

Infrastructure Bill Is A Big Opportunity For Mid-Law Firms

By **Emma Cueto**

Law360 (May 14, 2021, 4:22 PM EDT) -- As Congress continues to debate the infrastructure package championed by the Biden administration, experts say the bill opens up potential long-term opportunities for Mid-Law, especially regional law firms, if firms position themselves to take advantage of it.

Experts say they expect a lot of legal work to come along with the bill, from lobbying lawmakers to counseling about the various aspects of implementing any projects Congress funds to advising on compliance, and the firms looking to take advantage of the legislation should be thinking ahead.

"When it comes to the mega projects, [those] I think will be the domain of BigLaw," law firm consultant John Remsen Jr. of the Remsen Group said, "but there's plenty here that smaller and midsize law firms can pick up on. ... It's the ones that get in early, get in ahead of the rest of the crowd that are going to be the major players."

The infrastructure bill pushed by the Biden administration is still being crafted in Congress, with Democrats pushing for a **\$2 trillion package** that would also take an expansive view of what qualifies as an infrastructure project. The plan would upgrade 20,000 miles of highway and repair 10,000 bridges, according to the White House, and would also include earmarks for projects like electric vehicle charging stations and increased broadband access for rural areas.

The White House has proposed paying for the plan with **increased taxes** on corporations and the wealthy.

Republicans in Congress, however, have pushed back against the price tag and the proposed tax hikes, unveiling **their own \$568 billion proposal** in April.

The White House has indicated it would prefer the bill to be bipartisan, despite Democratic majorities in both houses of Congress, and talks over the proposals are ongoing. However, some version of the bill is expected to ultimately pass.

The bill is a prime target for lobbying, both by private sector clients and by municipalities, port authorities, waterworks districts, and other public entities looking to get funds for new projects or overdue upgrades.

David Jolly, a former congressman and an executive vice president at Shumaker Advisors, the lobbying arm of Shumaker Loop & Kendrick LLP, said that the decision this year by both parties in Congress to allow members to once again earmark funds for specific projects has created an opportunity for regional firms when it comes to lobbying.

"As the [awareness] grows around the idea that earmarks are back, now you're seeing a bit of a frenzy," he said.

Jolly, who is not himself a federal lobbyist, said that regional firms have relationships in the area and an understanding of local needs that can give them an edge when it comes to getting work from public entities. And now that earmarks are back on the table, regional firms that can craft a pitch for that region's representatives in Congress will likely look more attractive than a national, D.C.-based

lobbying firm, he added.

Moreover, beyond just the work for the infrastructure bill itself, Jolly said, those relationships can also potentially result in long-standing relationships with public sector clients and additional work.

Even with the uncertainty over the details of the bill, some firms are already laying the groundwork to help clients take advantage of the potential package.

Florida firm Berger Singerman LLP in April launched a task force specifically to create resources for clients relevant to the expected infrastructure package and prepare to help clients take advantage of the potential funds.

Dawn M. Meyers, the head of the task force and manager of the firm's government and regulatory team, told Law360 Pulse that the task force is currently writing articles on issues such as competitive procurement, grants, public construction projects and public-private partnerships, which the firm expects **may be a big component** of funding the package.

"We're trying to cover as wide a variety of issues under the infrastructure umbrella as we can, so that by the time the legislation passes, we will have produced such a thorough and complete body of materials on all facets of it that we will naturally lend ourselves to being the go-to firms for our clients," she said.

Remsen told Law360 Pulse that he thinks it's smart for mid-size and regional firms to take this sort of proactive approach to stay competitive.

"There's a lot of money coming out," Remsen said. "BigLaw is all over this."

For smaller firms, he said, one good strategy would be to find a particular niche and position themselves as a key resource for clients. Firms might stand out due to deep regional ties or specialized experience with a particular type of infrastructure or some other expertise, he said, but firms should think strategically and proactively about how to stand out if and when the bill comes through.

More than anything, he said, firms should base their approach on what their existing client base will need.

"Now's a great time to pick up the phone and do a call-around to some of your clients," he said.

Berger Singerman has particularly honed in on its experience with public-private partnerships. Meyers said that the firm has a lot of experience with such arrangements, making it a "natural choice" for clients looking to navigate these partnerships.

Meyers said that if the package goes through and if it's as large as expected, she expects there will be plenty of work to go around for firms with experience in the relevant work. However, she said, she isn't seeing many of Berger Singerman's peer firms in this area taking the same proactive steps.

Remsen echoed this, saying that he hasn't seen many take a similar approach.

Overall, however, experts agreed that the package can open up opportunities for Mid-Law for years. The bill will take time to negotiate. Jolly noted that with the current partisan division in Congress, such a package could take well over a year to finalize. And once the bill is passed, it can take another two years to reach the implementation stage, he added.

And, Remsen noted, even after the money has been allocated, the details have been finalized, and projects have broken ground, the need for legal work likely will continue.

"Where there's money, there's fraud," he said, which may also keep some attorneys busy.

--Editing by Nicole Bleier.

