funds are allocated on a calendar year basis – not a fiscal year basis (July 1-June 30<sup>th</sup>). County funding is divided 60% for construction and 40% for maintenance while city funding is divided 75/25. Construction funds are provided in January each year while maintenance funds are provided through a series of allocations with the second maintenance payment usually provided in July. The second maintenance payment is expected to be provided earlier this year so most of the local state aid dollars will likely be allocated for this year by the end of June.
- MVST dollars for Greater Minnesota Transit and Metropolitan Area Transit are provided through an open and standing appropriation. Therefore dollars are automatically deposited in the Transit Assistance Accounts and are available to be spent without a direct appropriation. However, state personnel need to be available to process payments.
- MVST dollars for highways are deposited into the Highway User Tax Distribution Fund and so need a direct appropriation to be spent.

In 2005, the legislature and the governor failed to reach agreement on some of the state budget bills including the Transportation budget bill. Other budget bills had been signed into law and so those areas of government were not impacted by the budget impasse. This year only one budget bill – agriculture and rural development – has been signed into law.

In 2005, the courts had to balance the language in the Minnesota Constitution that prohibits the payment of any money out of the treasury without an appropriation by law with the language in the constitution requiring state agencies to perform the core functions of government along with the requirement that the state pay for such services. Ramsey County District Judge Gregg Johnson found that “core functions” included matters related to the life, health, and safety of Minnesotans and the maintenance and preservation of public property. Highway projects were included in the maintenance and preservation of public property.

A Special Master was appointed in 2005 to determine specifically which employees and which functions were to be considered “essential” and would therefore continue during a government shutdown. The determinations made by the Special Master in 2005 may not be the same as the determinations that may potentially be made this year.

In 2005, the Special Master determined that all 3,660 employees of the Metropolitan Council Transit agency were essential and that the provision of Metro Mobility was an essential service while the provision of Metro Transit services and contracted regular route service was essential for one month only.

For MnDOT, 998.5 employees out of 4,828 were deemed essential. Functions considered essential and therefore not interrupted by a shutdown included:

- Providing highway operations and maintenance emergency services affecting the safety of the public such as barricade replacements, fixing damaged guardrails and repairing hazardous conditions on roadways.
- Continuation of active (200) construction projects
- Continuation of payment processing for active county and municipal state aid projects
- Issuing permits for oversize/overweight trucks
- Operating rural transit services – for one month

For the Department of Public Safety, 851 out of 1,457 employees were deemed essential and functions considered essential included:

- State Patrol road troopers and selected supervisors
- Capitol Security
- Weigh scales
- Investigations of highway crashes
- Enforcement of commercial vehicles

There is still time for the legislature and governor to reach agreement on how to balance the budget and fund the remaining state agencies for the coming biennium prior to July 1<sup>st</sup> – averting a government shut down. The governor and legislative leaders were scheduled to meet today to talk more about how to produce a budget both sides can support. The prospect of certain state services and amenities (state parks) not being available may provide the pressure needed to reach agreement.

For transportation, it's not clear if active construction projects will continue or if companies will be ordered to stop work. It does appear that projects scheduled for lettings over the summer would be impacted if a government shutdown lasts for several weeks or more. It's also not clear if transit services will be deemed an essential service or for how long those services would be provided. In 2005, the shutdown lasted for 9 days.

The Department of Administration posted a notice in the State Register to contractors, vendors and grantees advising them that no budget agreement has been reached and that in the absence of legislation specifically appropriating funds, state authority to expend or release funds will be limited after June 30, 2011.

### ***How Did We Get Here?***

The session started with an official projection of a \$5 billion deficit in the general fund. That is based on spending \$39 billion for the coming biennium – the official projection for maintaining services using the laws and budget passed by the last legislature and approved by the last governor.

The state approved spending of \$34.5 billion for the previous biennium (FY2010-11) including one-time federal stimulus dollars accounting shifts to cover the costs. Governor Dayton proposed spending \$37 billion for the coming biennium in his budget.

The legislative leadership has pointed to the fact that the state spent \$30.2 billion in *state revenue* for the previous biennium and therefore their budget of \$34 billion in state spending is an increase over the previous biennium.

A couple of weeks ago, Dayton amended his proposal so it now stands at \$35.8 billion, leaving a difference of \$1.8 billion between the governor's budget and the legislature's budget. Dayton amended his plan to raise the income tax on the highest earners so that it would only impact the top 2 percent of earners and proposed additional cuts to the budget of \$1.8 billion.

The legislature rejected the governor's compromise and has not provided another offer since passing all of their budget bills which have now been vetoed except for the agriculture and rural development bill.

One of issues this year – unlike previous years – is whether or not the state needs any addition revenue, regardless of the source of the revenue, or whether the state should not spend any money over the \$34 billion level. While Governor Pawlenty rejected any state level tax increases, he did agree to additional spending with funds from the tobacco settlement and the health impact fee – the latter allowed for the budget agreement in 2005, ending the partial government shutdown.

The Legislative Commission on Planning and Fiscal Policy met on June 2<sup>nd</sup> and requested that the commissioners of Revenue and Management and Budget appear to discuss the governor's budget plan. The commissioners did not attend. Additional meetings of the commission may be scheduled.

Governor Dayton proposed yesterday that a mediator be brought in to help bridge the divide with the legislative leadership but that suggestion was rejected by Republicans.

Of all the budget bills passed to fund state government, transportation contained the smallest amount of general fund dollars at just \$62.1 million. The next smallest amount was contained in the agriculture and rural development bill: \$76.8 million.

In his veto letter, the governor noted that there are areas in which he is in agreement with the legislature on transportation but that the bill would seriously underfund transit, resulting in drastic fare increases and cuts to services. The governor's budget did not cut the general fund appropriation for transit at all while the bill passed by the legislature included a \$109 million cut (an 85% reduction) to metropolitan area transit and a \$7.5 million cut to Greater Minnesota transit.

***Important Action at the Federal Level - Transportation Alliance Will Be There!***

Last week, Senator Barbara Boxer (D-CA), Chairman of the Environment and Public Works Committee, Senator James Inhofe (R-OK), Ranking Member of the Committee, Senator Max Baucus (D-MT), Chairman of the Transportation and Infrastructure Subcommittee, and Senator David Vitter (R-LA), Ranking Member of the Subcommittee issued a joint statement announcing draft legislation to reauthorize the nation's surface transportation programs.

Titled Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21), the proposal funds programs at current levels; Consolidates numerous programs to focus resources on key national goals and consolidates numerous programs into a more focused freight program to improve the movement of goods; it creates a new section called America Fast Forward, which strengthens the TIFIA program to stretch federal dollars further than they have been stretched before; and expedites project delivery.

The Committee plans to work with the Finance Committee over the coming weeks to determine how to support and sustain the Highway Trust Fund.

Following a national listening tour and a series of hearings this spring, recent reports indicate that Chairman John Mica (R-FL-7th) is preparing his own legislation to be introduced in the coming weeks.

The House Budget Committee has provided funding totals for the bill which are intended to prevent future bailouts of the Highway Trust Fund at current tax rates. While draft legislation is not yet public, the funding parameters provided by the Budget Committee indicate there will be significant cuts to highway and public transportation spending.

**The Minnesota Transportation Alliance will be in Washington, D.C. June 14-16 ensuring that our Minnesota Congressional Delegation hears from our members regarding the importance of passing a Transportation Authorization Act and the impact federal funding has on Minnesota projects**