

KENTUCKY

Transportation News

Vol. XXII, No. 3 Published by Kentuckians for Better Transportation February 5, 2010

Louisville Bridges Authority Making Measureable Progress!

Ten years from now, historians may recall that January and February 2010 were the two months that re-energized the Louisville Bridges project. In fact, ten years from now, Kentucky Governor Steve Beshear and Indiana Governor Mitch Daniels believe the Louisville Bridges Project should be complete!



l-r: Joe Prather, Louisville-S. Indiana Bridges Authority; Joe Reagan, Board Authority Member; Jerry Abramson, Metro Louisville Mayor

Kentucky is moving ahead with significant work – including preliminary tunnel work in the East End – as a result of the \$100 million in bond proceeds that Governor Steve Beshear announced in December 2009.

The Kentucky Transportation Cabinet is now seeking proposals from firms for sampling soil conditions for the proposed tunnel that is part of the East End Bridge approach route. In a request for proposals released the week of January 11, the Cabinet specifies drilling procedures for gathering soil information. The

preliminary work will not involve a tunnel bore that had been considered in an earlier bid, but rejected because of excessive costs. The new request for proposals estimates the cost at \$3 million.

In southern Indiana, an innovative interchange, known as a “diverging diamond” is proposed for IN 265 and IN 62, along the approach to the new East End bridge. The interchange could save the project \$66 million while improving safety and traffic flow.

Back in Kentucky, property owners whose land is in the path of the project are being contacted as the State seeks to buy property for the project. Both east end and downtown properties will be purchased with funds from the \$100 million in GARVEE bond proceeds announced by Governor Beshear. A total of 300 properties, on both sides of the river, will be purchased for the project.

This Week. On Tuesday, Feb. 2, the first meeting of the Louisville-Southern Indiana Bridges Authority was held at the Muhammad Ali Center in downtown Louisville, overlooking the Ohio River. Metro Louisville Mayor Jerry Abramson welcomed everyone to the meeting, and Governors Steve Beshear and Mitch Daniels challenged the 14-member authority board to “move with the speed of business, not the speed of government.”

KBT Highway Committee Chairman Richard Sutherland (ENTRAN) attended, as did KBT President Stan Lampe, and other interested KBT members.

In opening remarks, Beshear noted that both states have a number of commonalities, and that the authority would enjoy the full backing of the Governors. "Movement is what we want to stress," Beshear said. "Let's cross the 't's' and dot the 'i's', but let's do it quickly. It's time to turn a dream into a reality," he concluded.

The 14-member authority board adopted by-laws under which to operate, and were advised that the procurement laws and ethics statutes of both states would apply to the members. The board will also operate under the open meeting laws of both states.

The authority members were addressed by Commissioner Mike Reed of the Indiana Department of Highways, and Kentucky's Acting Transportation Cabinet Secretary, Mike Hancock. Both promised full cooperation from their state agencies. Each state also appointed a project business manager to work with the authority and its staff. Indiana's representative will be Clark Snyder and Kentucky's project business manager will be Russell Romine.



l-r Steve Schultz, executive director, Louisville-S. Indiana Bridges Authority and Ky. Transportation Cabinet Acting Secretary Mike Hancock

At their first meeting, the authority elected their leadership, with former Kentucky Transportation Cabinet Secretary Joe Prather (Vine Grove) being elected Chairman.

Also elected to leadership posts were co-chairman Kerry Stemler (Sellersburg), treasurer Charles Buddeke (Louisville), secretary Pat Byrne (Floyds Knob) and executive director Steve Schultz. Schultz, a Yale graduate, and a resident of Columbus, IN., was formerly general counsel to Governor Daniels in 2005. Most recently, he has served as general counsel for Irwin Union Bank & Trust Co. in Columbus.

Authority chairman Prather announced that the next meeting of the authority will be held on Wednesday, Feb. 10 beginning at 10:00 a.m. at the Muhammad Ali Center, the same location as the first meeting. "Be prepared to eat a box lunch and stay the day," quipped Prather. "We've got a lot to do, but we won't work until midnight."

