

DAILY NEWS CLIPS

FEDERAL NEWS CLIPS

June 21, 2012

POLITICO MORNING TRANSPORTATION NOTES

By Adam Snyder and Burgess Everett
Politico – Morning Transportation Blog
June 21, 2012

While you slept, staff worked - Boxer, Mica mum on how talks went - But Boehner upbeat on bill's chances

MAKE OR BREAK: By all accounts, the transportation bill will live or die this week. There have been lots of top-level meetings, but the biggest of all is yesterday's John Mica-Barbara Boxer sit-down (or group of them). Staff worked late into the night on several transportation sticking points (MT readers know the list). Boxer emerged from the meeting last night and told reporters that they're still working on the transportation parts (translation: Keystone and pay-fors still need resolution).

"We have to first have agreement on the transportation bill," Boxer told reporters. "Once that's done we have to get to all the other issues, so we're working on the transportation part and we have about three or four issues that we're negotiating and we'll give an update tomorrow." MT asked if she still planned to hold a presser today (as she said on Monday), but that seems up in the air now: "I don't have a press conference at the moment planned but I may announce something tomorrow. We'll see."

Mica, who broke from the meeting a bit before Boxer, said they're "working like dogs" and literally ran away from several reporters eager for an update. He declined repeated requests to comment on the negotiations.

MUM MICA: Earlier in the day, MT bumped into (OK, stalked/tracked down) Mica ahead of Attorney General Eric Holder's oversight committee contempt vote, and the chairman was uncharacteristically quiet on the transportation bill. Here's how it went down.

So have you been meeting with Sen. Boxer? "We've been in intense negotiations."

Is it the kind of thing you are picking up on when you have a spot during the day? [Note: A busy day on Oversight and on the Senate farm bill made long sit-downs impossible.] "No, we've had intense negotiations and they're continuing."

Do you expect this to go through today and tomorrow? Is there a light at the end of the tunnel? "We'll be back together at the designated time and try to finish."

You don't want to talk about this so much? "I really shouldn't."

But you are still meeting? "Oh yeah."

Making progress? Can we at least generally say that or no? (Long pause) "You can say from his demeanor."

'LIMITED HOPE': Does Mica's newfound silence mean a deal is brewing? A freshman House Republican met with Speaker John Boehner last night, according to an aide, and the speaker seemed cautiously upbeat on the chances of a bill. Boehner "expressed some optimism about still being able to get a highway bill passed before the expiration of current programs. 'We may just surprise some people' were his approximate words," the aide wrote. "This is by no means a guarantee, but it may be cause for some limited hope that we can still pass a new authorization."

EXTENSION DISTRACTION: Of course MT and other reporters will keep asking about possible extensions as the clock ticks down to June 30. But conferee Rep. Larry Bucshon said all that chit-chat might be diverting attention from the conference work. Asked if all the extension talk is a distraction, Bucshon told MT: "I think it does a little bit because it's changed, a little bit, the focus of the groups that are interested out there." And he was pretty clear about it: "From a conferees' standpoint, I don't want to talk about that."

Or reason for action? But Sen. Dick Durbin put the negotiations that are hanging in the balance in concrete (literally) terms. "If we do an extension, it kills the construction season in the states that know what winter is all about," he said, making an obvious reference to the chilly months in Illinois. He said the jobs of 61,000 highway workers in Illinois will be threatened by the uncertainty created by a six-month extension, the preferred option of some who'd like to push this debate past the election. "What we're doing now is limping along with existing projects with no promise of long-term funding, so any major project in my state is put on hold. If we have at least a two-year agreement, the project goes forward." Guess which chamber's bill might be of that length?

A SIGNIFICANT PROVISION: One matter the House is taking issue with in the Senate bill is the Projects of Regional and National Significance program, Bucshon told MT. It was created under SAFETEA-LU, but all of its funds were earmarked. "Basically it would take away from Congress the ability to direct \$1 billion in highway money. And it could be used for political reasons." At this point you're probably thinking that Bucshon is a huge earmark fan. Not true. He continued: "And I'm against earmarks, so it's basically an executive branch earmark." Asked if he felt the TIGER grants were used politically, Bucshon said, "Yeah, to a certain extent."

