

Compromise Found on Transit Security

By Kathleen Hunter, CQ Staff

The bill ([HR 1401](#)) passed, 299-124, on March 27, after the House added compromise language by Homeland Security Chairman Bennie Thompson, D-Miss., and Transportation and Infrastructure Chairman James L. Oberstar, D-Minn. (*House Vote* [201](#), p. 988)

Both panels had written their own versions of rail-security legislation, and disagreement over whether the Homeland Security or the Transportation Department should distribute mass transit security funds had stalled the bill for weeks.

Box Score

Bill:

HR 1401 — To authorize rail and bus security grants.

Latest Action:

House passed, 299-124, on March 27.

Next Likely Action:

Senate consideration, most likely during conference with House on Sept. 11 legislation ([S 4](#)).

Reference:

Homeland Security Committee passage, CQ Weekly, p. [824](#); Sept. 11 legislation, Senate passage, p. [824](#); debate, p. [750,663](#); Senate committee approval, p. [545](#); House passage ([HR 1](#)), p. [180](#); Sept. 11 commission, 2004 Almanac, p. 11-8.

The underlying bill would authorize more than \$6.1 billion over four years, including \$2.5 billion for rail, \$3.4 billion for urban mass transit and \$87 million for buses.

Thompson said he was pleased that lawmakers were “able to put aside jurisdictional squabbles” to pass the bill, which he characterized as “an important milestone” in protecting the nation’s rail and bus systems.

The compromise amendment, adopted 222-197, would give the Transportation Department the power to administer transit security grants, though they still would be technically housed in the Homeland Security Department, which would conduct vulnerability assessments and make funding recommendations. Both departments would monitor and audit the programs. (*House Vote 198*, p. 988)

The manager’s amendment also included language designed to strengthen whistleblower protections, drawing a veto threat from the White House. The administration says the language would erode the government’s ability to protect sensitive information.

The expanded protections, modeled after whistleblower provisions included in a bill ([HR 985](#)) the House passed March 14, would specifically bar retribution — including revocation of security clearance — against whistleblowers and those who assist them.

In a policy statement, the White House said the language would give individuals too much discretion over disclosure of sensitive and classified data. “Such an independent, uncoordinated decision to disclose classified information could . . . jeopardize the rail and transportation security that this legislation seeks to strengthen,” the administration stated.

It also registered its strong opposition to language in the manager’s amendment aimed at providing additional recourse for whistleblowers whose legal claims are stymied by the government’s “state secrets defense,” which allows the federal government to assert broad authority to protect classified information.

New York’s Peter T. King, ranking Republican on the Homeland Security panel, voted for the bill in spite of his objections to the compromise, which he said would undermine the Homeland Security Department’s authority. King and other Republicans also objected to manager’s amendment provisions that would make state and local first-responders ineligible to receive direct grant funding.

Florida’s John L. Mica, the ranking member of the Transportation panel, was among the Republicans who opposed the bill. He objected to the “willy-nilly distribution” of transit security funds that he said the bill would cause.

“I don’t want money wasted. I want to make sure that there’s a need,” Mica said.

Other changes made on the House floor included:

- a Steve Cohen, D-Tenn., amendment that would establish a program to minimize rail transportation of hazardous materials that are toxic when inhaled, adopted, 234-184. (*House Vote 199*, p. 988)
- an amendment by Michael Arcuri, D-N.Y., that would examine the potential security problems associated with locating high-voltage power lines along railroad tracks, adopted by voice vote.
- an amendment by Michael N. Castle, R-Del., that would require the Homeland Security

Department to study the feasibility of implementing rail security practices used in other countries, adopted by voice vote.

- an amendment by Stephen F. Lynch, D-Mass., that would subject plans to outsource railroad inspections to a federal security review, adopted by voice vote.

Republicans also scored an increasingly common parliamentary victory: a successful motion to recommit. The move allowed King to force action on an amendment that would make people who report suspicious activity on transportation systems immune to lawsuits. (*Previous motions to recommit, CQ Weekly, p. [900](#)*)

King moved to send the bill back to the Homeland Security panel with instructions to include his amendment. The House supported the motion, 304-121. The House then adopted the amendment by voice vote. (*House Vote [200](#), p. 988*)

The bill is designed to serve as a marker for the House position on transportation security during conference negotiations with the Senate on broader legislation to enact recommendations of the Sept. 11 commission. The Senate version (S 4) would authorize around \$4 billion for transportation security.

Funds for rail and mass transit security grants could soon be in the pipeline as part of supplemental war spending legislation the Senate passed last week. (*Supplemental spending bill, p. [964](#)*)

The House-passed version of the supplemental bill ([HR 1591](#)) would provide \$225 million for transit security grants, \$400 million less than Senate appropriators have sought to provide.

Conferees will have to resolve differences between the two measures, both of which also have drawn veto threats, before the mass transit security funds would be made available.

Source: **CQ Weekly**

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