

Holland+Knight

Jeffrey F. Boothe
2099 Pennsylvania Avenue, NW
Suite 100
Washington, DC 20006
(202) 828-1896
Jeff.boothe@hklaw.com

Small Starts: Promise Deferred for Streetcars

Promise of Small Starts

- House SAFETEA-LU bill shaped by HR 1315, Community Streetcar Development and Revitalization Act
 - Elevated role of land use and economic development reflected in HR 1315
 - Included in Small Starts section of House SAFETEA-LU bill
- Congress largely incorporated the House provisions

108TH CONGRESS
1ST SESSION **H. R. 1315**

To direct the Secretary of Transportation to establish a pilot grant program to provide assistance for the capital and startup costs of streetcar development and revitalization.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2003

Mr. BLUMENAUER introduced the following bill, which was referred to the Committee on Transportation and Infrastructure

A BILL

To direct the Secretary of Transportation to establish a pilot grant program to provide assistance for the capital and startup costs of streetcar development and revitalization.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Community Streetcar

5 Development and Revitalization Act".

NPRM on New Starts/Small Starts

- FTA issued Notice of Proposed Rulemaking (NPRM) on August 3, 2007
- Comments are due November 3, 2007
- Urge each participant to submit comments
- Crucial that FTA receive many comments to establish the basis for reversing some proposed actions included in the NPRM

NPRM on New Starts/Small Starts

- NPRM does not follow SAFETEA-LU for Small Starts program
 - Creates Very Small Starts program even though eligibility criteria in law is \$250 M total cost and no more than \$75 M section 5309
 - FTA establishes simplified process for projects with total cost of less than \$50 M, no more than \$3 M per mile
 - Establish eligibility criteria for BRT not found in law (3,000 riders/day and number of hours of operation) while ignoring criteria (off-vehicle fare collection, park-and-ride lots, etc.)

NPRM on New Starts/Small Starts

- NPRM is not mode neutral
 - Very Small Starts program can only be BRT due to eligibility criteria
 - VSS projects automatically receive “medium” for all project criteria with no demonstration of actually meeting criteria
 - Lower cost streetcars must go through Small Starts even though they are also street running and raise minimal environmental issues

NPRM on New Starts/Small Starts

- Project Review Criteria
 - Cost Effectiveness (CE) receives 50 percent weight
 - Must have “medium” rating for CE in order to advance through each phase of process
 - Land use and Economic Development merged into single criteria receiving only 20 percent weight
 - SAFETEA-LU calls for separate measures
 - FTA continues focus on “mobility” and addressing congestion through adding lanes versus also valuing economic development and “trip not taken”
- Policy decisions are included in NPRM requiring future Administration to rescind rule, Congress to change statute or future rulemaking in 5-7 years to reverse

How Does NPRM Treat Streetcars?

- While eligible for Very Small Starts - - -
 - Project cost limits exclude most streetcar projects
 - FTA has discouraged lower cost streetcar projects from proceeding as “Exempt Projects” prior to finalizing New Starts rule
- Thus, Streetcar Projects must proceed under a “New Starts – lite” process
 - Despite emphasis in statute on land use and economic development
 - Cost effectiveness, as currently measured by FTA, remains major barrier to project advancement

Hope for Streetcars??

- FTA is examining “modal constants” of streetcars to capture other project benefits
 - Attributes of a project such as additional ridership resulting from streetcar versus a bus, perceived comfort, one-seat ride, etc.
- FTA will consider impact of walking trips, but only if travel demand model captures trips and doesn't double-count trips
- BUT - - -
 - Assumptions on signal preemption or priority for streetcar must be included in bus baseline
 - Assumptions regarding land use or economic development decisions/actions included in both streetcar and Baseline bus project

FY 08 THUD Bill

- House FY 08 THUD Bill
 - Addition of land use and economic development was a deliberate action by Congress
 - FTA is not adequately incorporating these criteria in project review process
 - Directs FTA to modify project review process when rating, evaluating and recommending projects for funding
 - Include all six factors through all phases of project development and advancement
 - Multiple-measure approach
 - Project recommendations can't be based on any single factor
- Senate FY 08 THUD Bill

Challenges Looking Forward

- Get more streetcar projects in Small Starts queue
 - Concern – absence of streetcars will be interpreted as lack of interest, or
 - That federal funding is not necessary and that the projects should be solely a local or private sector responsibility
- Need to simplify project rating and evaluation process
- Recognize that streetcars and BRT each have benefits and should be not be treated same
- Enable non-traditional project sponsors, i.e., cities or not-for-profits, to become project grantees
 - Current FTA process can take a year
 - As a result, usually enter MOU with transit authority