For the Feb. 10 meeting, Prather asked that staff prepare presentations on the six segments of the project, financial aspects of the project, and for FHWA officials to be prepared to discuss innovative financing methods. One authority member asked that a plan be developed for economic inclusion of minority, small and female-owned businesses in the immediate bi-state region. It was agreed that future meetings of the authority will also be held in Southern Indiana.

KBT Conference Speaker Makes National News



John Horsley, executive director of AASHTO, and a keynote speaker at the recently-held 32nd Annual Transportation Conference in Frankfort, made national news this past week, as a Washington, D.C. insider who really knows how Washington works.

In stories carried in Boston, Dallas, and St. Louis, Horsley says that the Tuesday, Jan.19 election of Scott Brown of Massachusetts to the U.S. Senate has already shifted debate significantly.

“The other shoe has finally hit,” said Horsley. “The election of Scott Brown has totally shaken the political establishment. Deficit reduction and concern over debt is almost as powerful now as stimulating and job creation has been. There will be another round of jobs creation legislation, but it will be followed shortly by a freeze in

spending. It is my view that this will freeze in its tracks the highway reauthorization bill. It will be very difficult to find money to fund the new five-year bill.”

Of course, the federal legislation that authorizes highway spending expired September 30, 2009, and has been extended by a series of temporary bills while Congress and the Obama Administration focused on health care reform priorities. Absent any funding changes, the federal gas taxes will fund about \$250 billion in spending over a five-year bill. While the House members have called for big expansion of the program --- as well as outside voices --- no action has occurred in the Senate.

Last year, the House Transportation Infrastructure Committee, chaired by Rep. James Oberstar (Minneapolis) proposed legislation that would have spent a total of \$500 billion on surface transportation. Highways and roads would have received an investment of \$450 billion over 5 years, and the remaining \$50 billion would be for continued investment in high-speed rail, after the Obama Administration announced \$8 billion in high-speed rail grants in Illinois, California and Florida this past week.

Waterway Transportation Gets Attention in Frankfort



At Tuesday’s House Transportation Committee meeting in Frankfort, HB 28 was voted out of committee favorably, with encouraging comments about the importance of waterway transportation in Kentucky. In an unusually positive sign, the bill was then passed on the House floor Thursday afternoon by a vote of 95-1.

I-r: Rep. Will Coursey, Rep. Hubert Collins, Sen. Robert Leeper

State Rep. Will Coursey (Benton) and State Sen. Bob Leeper (Paducah) have

served as the co-chairman of a task force studying the importance water transportation in Kentucky over the past summer, and HB 28 proposes to establish a new 7-member Water Transport Advisory Board, to advise the legislative and executive branches of government regarding these issues. The bill requires no appropriation, as the Board members will serve without reimbursement.

“Kentucky is the only state bordered by three rivers. We are blessed with more miles of inland waterways than any other state, with the exception of Alaska,” said Rep. Coursey. “This legislation was passed by the House in a previous General Assembly, but they ran out of time to act on it in the Senate.”

“Water borne transportation is our first vital link to economic development,” said House Transportation Committee chairman Hubert Collins (Wittensville).

Riverport representatives attended the Committee meeting and briefly testified to their full support for the legislation, including their statewide trade association, the Kentucky Riverport Association.

Expanding the Sales Tax...The Devil Is In the Details...



Rep. Rick Rand

Kentucky’s 1891 Constitution requires that the House of Representatives start legislation relating to the biennium budget, and House Appropriations & Revenue Committee Chairman Rick Rand (Bedford) is facing a really sobering and daunting task this Session, which, by the way, has already used 22 of its 60 legislative days.

Writing a biennial state budget is a complex, even sprawling job. It involves 13 budget review subcommittees. The two full Appropriations & Revenue Committees in the House and Senate, (which include 29 House members and 17 Senate members) must make decisions on how best to allocate \$18 billion of taxpayer’s money wisely.

