

# THE BOND BUYER

## A pair of congressmen takes aim at Brightline's bond plans

By

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Two Florida congressmen have asked the U.S. Department of Transportation not to extend the Dec. 31 deadline for the owners of the Brightline passenger train to issue private activity bonds.

Republican Reps. Brian Mast and Bill Posey made the request in [a joint letter](#) to Transportation Secretary Elaine Chao Thursday, the day after The Bond Buyer [first reported](#) that the USDOT had received a request from Brightline's private owners for more time to sell the \$1.15 billion of bonds.

A USDOT committee will consider Brightline's request in a meeting this week.

Mast and Posey, who will be in the minority when the 116th Congress begins on Jan. 3, asked Chao not to approve any bonding authority or new federal funding while Florida officials examine regulations for higher speed passenger trains, such as Brightline.

"Madame Secretary, we strongly encourage your agency to take a step back and give Florida an opportunity to shore up its regulations governing these higher speed trains," they wrote.

Although not specifically mentioned in their letter, Brightline has applied for a low-interest loan through the Federal Railroad Administration's Railroad Rehabilitation and Improvement Financing program.

The congressmen also questioned Brightline's finances, and said that Fitch Ratings Dec. 4 withdrew its BB-minus rating on \$600 million of PABs issued last year for Brightline's southern route between Miami and West Palm Beach.

Fitch said the rating withdrawal was due to the fact that the company's strategic focus included the development of real estate, not just the passenger rail project.

In the first two quarters of this year, the company reported a combined \$56 million deficit.

The two-page letter sent to Chao by Mast and Posey also outlined a legislative report on passenger rail operations and regulations released in November by the Florida Legislature's Office of Program Policy Analysis and Government Accountability.

The OPPAGA study found that neither the FRA or the Florida Department of Transportation have regulations specific to "higher-speed rail" passenger trains that run at speeds between 81 mph and 125 mph, a range that includes those proposed by Brightline.

The study recommended state lawmakers clarify FDOT's mandate concerning oversight of passenger rail. No legislation has been filed yet for the state's annual session, which begins March 5.

Brightline, which will be rebranded as Virgin Trains USA next year, is planning to expand service from West Palm Beach to Orlando — the route to be financed with the PABs — and recently began negotiating with FDOT and the Central Florida Expressway Authority to lease rights of way for a third phase from Orlando to Tampa.

The project also has support in Congress. U.S. Rep. Mario Diaz-Balart, R-Fla., who is on the House Appropriations Committee and the Transportation, Housing and Urban Development Subcommittee, said he supports Brightline's efforts to obtain an extension to issue the PABs.

"I am fully supportive of their request, and have made my support known to the secretary's office," Diaz-Balart said in a statement Monday night. "I look forward to continue working with the Department of Transportation and Brightline on the continued expansion of this transformative rail service, and thank Secretary Chao for her attention to this matter."

Patrick Goddard, president of the company, told the Expressway Authority Thursday that service between Miami and West Palm Beach is "ramping up very nicely" and experiencing strong growth.

Goddard said contractors have been selected to build the second phase between West Palm Beach and Orlando, and it is estimated that the construction period will take 30 to 36 months.

“We expect the first train to roll into the new intermodal terminal facility at the Orlando International Airport in the fourth quarter of 2021 or the first quarter of 2022,” he said.

Goddard mentioned several recent events, including a November settlement with Martin County and Citizens Against Rail Expansion in Florida. He didn’t say what the settlement was for, nor did he discuss a federal lawsuit that is challenging the \$1.15 billion of PABs approved by the USDOT.

Martin County and CARE-FL agreed to drop out of the federal suit in return for what they called “significant concessions,” including safety and maritime benefits and cost savings both had pursued during litigation.

Indian River County rejected a settlement offer and is still pursuing the litigation.

A federal judge is expect to rule on motions for summary judgment before the end of the year.

**Updated December 18, 2018 at 10:27AM:** The story was updated with comment from a congressman who supports Brightline and its PAB request.