

The following article original appeared in CQ Weekly on October 18, 2010.

Several states have enacted “pay to play” laws banning most government contractors from contributing money to the campaigns of state politicians who control contracts. They have run into a snag in Washington, though: The Transportation Department has taken the position that such laws improperly limit competition for highway contracts and, thus, violate federal rules.

Lawmakers in Illinois, in fact, had to rewrite part of the state’s pay-to-play law in early 2009 to exempt highway contractors and satisfy the Bush administration’s Transportation Department. The state law was passed in 2008, partly as a result of corruption investigations of Democratic Gov. Rod R. Blagojevich, who was impeached last year.

With Obama’s election and his subsequent appointment of outgoing Rep. Ray LaHood, an Illinois Republican, as Transportation secretary, public interest groups such as Public Citizen thought they stood a good chance of having the Transportation Department’s objections reversed. But the DOT’s Federal Highway Administration stuck to its guns, writing to Public Citizen in May 2009 that it was bound by statute to withhold highway funds from states that have passed such laws in recent years, which include Connecticut, Illinois, Kentucky, New Jersey, Pennsylvania and South Carolina.

“However laudable the goals of such state laws,” wrote the highway administration’s acting deputy administrator, Jeffrey Paniati, “they have the effect of limiting competition in the awarding of federal-aid highway contracts.”

Now members of the Illinois congressional delegation are trying to take a hand. Just before recessing three weeks ago, the House passed a bill by freshman Chicago Democrat Mike Quigley that would declare states eligible for federal highway dollars even if they have pay-to-play laws. The bill, Quigley said, “will make it clear that Congress supports the right of states to fight corruption.”

Craig Holman, a government affairs lobbyist for Public Citizen, says the Highway Administration should have fixed the problem itself and that congressional intervention was “long overdue.”

Quigley is in contact with Richard J. Durbin, a fellow Illinois Democrat and the Senate majority whip, along with other senators, about trying to move the bill through the Senate during the lame-duck session.

As for President Obama, during the 2008 campaign he expressed support for the pay-to-play legislation then being considered by the Illinois legislature.