



Alliance Legislative Update

June 24, 2011

Government Shutdown Looms

Attorneys for the governor and special interest groups as well as the Attorney General appeared in court on Thursday to argue for those government services that should be considered essential and should continue during a government shut down.

Judge Kathleen Gearin said that she would not rule in the case this week and urged the legislature and the governor to come to an agreement and avoid a state government shutdown. She characterized the situation as a constitutional crisis and reminded those present that the situation is much different than it was in 2005 when a number of budget bills had been enacted. She made it clear that any spending authority granted will be very limited and only because there are no other options. She said that a court-appointed Special Master will have a far more restrictive mandate than in 2001 and 2005.

The judge ruled against the governor's request for a mediator to assist the legislative majority and the governor and minority in reaching a budget deal. She also dismissed a petition filed by four Republican senators arguing that the court had no authority to allow any government functions to continue during a shutdown. Many groups filed petitions asking to be part of the petition and recommending certain services be considered essential.

The attorney for Governor Dayton argued that only the governor has the authority to decide which services should continue with a shut down and that he doesn't need a court decision in order to act.

Legislative leadership promised to meet with the governor and work on a deal all weekend. The issue continues to be whether or not an agreement can be reached on spending more than \$34 billion over the next two years with the governor insisted on additional revenue – his proposal is \$35.8 billion and Republicans sticking to \$34 billion – the amount of revenue anticipated to come into the general fund.

Impacts For Transportation – Devastating

If there is a government shut down, the issue of what happens to active construction projects is a major concern. The governor's list of priority one and two services submitted to the court did not include maintaining active construction projects. The Attorney General's filing does mention construction as well as maintaining safe transportation systems and protection of public land and equipment.

The entire 2011 state highway construction season is at risk – 258 new and ongoing projects worth \$900 million. And that is just the work on the state system. Cities and counties are also looking carefully at road and bridge projects and may be forced to cancel or delay projects because state personnel will not be available to inspect the work and forward federal funds designated for road projects. Local projects with federal funds involved may well be shut down, adding another \$150 million to the \$900 million worth of projects on the state system. According to the U.S. Department of Transportation, every \$1 billion in investment in highway and bridge construction generates 28,500 jobs. So our state is looking at the potential loss of over 28,000 jobs as contractors lay off skilled trades people, engineering firms let talented professionals go, cities and counties defer projects and suppliers of materials such as asphalt, cement, steel, and pipes to the transportation industry will be forced to lay off workers and will have to sit on inventory.

The Associated General Contractors of Minnesota filed a petition with the court requesting that construction projects be considered an essential service and funded during the shutdown. A number of organizations supported this petition. A letter from the Transportation Alliance in support of this position was delivered.

Shutdown Web Page – Check frequently for new developments

You can view all of these documents and information on the impact for projects on the local road system on our web site: <http://www.transportationalliance.com/content/gov-shutdown-info>

The Association of Minnesota Counties has provided some guidance to county officials regarding local highway and bridge projects. The full document is available on our web site. Here are the basic points to remember:

- **All county boards need to make an explicit determination for each federal and state funded project within its jurisdiction as to whether the county intends to continue work on a project during the shutdown (and then, if it is a project on the state aid system, that go or no-go decision should be communicated to MnDOT immediately).** Ultimately, while counties will likely have some local road projects that will be good candidates to remain open during a shutdown, a county board will likely be forced to cease work on all of their projects on July 1 if the board has not proactively examined its projects on a case by case basis and taken the steps necessary to ensure that work can continue.
- **When examining each federally and state funded road project to determine if it should proceed during a shutdown, county boards should work with their engineer to conduct a risk assessment that will provide the information necessary to make an informed decision.** This risk assessment should be conducted using the previous information provided by MnDOT to the county engineer, and by consulting the “Local Risk Assessment Guidance” document created by MCEA. All of these materials are available on the AMC shutdown website.
- **Counties should carefully document all work including inspections and other quality assurance procedures conducted during a shutdown** as it is extremely likely (especially for federally funded projects) that the work will be audited in the coming months to ensure it was conducted in a way that complied with all applicable laws and regulations.
- **County boards should not expect to be reimbursed for any additional costs that are incurred by the county due specifically to efforts to keep projects open during a state shutdown.** While counties should still ultimately receive the allocated funding from federal and state sources to deliver planned road projects, any other costs specifically related to the shutdown (such as for alternate inspection and materials certification services previously anticipated to be provided by MnDOT that would not therefore be accounted for in initial project plans or estimates) will likely have to be incurred by the county overseeing the project.

Contact Your Legislators and the Governor TODAY!

The Transportation Alliance has sent out an Action Alert to our members urging everyone to contact legislators and the Governor and urge them to reach a deal prior to July 1st.

Tell Legislators and the Governor: Not only are 20,000-30,000 jobs at risk in the private sector, smaller companies that don't have cash reserves could go out of business. Minnesota's construction industry is still 60,000 jobs short of the peak in 2006 and over 6,000 construction firms have gone out of business since 2006.

The final budget deal should include adequate funding for transit systems and general obligation bond proceeds for important capital bonding projects including local roads and bridges and other transportation infrastructure projects.

We need lawmakers to do everything possible to support the state's construction industry and keep people working. Transportation continues to be underfunded in our state, leaving Minnesotans with crumbling roads and bridges and struggling transit systems.

Thousands of people will be living without a paycheck during a government shutdown. They need to get their work done as quickly as possible and keep transportation working in our state.