FINANCIERS ON PAUSE: Ways and Means conferee Pat Tiberi said the money handlers on the negotiations are effectively sidelined until transportation policy is decided on the bill. "What's the number? When we find out what the number is going to be, we'll figure out how to pay for it," Tiberi told reporters. Senate negotiators Orrin Hatch and Max Baucus have said as much recently, too, and Boxer's comments last night indicate there hasn't been much money talk yet.

CALLING THEM OUT: Durbin would not rule out voting for an extension, though he said it would be “no help” to his constituents in Illinois. But if he does have to vote for a stopgap, he will have a bone to pick. “I would do it pointing a finger at the House and particularly the House Republican colleagues from Illinois. Two of them had the courage to step up and say the speaker’s wrong on this. Only two. Where are the rest of them?” The majority whip is referring to Reps. Robert Dold and Judy Biggert, who along with Rep. Charlie Bass asked the speaker to put the Senate transportation bill on the floor. It’s unclear how welcome such an endorsement is from one of the most powerful Democrats in the country.

Originally published here:

<http://www.politico.com/morningtransportation/0612/morningtransportation168.html>

OPTIMISM SPARKS UP AS TRANSPORTATION BILL TALKS GET FRESH START

By Keith Laing

The Hill

June 21, 2012

A new sense of optimism was in the air at transportation negotiations Wednesday as the leaders of House-to-Senate talks resumed their work.

Lawmakers on both sides of the aisle said the Tuesday intervention by House Speaker John Boehner (R-Ohio) and Senate Majority Leader Harry Reid (D-Nev.) had sparked new life in the talks.

Sen. Barbara Boxer (D-Calif.) and Rep. John Mica (R-Fla.), the chairmen of the Senate and House panels negotiating the deal, met again Wednesday, with Boxer saying the two would talk for as long as it took to get a deal.

“Starting today we are meeting for hours and we will let you know when we have an agreement,” Boxer told reporters at the Capitol.

“The meeting yesterday was huge progress, both leaders saying they want a bill by the end of the week,” she said. “It was huge progress and we have hours on the schedule with the principals, so it’s all progress.”

Mica offered a similar appraisal, telling The Hill, “We’re working hard.”

Lawmakers added that the leaders’ instruction that negotiators redouble their efforts was seen as genuine and boosted hopes of a deal before the July 4 recess, which begins a week from Friday.

Funding for federal transportation projects will expire on June 30 without a deal. The highway bill funds road and transit projects and authorizes the federal government to collect the 18.4 cents-per-gallon gas tax used to pay for the projects.

Without a deal on a long-term bill, lawmakers could be forced to approve the 10th short-term extension of existing funding, something Republicans have raised as a possibility. But Boxer has warned the

highway trust fund backed by the gas tax could go bankrupt without a new funding mechanism for projects.

The Senate has passed a two-year, \$109-billion transportation bill, while the House has been unable to approve long-term legislation. The House has passed a short-term bill that would extend existing funding through Sept. 30, but this week's work signals GOP leaders would prefer a longer agreement.

Democrats in the Senate made an offer to House Republicans on Tuesday about a possible compromise, but neither side has revealed its details so far.

The biggest holdup has been the House's demand of a mandate forcing the Obama administration to approve the controversial Keystone XL oil pipeline.

Lawmakers did not comment Wednesday on whether this provision was included in the Senate's latest offer on the transportation bill, but Rep. Reid Ribble (R-Wis.) said the Democratic proposal was a step in the right direction.

"There was some movement, which tells me that they want to try to get it done," he said. "But the hard stuff matters, the stuff that would require us to get to 218. [That's] what they're going to be working on."

GOP leaders in the House labored to bring conservative members of their caucus on board with a five-year, \$260-billion transportation bill that had been suggested earlier this year by Boehner because it spent more per year than the amount that is brought in by the federal gas tax.

But the inclusion of the Keystone mandate appears to have united Republicans against opposition to the provision from Democrats in the Senate. Earlier this month, the House defeated a motion by Rep. Paul Broun (R-Ga.) to instruct highway conferees from the House to limit the spending in the highway bill to the roughly \$36 billion per year brought in by the gas tax, with 145 Republicans voting against the proposal.

Other lawmakers on the two transportation committees expressed optimism Wednesday.

"Apparently we're finally getting down to the point of serious negotiations," said Rep. Peter DeFazio (D-Ore.), who had accused House Republicans of "hating America" in earlier debates about the transportation bill.

