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Weekly 

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Indiana P3 Bonding Bill to be Heard by House Committees

In a positive development, the Indiana Finance Authority (IFA) and the Indiana DOT have agreed to 100% payment bonds and performance bonds of at least 50% for P3s. The bill will be heard in a House committee meeting scheduled for Wednesday, February 6. Representative Matt Lehman, the influential Indiana House Floor Leader, is sponsoring the bill. Once the bill is voted out of committee, the bill will then go the full House and then move to the Senate. SFAA is working with the Insurance Institute of Indiana, National Association of Surety Bond Producers, Indiana Contractors, Inc. and SFAA members companies.



House Committee to Start Infrastructure Funding Debate

The House Committee on Transportation and Infrastructure, will kick off the infrastructure debate with a marathon full Committee hearing



on February 7, titled “The Cost of Doing Nothing: Why Investing in Our Nation’s Infrastructure Cannot Wait.” Funding the Highway Trust Fund with an increase in the federal gas tax is certain to be a topic at the hearing as it is a high priority for Committee Chairman **Peter DeFazio** (D-OR). He has called for “pennies for progress,” which would increase the gas tax 1.5 cents per gallon per year, and 30-year revenue bonds backed by the new revenue. The Trust Fund, which is funded by the gas tax, is currently scheduled to run out of money in FY 2021. General funds have been used in the past to cover shortfalls. DeFazio’s goal is to have an

infrastructure package passed before summer. The witnesses scheduled to appear are:

- **Tim Walz**, Governor of Minnesota, on behalf of The National Governors Association
- **Eric Garcetti**, Mayor of Los Angeles
- **Ray LaHood**, Co-Chair of Building America’s Future and former Secretary of Transportation
- **Richard Anderson**, President and CEO of the National Railroad Passenger Corporation (Amtrak)
- **Eric K. Fanning**, President and CEO of the Aerospace Industries Association
- **Lawrence J. Krauter**, CEO of Spokane International Airport
- **Angela Lee**, Director of Charlotte Water in Charlotte, N.C.
- **Rich McArdle**, President of UPS Freight, on behalf of the U.S. Chamber of Commerce
- **Kristin Meira**, Executive Director of Pacific Northwest Waterways Association
- **Larry Willis**, President of the Transportation Trades Department of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

Funding the Highway Trust Fund with an increase in the federal gas tax is certain to be an issue at the hearing as it is a high priority for DeFazio. He has recommended “pennies for progress,” which would increase the gas tax 1.5 cents per gallon per year, and 30-year revenue bonds backed by the new revenue. The Trust Fund, which is funded by the gas tax, is scheduled to run out of money in FY 2021. General funds have been used in the past to cover shortfalls. The downside of DeFazio’s gas tax plan is that it does not raise enough money fast enough for needed infrastructure repairs. DeFazio’s goal is to have an infrastructure package passed before summer.

President Trump is expected to discuss infrastructure in his State of the Union address Tuesday night.



Another Virginia University Opts for \$1 Million Bond Threshold

James Madison University is seeking to enter into an agreement with the Commonwealth of Virginia to assume management of its own construction projects, under a law passed in 2008. The legal requirements for universities under these agreements include a \$1 million bond threshold. The University of Virginia (UVA) was the primary proponent of this law and used its contracting program as a model. UVA uses only a small number of contractors who are bondable for at least \$1 million. Letters from licensed sureties are required for contractors to demonstrate their financial standing, and all major projects over \$1 million are bonded. The House and Senate bills for James Madison University are

moving quickly through the legislature. In 2008, SFAA and AIA (now APCIA) worked to successfully defeat the enactment of the Maryland individual surety law in Virginia. SFAA’s Government Affairs Advisory Committee (GAAC) had made changing this law a priority in the past and we have pursued amendments to reduce the bond threshold to \$500,00, which is the state bond threshold or the DOT’s \$250,000 threshold, just like all other projects in Virginia. We have also sought to cap the total amount of projects that are unbonded at any one time. However, the UVA model is viewed as a success and it has been difficult to even suggest change in the absence of any problems.

State Laws to Limit Retainage on the Rise

- Legislation pending in New York would repeal the existing retainage law and would instead require contractors to pay their subcontractors upon completion regardless of whether the public own had paid the contractor.

• In Arizona, pending legislation would give the State discretion to withhold retainage, while retaining the mandate for local projects.

• Oklahoma would prohibit withholding retainage from contractors when payment and performance bonds are in place.

• Oregon would prohibit public owners from withholding retainage on the cost of the materials or equipment stored on the job site. A similar bill has been introduced in New York.



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