Even if you are skeptical about news reports, **it is true** that the state faces at least a \$400 million revenue shortfall in the July 1, 2010 to June 30, 2011 fiscal year, and for the following fiscal year (July 1, 2011 to June 30, 2012) it could balloon to nearly a billion dollars, or more.

In the coming week, there will likely be more media attention about a small group of House members who are working to develop a “tax reform proposal” that would include a significant expansion of the 6% Kentucky sales and usage tax to services, not to mention the loss of current sales tax exemptions currently enjoyed by businesses.

So how should you react to this?

With great caution. Even extreme caution, because the devil is in the details.

At least three times in the past 30 years, the Kentucky House of Representatives has considered, and even passed, legislation that would broaden the application of the Kentucky sales and usage tax.

But in each of these instances, the expansions were not broad-based. In fact, they were directed at narrow, business-based consumption, which would have unfairly penalized Kentucky corporations.

As an example, House-passed proposals included applying the state sales tax to: (a) chartering private aircraft; (b) private limousine service; (c) landscaping services at commercial buildings; (d) private security guard services at commercial and industrial sites, and (e) janitorial services at commercial and industrial buildings.

Those proposals eventually failed, because they were not broad-based. They were unfair and punitive against business. The average Kentuckian doesn't charter private planes or hire security guard services. If changes are going to be made, they should broadly impact the consumption habits of all Kentuckians.

In the coming weeks, if you see press reports that the House members are considering expanding the Kentucky sales and usage tax to dry cleaners, barber shops, nail salons, home repairs, and flea markets, you will know that they are seriously interested in making broad-based changes to the Kentucky sales tax.

If they choose, in a bi-partisan manner, to broadly levy the 6% sales tax on public consumption, the General Fund could certainly use the revenue, and quickly.

Selected State Legislation of Interest to KBT Members

(as of Friday, Feb. 5, 2010)

(updated status of bills available at www.lrc.ky.gov)

Airports

HB 183 (Rep. Wayne) Create new tax credit for residential noise abatement in airport runway corridor areas. **KBT monitor.** To Approp. & Revenue Committee on January 6.

Auto Dealerships

HB 217 (Rep. Lee) Prohibit the granting of a license for a new auto dealership if located within a 10-mile radius of former dealership that was forced to close when franchise was revoked by manufacturer. **KBT monitor. Passed House Transportation on 1/26; to House Floor. Passed House 98-0 on 2/2. To Senate. Received in Senate on 2/3.**

HB 297 (Rep. Lee) Establish standards for 501(c)3 non-profit motor vehicle dealers (e.g. Goodwill, Salvation Army, etc.) to both purchase and sell motor vehicles; require that purchase and sale only for "clients"; define "clients" in narrow manner. Supported by Ky. Auto Dealers Assoc. **KBT monitor. Passed House Transportation on 2/2; to House Floor on consent. Scheduled for House floor vote on Wednesday, Feb. 10**

Distracted Driving, Inattentive Driving, Text/Cell Phone Usage While Driving

HB 27 (Rep. Nelson) Prohibits cell phone usage by any driver under the age of 18, but prohibits texting while driving for all drivers, regardless of age; probationary period through November 1, 2010; fine after probationary period is \$50 per offense. **KBT Support.** To House Transportation Committee on January 6. (No further action likely on this bill, as HB 43, below, will be the active legislation.)

HB 43 (Rep. Richards) Prohibits texting while driving for all ages; prohibits text and cell phone use for drivers under 18; probationary period ends November 1, 2011 during which time warnings are issued; fines after probationary period are \$20 to \$100 for each offense. **KBT Support. Passed House Transportation Committee on 1/26; To House Floor. Passed House 80-16 on 2/4 with House floor amendment requiring vehicle to be in motion to constitute a violation. To Senate.**

HB 232 (Rep. Burch) Prohibits cell usage of both verbal and text communications while driving; warning for first violation; fines between \$20 and \$100 for subsequent offenses. **KBT Support. Failed in House Transportation Committee on 1/26; No further action likely.**

SB 23 (Sen. Harper Angel) Prohibits texting, instant messaging, and e-mailing while driving; probationary period ends November 1, 2010 during which time warnings are issued; fines after November 1, 2010 are set at \$100 for first offense and not less than \$300 for subsequent offenses. If violation results in auto accident, fines are to be less than \$200 and no more than \$600. **KBT Support.** To Senate Judiciary Committee on January 6.

