

May 8, 2012

The Honorable Barbara Boxer
Chair, Senate Environment and Public
Works Committee
United States Senate
410 Dirksen SOB
Washington, D.C. 20510

The Honorable John Mica
Chair, House Transportation and
Infrastructure Committee
United States House of Representatives
2165 Rayburn HOB
Washington, D.C. 20515

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California
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Northern
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Passenger
Rail Authority

Southern High
Speed Rail
Commission

Dear Senator Boxer and Representative Mica:

On behalf of the States for Passenger Rail Coalition (SPRC), an organization representing 34 member states across the nation, I write regarding several passenger rail policy provisions that are of importance to states. As you begin conference negotiations on surface transportation authorization we hope you will keep our views in mind.

We respectfully ask that you consider the following policy positions as you negotiate a conference report:

- **Streamlining:** Both S. 1813 and H.R. 4348 allows states to strengthen their various roles in the planning and environmental review processes. We urge you to extend these provisions to rail projects as well. Rail projects face many if not all of the regulatory challenges faced by other modes. Extending these provisions to rail takes a more holistic approach to the transportation system. We would note strongly that states will exercise these provisions without compromising our fundamental commitment to environmental stewardship.
- **Rail Planning:** We urge you to remove the requirement for the detailed rail capital projects list as defined on page 1344 in S.1813, Subtitle A in Section 35101 relating to 22703(f)(2) for state rail plans. This level of detail is not appropriate for a state rail plan and would be a burdensome requirement to fulfill. It would add significant cost and delay to rail plan development, impose a level of analysis inconsistent with transportation planning for other modes, and necessitate access to information that states may not be able to obtain, such as for freight rail projects. We urge parity with other modal planning requirements and request that the final bill remove this requirement from existing and proposed law.
- **Sec. 209 Transition Assistance:** We strongly support Sec. 35201 of S. 1813 to provide a multi-year transitional assistance to the affected states for implementation of Sec. 209 of the Passenger Rail Investment and Improvement Act (PRIIA). The assistance will start in FY2014, the first year of implementation, and will phase-out by 2017. With respect to Sec. 35201(a)(2) regarding services that were not fully State-supported, we urge that the language be changed to clarify that “Federal transition assistance shall be available for the full new operating cost assessed to states for routes that were not state-supported prior to enactment of PRIIA.”
- **CMAQ Flexibility:** We support the provision in Sec. 1113 of S. 1813 to allow the Transportation Secretary to continue to allow states to use Congestion Mitigation and Air Quality (CMAQ) program

funding for operating intercity passenger rail service; however, we encourage you to provide more flexibility to states by eliminating the three-year cap.

- Sec. 130 Railway/Highway Crossings Program: We support the existing Sec. 130 Railway/Highway Crossing Safety Program and urge you to retain it. In addition, we urge you to expand the program to include measures to reduce trespassing, the number one cause of railroad fatalities. In 2011, FRA statistics reveal that trespassing (426 fatalities) and highway-grade crossing (249 fatalities) incidents accounted for 95.20% of all fatalities. While S. 1813 would use railway/highway crossing fatalities as one of several performance measures in the Highway Safety Improvement Program, we believe that at-grade crossings pose enough of a danger to highway and rail safety to warrant continuing the existing proactive and small, but effective program. According to the Federal Railroad Administration, since the beginning of the Section 130 Program in 1974, approximately \$3.8 billion has been obligated for grade-crossing safety improvements. Evaluations of safety improvements made under this dedicated program indicate that it has helped prevent over 10,500 fatalities and 51,000 nonfatal injuries.
- Cooperative Equipment Pool: We have serious concerns with Sec. 35105 of S. 1813, which would require states receiving federal funds to pool passenger rail equipment to be controlled by an outside pooling entity. States are investing federal dollars to procure PRIIA Sec. 305-compliant equipment, and are required to invest state resources as a funding match and/or to maintain the equipment for its useful life. To have the federal government force states to place their equipment in a pool and give an outside entity the authority as to where those assets are deployed is not a proven concept, nor is it one with which other modes of transportation must comply. Additionally, for states that provide state funds as match to purchase the equipment, such a provision to require the state to then turn over the equipment to a pooling entity would likely violate state law.
- Certification of Passenger Rail Carriers: We are concerned with Sec. 35601 of S. 1813, which would grant the Surface Transportation Board (STB) the authority to set up new guidelines for the operation and insurance of passenger rail carriers. Such a move would establish a new licensing and regulatory hurdle for entry into the passenger rail market, and would overturn federal statute in favor of new regulations to be promulgated by the STB. As many states and regional passenger rail agencies currently have rigorous standards and criteria established in their contracts with rail operating vendors, we are concerned transferring this significant authority to the STB will simply add another layer of regulatory oversight and may stifle the growth of passenger rail in the United States. We are also very concerned the provision will create undue financial hardship by requiring both the state-sponsor of passenger rail as well as the private contractor to each carry a minimum of \$200 million of general liability insurance. It is unlikely the insurance market is prepared to provide the insurance to support this requirement, forcing rail owners and operators to purchase insurance from a limited and declining pool of primarily foreign insurance providers.
- Compensation for Private-Sector Use of Federally-Funded Assets: We are concerned with Sec. 35207 of S. 1813, which would require a fee to be paid to the federal government should a state choose a passenger rail operator other than Amtrak, in order to compensate the federal government for the use of equipment or other infrastructure that has received a federal investment. While it would be appropriate for a fee to be paid if a state and a private operator intended to use Amtrak-owned equipment, states are now purchasing and maintaining their own equipment with federal, and state, funds and it would be inappropriate and unfair to pay twice for the same equipment. Additionally, such a provision would lock states into a sole-source relationship for the operation of their passenger corridors. There are no other modes of transportation, including commuter rail, transit, aviation or ferries that must pay a fee to the federal government to use equipment granted to the states.

- Transportation Development Credit Flexibility: We support efforts to expand the use of transportation development credits to allow states to use the credits toward the non-Federal share for the completion of intercity passenger rail projects. Current law allows states to utilize this funding tool for a variety of highway and public transportation projects. By allowing the use of transportation development credits for intercity passenger rail projects, states will be provided the freedom and flexibility to stretch their transportation dollars further to develop transportation projects.
- Amtrak Board of Directors: We believe the Amtrak Board of Directors should assure representation of the diverse geographic regions in which Amtrak services operate. Each member of the Board should have general knowledge of the operations, management, and/or financing of intercity passenger rail services, preferably with prior direct work experience in at least one of these areas. At a minimum, at least one Board Member should have public sector experience related to the development and operation of intercity passenger rail transportation, including a working knowledge of processes and programs under which state-supported Amtrak services and routes operate. We believe 49 U.S.C. 24302 should be amended to require at least one Board Member to have such public sector passenger rail experience.

Thank you for your attention to our concerns. Please do not hesitate to contact me directly if we can provide any additional information or answer any questions.

Sincerely,



Paula J. Hammond, P.E.
Chair, States for Passenger Rail Coalition

cc: Speaker Boehner
Senate Majority Leader Reid
Senate Minority Leader McConnell
House Minority Leader Pelosi
House and Senate Conferees