



Akerman Senterfitt LLP
750 9th Street, N.W.
Suite 750
Washington, D.C. 20001
Tel: 202.393.6222
Fax: 202.393.5959

Memorandum

From: Jane Sargent, Mike Abrams, Rick Spees, Nick Falvo, and Jose Villalobos

To: Chairman Joe A. Martinez
Board of County Commissioners

CC: Joe Rasco

Date: November 4, 2011

Subject: October 2011 Monthly Report

Appropriations:

The new fiscal year began on October 1. Congress did not complete any of the Fiscal Year 2012 appropriations bills by that date so they passed a Continuing Resolution (CR) to keep the government operating. The current CR expires on November 18.

In October, the Senate took up a package of three FY2012 appropriations bills. The package or "minibus" includes the Agriculture, Commerce-Justice-Science, and Transportation-HUD appropriations bills.

The Senate Appropriations Committee approved the Commerce-Justice-Science (CJS) bill in September. It includes \$2.3 billion for DOJ grants for state and local law enforcement, including \$232 million for Community Oriented Policing Services (COPS) grants. The House CJS bill provides no funding for COPS. The Senate bill also provides \$395 million for Byrne Justice Assistance Grants and \$273 million for State Criminal Alien Assistance Program (SCAAP). The House bill has no funding for SCAAP and cuts the Byrne program by 16 percent. The Senate bill also includes \$251 billion for juvenile justice and delinquency prevention programs.

The Senate was not able to finish its bill before its October 24th weeklong recess. The Senate reconvened this week. On November 1, the Senate returned to consideration of the Agriculture-CJS-Transportation/HUD appropriations minibus. The Senate considered a number of amendments that were still pending from before the recess. All of the amendments failed. The Senate passed the minibus by a final vote of 69-30. The bill has been referred to a conference between the House and Senate.

akerman.com

BOCA RATON DALLAS DENVER FORT LAUDERDALE JACKSONVILLE LAS VEGAS LOS ANGELES MADISON MIAMI NAPLES
NEW YORK ORLANDO PALM BEACH TALLAHASSEE TAMPA TYSONS CORNER WASHINGTON, D.C. WEST PALM BEACH

The Senate named its conferees earlier in the week. Yesterday, the House announced their conferees, and the conference committee held their first meeting to discuss the final version of the minibus. The Senate's version of the bill is \$128 million, which is higher than the House-passed bills. The conferees are expected to go with the higher spending levels in the Senate bills, which are consistent with the discretionary spending levels set by Congressional leaders and the White House in the debt ceiling agreement reached in August. Also, on Thursday, the House adopted a nonbinding motion to instruct conferees to insist on the highest level of funding for the COPS program. As we mentioned above, the House CJS bill does not include funding for the COPS program, while the Senate version has \$232 million.

The Agriculture-CJS-THUD minibus will likely be approved the week of November 14 as the House is out of session next week. The Senate is in session next week and is expected to move to another minibus that combines the Energy & Water, Financial Services, and State-Foreign Operations bills.

The schedule for the remaining appropriations bills is unclear, but we do know that the Congress will be unable to finish all of the bills by November 18 when the current CR expires. It is expected that the Agriculture-CJS-THUD minibus will likely include a CR that keeps the government running through mid-December.

Free Trade Agreements (FTAs):

There was significant activity in October on the pending free trade agreements. On October 3, the President submitted the implementing bills for the free trade agreements (FTAs) for Columbia, Panama, and South Korea to Congress. Later the same day, House Majority Leader Eric Cantor introduced the three implementing bills -- H.R. 3078, "United States-Colombia Trade Promotion Agreement Implementation Act"; H.R. 3079, "United States-Panama Trade Promotion Agreement Implementation Act"; H.R. 3080, "United States-Korea Free Trade Agreement Implementation Act".

The House Ways and Means Committee reported the bills to the full House on October 5. The House passed the implementing bills for the Columbia, Panama, and Korea trade agreements on October 12. The House also passed H.R. 2832, which reauthorizes the Generalized System of Preferences (GSP) and extends Trade Adjustment Assistance (TAA) program for workers displaced by trade. House passage of the GSP/TAA bill was required before the Senate would pass the FTAs or the President would sign them in law.

The Senate Finance Committee marked up the FTAs on October 11, and the full Senate passed the bills on October 12. The Senate previously passed the GSP/TAA bill in September.

Representatives Ros-Lehtinen, Diaz-Balart, Rivera, Wasserman Schultz and Senators Nelson and Senator Rubio voted for all three trade agreements.

The President signed the three free trade agreements and the GSP/TAA bill into law on October 21.

State of Florida Medicaid Managed Care Program:

In September, Florida applied to the Centers for Medicare and Medicaid (CMS) for additional extensions of its Medicaid Reform Section 1115 Demonstration Waiver. The latest extension was set to expire on October 31, 2011. However, CMS has agreed to another temporary extension of the State's Medicaid waiver until November 15, 2011. This temporary extension will ensure continued service delivery to Medicaid recipients and provide additional time for the State and CMS to finalize the waiver extension.

Our understanding is that the hospital low income pool (LIP) continues to be the main outstanding issue between the State and CMS. The State has proposed for LIP to expire in June 2014 at the end of the State Fiscal Year 2013-2014 and be fully funded at \$1 billion. However, CMS has proposed that LIP would end in December 2013 and be funded at \$500 million. If they are unable to reach an agreement by November 15, the State will have to apply for another temporary extension of the State's Medicaid waiver.