"Until this week, it was all 'he said, she said' except for some minor titles on the bill," DeFazio said. "I'm more cautiously optimistic than I had been in a long time."

"They both said that they're committed to getting it done," said Ribble.

"The two chairmen are meeting, working on the hard things," he said. "We'll just see where it goes."

Originally published here: <http://thehill.com/homenews/news/233977-optimism-reigns-as-highway-negotiations-get-fresh-start>

CIGAR LOVERS TO FDA: A CIGAR ISN'T JUST A CIGAR

By Michael Felberbaum

Associated Press

June 20, 2012

Sometimes a cigar isn't just a cigar.

From large hand-rolled cigars and smaller machine-made cigars to little cigars that are similar in size to cigarettes, there are nearly as many cigars as there are aficionados to enjoy them. And as federal regulators weigh standards for the entire industry, some in the cigar world are pushing to make sure their livelihoods and the products they enjoy don't go up in smoke.

While the Food and Drug Administration has expressed its intention to regulate cigars under a 2009 law that gave it authority over the tobacco industry, it has yet to specify what's ahead as it ramps up efforts to curb the death and disease caused by tobacco.

If it's anything like the FDA's regulation of cigarettes and smokeless tobacco, that could mean banning certain flavors, requiring new health warnings, limiting the sizes and shapes of cigars, or imposing restrictions for marketing, advertising and retail sales. Cigars also may be restricted from being sold separately and the agency also could limit the amount of nicotine in the products.

The premium cigar industry argues any number of the potential restrictions could hurt both cigar makers and specialty tobacco stores, whose products make up only a small fraction of tobacco sales, don't pose the same concerns as cigarettes, and the range of sizes and shapes of cigars makes across-the-board standards almost impossible.

Even the House Appropriations Committee weighed in on issue in its report on the fiscal year 2013 Agriculture Appropriations bill on Tuesday, reminding the FDA that "premium cigars have unique characteristics and cost prohibitive price points and are not marketed to kids. Any effort to regulate cigars should take these items into consideration."

"If you're going to focus your efforts on regulating tobacco products to meet the spirit and intent of the Tobacco Control Act, where is best to spend those scarce resources - on a tenth of a percent of the market or on a huge chunk of the market?" asked Bill Spann, CEO of the International Premium Cigar & Pipe Retailers Association, an industry group representing more than 2,000 tobacco retailers and more than 350 cigar manufacturers, distributors and others.

According to the latest federal data, there are about 13.3 million cigar smokers in the U.S., far less than the 45.3 million U.S. cigarette smokers.

U.S. tobacco sales topped \$107 billion in 2011, but only 7 percent, or \$7.77 billion, consisted of cigars, according to statistics from Euromonitor International. And of the 7 billion cigars sold annually, only about 250 million of them qualify as premium, handmade cigars that range in price from \$6 to \$30 and are - as far as Spann is concerned - akin to fine wines and craft beer.

While Spann recognizes the need for tobacco regulation, he believes smoking premium cigars is a hobby, not a habit, and they aren't marketed or sold to children.

"You don't have a middle-schooler or high-schooler standing on the corner with a \$15 Davidoff (a brand of cigar) sticking out of their mouth," Spann said.

Possible restrictions to premium cigars have been a topic of conversation at any one of Craig Cass' specialty tobacco shops in North Carolina and South Carolina, where smokers often make use of lounge areas to smoke and chat.

"They're worried about losing the artisan nature of our products, where every time they come in there's something new to select from," Cass said, adding that customers aren't just coming in to "grab their smokes," they are looking for a particular cigar to suit their mood or the situation.

If regulations force cigar makers to conform their products, that could limit the number of cigars available for aficionados to choose from the store's large, walk-in humidors.

"All of that range of flavor is very unique to every single box in the humidor," Cass said. "If we were like the other category of tobacco like a cigarette, you could walk in the humidor and have 10 boxes of cigars in there. ... We have 700."

Cass' interaction with customers could also change under federal regulations, putting the cigars behind the counter rather than in a humidor where customers can smell, touch and see a variety of cigars. In Canada, for example, cigar shops now have binders with a list of available cigars that customers can point to on a piece of paper.

