

H.R. 3427, THE “STATE ETHICS LAW PROTECTION ACT OF 2010”
INTRODUCED BY REPRESENTATIVE MIKE QUIGLEY
September 20, 2010

SUMMARY

H.R. 3427, as amended, the “State Ethics Law Protection Act of 2010”, provides that a State may not be considered to have violated the Federal Highway Administration’s (FHWA) statutory requirements under 23 U.S.C. § 112(b) solely because of enactment of a State or local law prohibiting “pay-to-play”.

Some States have enacted statutes (“anti-pay-to-play laws”) that limit the amount of money that an individual or entity doing business with a State agency may contribute to a political party, campaign, or elected official. FHWA has interpreted State anti-pay-to-play laws as potentially conflicting with the competitive bidding requirements that apply to the use of Federal-aid highway funds in 23 U.S.C. § 112(b). FHWA has threatened to withhold Federal highway funds from States that enacted anti-pay-to-play laws that apply to contracts on Federal-aid highway projects.

H.R. 3427 provides that a State will not be considered to have violated FHWA bidding requirements solely because the State enacted an anti-pay-to-play law.

SECTION-BY-SECTION OF THE LEGISLATION

Section 1. Short Title.

Section 1 states that the Act may be referred to as the “State Ethics Law Protection Act of 2010”.

Sec. 2. Pay to Play Reform.

This section amends 23 U.S.C. § 112 by adding a new subsection (h) that clarifies that a State department of transportation shall not be considered to have violated the requirements of section 112 solely because the State or local government within that State has in effect a law limiting the amount of money an individual or entity doing business with a State or local agency on a Federal-aid highway project may contribute to a political party, campaign, or elected official.

LEGISLATIVE HISTORY

On February 1, 2005, Representative Bill Pascrell, Jr. introduced H.R. 439, the “Pay to Play Reform Protection Act”. The bill included language allowing States to enact anti-pay-to-play laws without violating Federal competitive bidding requirements for highway projects.

On March 10, 2005, during House consideration of H.R. 3, the “Transportation Equity Act: A Legacy for Users”, Representative Pascrell introduced an amendment to H.R. 3 that consisted of the text of H.R. 439. The House passed the Pascrell amendment by voice vote and passed H.R. 3 by

a roll call vote of 417-9. The Pascrell amendment provision was not included in P.L. 109-59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

On July 30, 2009, Representative Mike Quigley introduced H.R. 3427, the “State Ethics Law Protection Act of 2009”.