House Judiciary Bills:

In October, the County asked us to monitor and report on a number of bills being marked up by the House Judiciary Committee.

- H.R. 822, the National Right-to-Carry Reciprocity Act of 2011, allows permits holders to carry concealed handguns across state lines. The bill was marked up by the House Judiciary Committee October 25, 2011. The bill will now be referred to the full House for consideration.
- H.R. 2870, the Adam Walsh Reauthorization Act of 2011, reauthorizes through FY2016 several programs directed at sex offenders that were established by the Adam Walsh Child Protection and Safety Act of 2006. The bill was scheduled to be marked up by the House Judiciary Committee on October 27, but consideration of the bill was postponed and has not yet been re-scheduled.
- H.R. 1254, the Synthetic Drug Control Act of 2011, amends the Controlled Substances Act to categorize a number of synthetic drugs as Schedule I Controlled Substances. In particular, it would put synthetic drugs mimicking marijuana and methamphetamines onto the restricted drug list. The bill was marked up by the House Energy & Commerce Committee on July 28. The House Judiciary Committee marked up and reported the bill out on November 3. It will now be referred to the full House for consideration. A Senate companion bill, S. 605, was introduced by Senator Chuck Grassley (R-IA). The Senate Judiciary Committee reported the bill out on July 29. It has been referred to the full Senate for consideration.
- H.R. 420, the Veterans' Heritage Firearms Act of 2011, provides an amnesty period during which veterans and their family members can register certain firearms in the National Firearms Registration and Transfer Record. The House Judiciary Committee was scheduled to mark up the bill on October 27, but its consideration has been postponed. The bill is also pending before the House Ways & Means Committee. A Senate companion bill, S. 798, has been introduced by Senator Tester (D-MT) and has been referred to the Senate Judiciary Committee.

- H.R. 3012, the Fairness for High-Skilled Immigrants Act, amends the Immigration and Nationality Act to eliminate the percentage limit on employment-based immigration visas from any one country. The House Judiciary Committee marked up the bill on October 27. It has been referred to the full House for consideration.
- H.R. 10, the Regulations From the Executive in Need of Scrutiny Act of 2011, would require congressional approval of regulations with an annual economic cost of \$100 million or more. The House Judiciary Committee reported the bill to the full House on October 25. A Senate companion bill (S. 299) has been introduced by Senator Rand Paul (R-KY). The bill is currently pending before the Senate Homeland Security and Governmental Affairs Committee.

House Transportation & Infrastructure Hearing on Ports:

We reported to the County on the October 26th House Transportation & Infrastructure Committee hearing on the Economic Importance of Seaports to Trade. The hearing witnesses included:

- Jo Ellen Darcy, Assistant Secretary of the Army-Civil Works, U.S. Army Corps of Engineers
- Jerry Bridges, Chairman of the Board, American Association of Port Authorities
- Christopher Koch, President, World Shipping Council
- Paul Anderson, Chief Executive Officer, Jacksonville Port Authority
- Omar Benjamin, Executive Director, Port of Oakland
- William Friedman, President and Chief Executive Officer, Cleveland-Cuyahoga County Port Authority
- Peter Peyton, President, ILWU Marine Clerks Association

Committee Republicans were focused on the Obama Administration's underfunding of dredging projects. Specifically, that the Harbor Maintenance Tax (HMT) collects approximately \$1.5 billion, but only about half of that amount is spent each year by the Corps of Engineers on dredging projects. Assistant Secretary Darcy defending the President's budget. She believes that the Corps of Engineers was doing enough to keep within its budget to keep the channels clear.

The other witnesses on the panel also called for more spending on dredging and urged the Corps of Engineers to spend all of the HMT money it All the other witnesses called for more spending for dredging—that the feds should spend all the HMT money it collects. Legislation – H.R. 104, The Realize America's Maritime Promise Act or "RAMP" Act – has been introduced in the House that would mandate this. The bill is currently pending before the House Transportation & Infrastructure Committee. All of the private witnesses supported the legislation. A Senate companion bill, S. 412, the Harbor Maintenance Act of 2011, has been introduced in the Senate by Senator Carl Levin (D-MI). The bill is currently pending before the Senate Environment and Public Works Committee.

The private witnesses also support passage of a robust surface transportation reauthorization bill that increases the gas tax, spends more money, and includes a section on ports as proposed by Chairman John Mica's in his reauthorization proposal.

The Committee Democrats criticized the majority for cutting the Corps budget when they passed the FY2011 budget and did not include more money for dredging in the FY2012 budget. They also pointed out that the Republicans have not passed a surface transportation reauthorization bill and that the Republican concept paper on the reauthorization bill seriously underfunds highway programs. The private witnesses also called for a coordinated freight strategy by the federal government that ties together port, rail and highway projects.

Finally, everyone agreed on the need for streamlining approvals for port projects, stressing that the Corps of Engineers and environmental and cost reviews take too long.

Activities for November:

The House is scheduled to be out of session the weeks November 7th and November 21st. Congress will be working on the Continuing Resolution and the FY2012 appropriations bills. Also, the Joint Select Committee on Deficit Reduction (the "supercommittee") must vote on a final package of deficit reductions by November 23, 2011. A majority of the committee members will have to approve the package before it can be submitted to the House and Senate for consideration. Both chambers must vote on the final deficit reduction package by December 23, 2011. If the joint committee deadlocks or Congress fails to pass the package, it would trigger across-the-board cuts for defense and non-defense spending beginning in fiscal year 2013. We will keep the County posted on any relevant developments with this and our assigned issues.