Cass and Spann have joined with others in the cigar industry to seek a change in Congress to protect premium hand-rolled cigars from FDA regulation and save 85,000 small business jobs around the country. Resolutions in both the House and the Senate remain in committee.

In the House, the resolution sponsored by U.S. Rep. Bill Posey, a Republican from Florida - home to many of the nation's premium cigar makers - has gained more than 200 co-sponsors. The Senate resolution, sponsored by Democratic U.S. Sen. Bill Nelson, also from Florida, has more than 10 co-sponsors.

As far as regulation is concerned, the greatest need is to "put an end to the production and marketing of products that have the greatest appeal to youth," said Matt Myers, president of the Campaign for Tobacco-Free Kids, singling out machine-made large cigars, little cigars and tobacco wrappers that sold at convenience stores for low prices and in a variety of flavors like peach and strawberry.

Nearly 19 percent of high school boys currently smoke cigars, according to the 2009 Youth Risk Behavior Survey. That's slightly less than the 2005 rate of 19.2 percent.

"These highly flavored little cigars clearly appeal disproportionately to young people and have the potential to serve as starter tobacco products," Myers said.

While all cigars increase the risk of disease, Myers said "the FDA has the ability to segment which cigar products pose the greatest risk both in terms of disease and in terms of youth use and to design regulations appropriate for each, which is what we'd like to see them do."

Richmond, Va.-based Altria Group Inc., owner of Black & Mild cigar maker John Middleton, said in a statement that if the FDA asserts regulation over cigars, it should be "science-based and apply to all cigar manufacturers." Machine-made Black & Mild cigars and cigarillos are sold in flavor varieties such as sweet, wine and apple. Altria also owns the nation's biggest tobacco company and maker of top-selling Marlboro cigarettes, Philip Morris USA.

But for Rocky Patel, who quit his job as an entertainment lawyer in California to start a boutique cigar business out of his garage, legislative or regulatory exemption of premium handmade cigars is vital to his survival and the about 2,000 people he directly or indirectly employs.

"I gave up a law practice to start this dream ... I worked relentlessly and built this company and started with nothing," Patel said of his Florida-based cigar company. "We went from making 100,000 cigars to about 18 million cigars (each year) and all this could be taken away with the stroke of a pen from the FDA."

Originally published here with video: <http://www.theolympian.com/2012/06/20/2147681/cigar-lovers-to-fda-a-cigar-isnt.html#storylink=cpy>

LAWSUITS FILED OVER TOBACCO TAX BILLS

By Penny L. Pool
The Randolph Leader (AL)
June 20, 2012

Last week Ashland attorney Gregory M. Varner filed lawsuits in circuit court in both his home county of Clay and in Randolph County against the local legislative delegation's tobacco tax bills,

The lawsuits are seeking judgments that Senate Bill 486 relating to Randolph County and Senate Bill 476 in Clay County are unconstitutional.

Being sued in Randolph County are state Sen. Gerald Dial, Rep. Richard Laird, Rep. DuWayne Bridges, Dr. Marquita Davis, Alabama's director of finance, and Thomas L. Wright Jr., the state comptroller.

Varner filed the five-count lawsuit on behalf of the Randolph County Industrial Development Council, the Randolph County Water, Sewer, and Fire Protection Authority and as individuals: Hutch Hammond, Faye Sims Smith and Todd Freeman. He said there is some belief that only individuals have standing to sue.

Freeman, Hammond and Smith are listed as Randolph County citizens and taxpayers. Davis and White are sued in their official capacities.

Varner alleges SB 486 is unconstitutional, void and invalid and says plaintiffs want an injunction, both temporary and permanent, preventing the alteration and modification in distribution of Randolph County's tobacco tax receipts.

Ultimately Varner said the suits are designed to have each of the bills in each county set aside as unconstitutional.

Additionally, with the redistricting of Clay there will be taxation without representation. Citizens will pay the tobacco tax to the District Community Service Grant Authority now controlled by Dial, Bridges and Laird but after redistricting takes effect the money will be controlled by people not representing Clay County. After 2014 parts of the county will be represented by another senator and two other representatives who are not members of the grant authority. Clay will no longer be in Laird's district and much of it will no longer be in Dial's district.

"The reason we're bringing the suit is, number one, the bills were passed against the overwhelming objections of all the counties. We're protecting the taxpayers' money and, in the words used by the governor, shutting down a slush fund that is unconstitutional," Varner said.

