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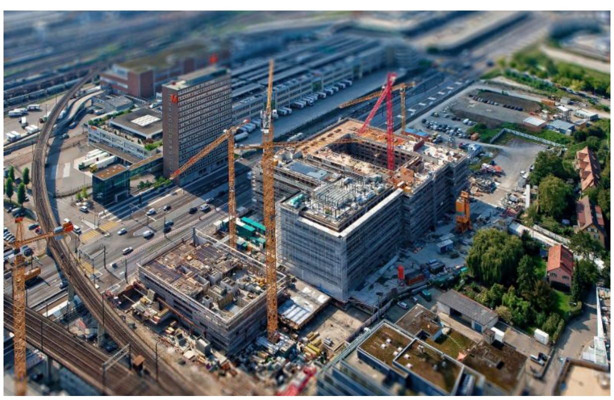

Congress Likely To Use Two Bills for Infrastructure

The partial federal government shutdown is overshadowing all business in Congress. It is looking less likely that this Congress is going to agree on any major issue, except infrastructure. SFAA has learned that the House likely will consider two bills this year. The first would be a “refunding” bill for current programs. The second will the reauthorization of the Highway Act, which includes the TIFIA program, which finances and provides other credit assistance for large highway projects. SFAA will seek to include a bonding provision in this federal program. Several key Republicans are urging President Trump to jump start the process by urging Congress to pass a bill this year in his State of the Union address. If nothing else, they want the President to address the growing shortfall in the Highway Trust Fund.

New York Budget Allows Alternatives to Bonding

Governor Cuomo's budget for New York would allow the construction manager at-risk project delivery method and the construction manager build method. Currently, some state entities are authorized to use design-build projects and to set the performance and payment bond requirements. The proposed budget bill, however, provides that these state agencies could decide, notwithstanding the requirements of the Little Miller Act, to use other forms of security at their discretion for all of these delivery methods. The bill also would expand the law to allow public buildings to be built using these project delivery methods and it would expand the number agencies authorized to use these methods. The bill would reduce the threshold for using them from $5 million to $1.2 million. This bill has been introduced before when the Republicans held the Senate and the Democrats controlled the Assembly. This will be the first time that this bill will be considered with the Democrats in total control of the state government.

Idaho Governor Mandates Occupational Licensing Review

In his first executive order of 2019, Idaho Governor Brad Little ordered mandatory periodic review of the state's occupational license boards, signaling that licensing reform is at the top of his agenda. The review is intended to prevent license boards from imposing requirements that are needlessly prohibitive to new licensees. The Governor believes this will create jobs and economic development.

North Dakota Considering a $250,000 Bond Threshold

SFAA opposes efforts in North Dakota to increase the bond threshold from $150,000 to $250,000. When it was last in session in 2017, the legislature increased the bond threshold from $50,000 to $150,000, and just two years later, another $100,000 increase is being considered, a 66% increase. If enacted, North Dakota would have the fourth highest bond threshold in the country.

Hawaii Wants Stricter Rules for Captives Writing Surety

Hawaii's Insurance Department has proposed changes to regulations to strengthen the requirements for a captive in Hawaii that writes surety bonds. The captives would have to:

• maintain a ratio of no greater than 10:1 of the total value of the captive's outstanding bond obligations to its unimpaired capital and surplus; and

• report financial and project-specific information to the Insurance Commissioner.

Legislation was introduced in Hawaii in 2017 to address a situation in which a contractor defaulted with a bond from its captive insurer and the public owner released the bond. The legislation contained onerous requirements for performance bonds that would have impacted all future public works projects. No agreement was reached and the Hawaii Insurance Commissioner got involved in the issue. SFAA believes that this is a big step in the right direction. It makes no sense for contractors to be able to form captives that provide insurance only for the captive-owner since that would mean the contractor is essentially bonding itself.

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