DUI Legislation

HB 58 (Rep. Keene) (**54 co-sponsors!!**) Require ignition interlock usage beginning with first DUI; require offender to drive with interlock equipped work vehicle as well; require interlock usage while offender is driving on a hardship license. **KBT Support.** To House Judiciary Committee on January 6; reassigned to Approp. & Revenue Committee on January 26. **Bill scheduled for committee hearing on 2/9 in Room 154 of Capitol Annex at 10:00 a.m.**

HB 121 (Rep. Harmon) Expand look-back period from 5 years to 10 years for prior offenses; allow for forfeiture of motor vehicle in DUI if operator's license has been suspended previously. **KBT Support.** To House Judiciary Committee on January 5.

Highways, Streets & Bridges

HB 24. (Rep. Richards) Provide local entities (tourist agencies, etc.) authority to purchase a "brown sign" for local tourist and historical sites. Signs still must be approved, installed by Transportation Cabinet. **KBT monitor. Passed House Transportation on 1/26; to House Floor on consent. Passed House 95-0 on 2/3; To Senate. Received in Senate on 2/4.**

HB 267 (Rep. Thompson) Extend the sunset date from June 30, 2010 to August 31, 2010 for the \$25 million vehicle sales tax offset, when trading in a car to purchase a new car. **KBT opposed.** To House Appropriations & Revenue Committee – January 19.

License Plates

HB 40 (Rep. Collins) Provide state legislators immunity from lawsuit when groups litigate special license plate issues with the Transportation Cabinet. **KBT monitor. Passed House Transportation on 1/26; to House Floor on consent. Passed House 94-1; To Senate. Received in Senate 2/4.**

HB 100 (Rep. Gooch and 12 co-sponsors) Provide that "In God We Trust" license plate as an alternative standard-issue license plate for motorists. **KBT monitor. Passed House Transportation on 1/26; to House Floor on consent. Passed House 93-1 on 2/2. To Senate. Received in Senate 2/4. To Senate Transportation Committee.**

Rail and Railroads

HB 31 (Rep. Nelson) Require Transportation Cabinet to inspect railroad grade crossing twice a year, if traffic count at crossing exceeds 700 vehicles daily. **KBT monitor.** To House Transportation on January 5.

HB 181 (Rep. Nelson) Establish new standards for railroad employees; define railroad contract carrier employee, establish rules and standards, require liability insurance. **KBT monitor.** To House Transportation Committee on January 5.

Traffic Safety Legislation

HB 15 (Rep. Riner) Prohibits shock probation until either service of one year of imprisonment or completion of comprehensive substance abuse treatment with supplemental character and education components; to be titled "Kentuckians Against Drunk Driving Act". **KBT monitor.** To House Judiciary Committee on January 5.

HB 79 (Rep. Arnold) Extend the allowable traveling distance for golf carts on local roads (not state roads) from 5 miles to 7 miles from a golf course. **KBT monitor.** To House Transportation Committee on January 5.

HB 113 (Rep. Denham) Requires the illumination of headlights during any period of precipitation that necessitates the use of windshield wipers by motorists. **KBT monitor.** To House Transportation Committee on January 5.

HB 131 (Rep. Burch) Requires KYTC to issue magnetic decals that shall be affixed to motor vehicles identifying drivers who hold an instructional permit. **KBT Support. Passed House Transportation Committee on 1/26; To House floor. Passed House 55-39 on 1/28. To Senate. To Senate Transportation Committee on 2/3.**

Waterway

HB 28 (Rep. Coursey) Establish 7-member Water Transport Advisory Board to serve as an expert advisory body to the legislative and executive branches of Ky. state government; establish that Board members receive no compensation or reimbursement. **KBT Support. Passed House Transportation Committee on 2/2; To House floor. Passed House 95-1 on 2/4; to Senate.**