The Randolph County Industrial Development Council is a plaintiff because when the bill becomes effective July 1 it restricts the council's authority to govern its own affairs and limits its use of funds, according to the complaint.

It will cause imminent and irreparable damage to the two authorities (Water Authority and Industrial Development Council), terminating the expansion of planned water line extensions that would provide water to many rural communities and would include the likely termination of valuable and experienced staff at the RCIDC, the complaint alleges.

The Water Authority says an average of \$50,000 will be diverted annually from its operating budget due to this bill.

The complaint notes Gov. Robert Bentley vetoed SB 486, saying the bill does not appear to be adequately advertised as required by Alabama law. The Senate and House ultimately overrode the executive veto.

Jeremy King, Deputy Communications Director in the governor's office, said, "Governor Bentley believes the bills are unconstitutional, and he has been very open about that view since the time of his veto. The fact that the Legislature overrode his veto would not change his opinion on the issue."

Varner said during the governor's recent visit to Clay County a person in a group session thanked the governor for his veto and the governor referred to the the fund created by the bills as a slush fund and said they were unconstitutional.

Varner asked the governor to join the lawsuit and he said he did not know if he could do that but he would look into it.

The industrial development council's funds from the tobacco tax can, as specified by the bill, only be expended for recruitment of new and existing industries and no more than 20 percent of the generated revenue can be spent on personnel and/or related to personnel.

It restricts the discretion of the Industrial Development Council, forbidding the use of funds to work on broad-based economic development initiatives, such as workforce development and jobs training, the complaint says.

The complaint states Dial altered the proposed legislation, which was not advertised as required after the changes. For example, the published notice created and funded a District Community Service Office with staff, equipment, etc. but that was deleted from the amended bill. A District Community Service Grant Authority consisting of the three legislative delegation members was created to allocate funds. Also, the tobacco funds distribution was changed, as well as the effective date of SB 486.

The complaint also alleges SB 486 is discriminatory because a tax levied in Randolph County can be used in other counties.

David Meddick, chairman of the Randolph County Democratic Executive Committee, said the group is planning to meet and make a decision on whether to join this lawsuit or not.

Chambers County discussed it in executive session Monday but has taken no action.

Clay County Commissioner Roy Johnson and individuals Terry Meek, Mary Wood and Andrea Jackson filed suit in Clay County against the same people, but added Johnny McReynolds, chairman of the Alabama Forestry Commission, the Clay County Industrial Development Council and Citizens For The Welfare of Animals in Clay County as defendants. Their opposition is to Senate Bill 476. The complaint also asks the defendants be enjoined from the allocation of funds as directed by SB 476. The legislation will divert about \$117,000 from the Clay County Commission's operating budget. SB 476 will increase the percentage of Clay County Tobacco tax receipts from 32 percent to 35 percent going to the Forestry Commission. The Industrial Development Council amount is increasing under the new bill from 20 to 25 percent. Not a current recipient of funds, under this bill the Citizens for the Welfare of Animals in Clay County will receive 15 percent of the tobacco tax receipts.

Complaints are similar except when SB 476 becomes effective \$68,000 will be diverted annually from the Clay County Commission General Fund and \$48,000 will be diverted from the commission's fund dedicated to water feeder lines. Services may be eliminated or reduced. Planned water line extensions may be terminated.

The complaint also noted the percentage set aside for the Community Service Grant Authority in all three counties: Clay County's SB 476 specifies 25 percent, or on average \$60,000 annually; Randolph County's SB 486 specifies 10 percent, or \$50,000 annually; and Chambers County's SB 487 specifies 18 percent, or approximately \$90,000 annually.

According to the census Clay County's population is 13,932; Randolph County's is 22,913 and Chambers County's is 34,215. Per capita, Clay County residents will pay \$4.30, Randolph residents \$2.18 and Chambers residents \$2.63.

The complaint alleges Clay County residents are paying more per capita to fund the grant authority.

Dial and Laird did not immediately return telephone calls Tuesday requesting comments on the lawsuit. Previously, Dial had said if people want to waste their money filing suit it is their business. He said Attorney General Luther Strange will defend them.

Originally published here: http://www.therandolphleader.com/news/article_4648812e-bae7-11e1-83ca-001a4bcf887a.html