



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
Jose Villalobos
Rick Spees

To: Chairman Joe A. Martinez
Board of County Commissioners

CC: Joe Rasco

Date: October 5, 2011

Subject: September 2011 Monthly Report

On September 14, Rick Spees, Jane Sargent and Nick Falvo of Akerman met with Joe Rasco, Bill Couch and Phillip Drujak to discuss the County's agenda for this year. We discussed the issues and departments assigned to us, including updates on a number of County resolutions, Corrections, Elderly Services, Fire Rescue, Health Care, International Trade, Juvenile Justice, and Law Enforcement issues.

We will work with OIA staff to coordinate conference calls with a number of County departments, including Juvenile Justice, Elderly Services, Corrections and Information Technology to discuss their federal issues. On September 19, we participated in a conference call with Juvenile Services and subsequently provided the department with a memo discussing the various juvenile justice issues that may be addressed by the 112th Congress. We look forward to speaking with the other departments about their issues over the next few weeks.

Fiscal Year 2012 Appropriations:

In September, the Senate Appropriations Committee made significant progress on the FY2012 appropriations bills marking up 10 of the 12 bills. The Senate had previously passed the Military Construction/Veterans Affairs bill leaving one bill – Interior/Environment to be taken up by the Committee. Concerns over dealing with policy riders that Republicans may try to attach to the bill has held up its consideration by the Committee. At this point, the Committee is not expected to mark up the bill and likely to go into House-Senate negotiations with a draft bill only that has

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

not been marked up by the members.

In September, the Senate Appropriations Committee marked up a number of bills of interest to the County, which we have previously reported on, but we have provided a brief overview of those programs and their funding levels below:

Commerce-Justice-Science: On September 15, the Senate Appropriations Committee approved the FY2012 Commerce-Justice-Science Appropriations bill. The bill provides \$2.3 billion (\$470 million less than FY2011) for Department of Justice grants to aid local and state law enforcement and crime victims, including:

Community Oriented Policing Services (COPS): \$232 million for COPS grants, including \$200 million to hire or retain police officers. The House FY2012 CJS appropriations bill provides no funding for COPS.

State and Local Law Enforcement Assistance: \$1 billion for State and Local Law Enforcement Assistance, which includes Byrne Justice Assistance Grants, State Criminal Alien Assistance Program (SCAAP), bulletproof vests and DNA backlog grants. The bill provides \$395 million for the Byrne Memorial Justice Assistance Grant program as well as \$21 million for Byrne Competitive Grants for peer-reviewed grants for programs of national significance to prevent crime, improve the administration of justice or assist victims of crime. The bill also provides \$273 million for SCAAP, a County priority. The House FY2012 CJS bill included no funding for SCAAP and cut the Byrne program by 16 percent. There is also \$24.9 million for Bulletproof Vests and \$131 million for DNA Backlog/Crime Lab Improvements grants.

Funding for other State and Local Law Enforcement activities include:

- \$251 million for juvenile justice and delinquency prevention;
- \$121 million for research and evaluation initiatives on prevention and intervention practices, which include regional information sharing activities;
- \$352 million to prevent, investigate and prosecute crimes against children;
- \$418 for domestic violence and sexual assault grants; and
- \$164 million for the management and administration of grants.

Labor-HHS-Education: On September 21, the full Senate Appropriations Committee approved its FY2012 Labor-HHS-Education bill. While we have already reported to the County on the Senate funding for some of the programs, we have included below those numbers as well as a comparison to the House draft Labor-HHS-Education Appropriations bill that was released by the House Appropriations Committee majority on September 29. The House Appropriations Committee did not mark up the Labor-HHS-Education bill over objections by conservative Republicans to the overall funding level in the bill. The House Appropriations Committee is not expected to mark up the bill on either the subcommittee or full committee level and will likely go into the House-Senate negotiations on the omnibus appropriations bill with the draft bill.

Head Start: The bill includes \$7.9 billion for Head Start, which is a \$340 million increase over the FY2011 level, and will allow Head Start to provide comprehensive early childhood services to 968,000 low-income children and their families. The draft House bill includes the President's budget request of \$8,099,783 for the Head Start program.

Community Health Centers: The bill includes \$1.6 billion for Community Health Centers (CHCs). Combined with mandatory funding provided in the Affordable Care Act, the FY2012 program level for CHCs is \$2.8 billion – an increase of \$200 million. This level will allow for base grant adjustments for all existing CHCs and the expansion of the national network of clinics. As we have previously reported, the Public Health Trust/Jackson Health System is interested in getting its North Dade Health Center qualified as a Federally Qualified Health Center (FQHC) that is eligible for federal funding. The CHC funding level was not available in the draft House bill or the summary released by the House Appropriations Committee majority on September 29. If the Committee had released a draft report to accompany the appropriations bill, more details would have been available on funding levels for all programs.

Child Care and Development Block Grant: The bill includes \$2.2 billion for the Child Care and Development Block Grant, including \$283.6 million specified for child care quality improvement activities. The bill maintains funding at the FY2011 level and, including mandatory funding, will allow States to provide child care subsidies to an estimated 1.6 million low-income children and their working families. The draft House bill funds the program at the same level as the Senate.

Senior Nutrition: The bill includes \$817.8 million for senior nutrition programs, including congregate meals, home-delivered meals and the nutrition services incentive program. These programs provide seniors with the meals they need to stay healthy and remain independent in their community. The bill maintains funding at the FY2011 level. The draft House bill provides \$819 million, the same as the President's budget request, for senior nutrition programs.

Community Services Block Grant: The Senate bill includes \$678.6 million, the same as the FY2011 funding level, for CSBG. This block grant provides critical funding for community action agencies across the country to help ensure a safety net at the local level for the most vulnerable Americans. The draft House bill provides \$704 million, an increase of \$2 million above FY2011, for the CSBG.

Ryan White AIDS Programs: The Senate bill provides \$2.35 billion for Ryan White AIDS programs. This is a slight increase over the FY2011 level (\$2.34 billion). These programs provide a wide range of community-based services, including primary and home healthcare, case management, substance abuse treatment, mental health services, and nutritional services. The draft House bill provides \$2.31 billion for Ryan White AIDS programs.

Administration on Aging (AoA): The Senate bill provides \$1,534,701,000 for the Administration on Aging (AoA), which includes \$52,000,000 in Medicare trust funds. This is a slight decrease from the FY2011 level of \$1,549,322,000, and the President's request of \$1,787,944,000 for the AoA. The AoA is charged with administering programs through the national aging network that promote the development of comprehensive, coordinated home- and community-based care for seniors. The draft House bill includes \$1,471,324 for the AoA.

Homeland Security: On September 7, the Senate Appropriations Committee approved the FY2012 Homeland Security appropriations bill. The bill provides \$2.58 billion for state and local grants, which are administered by FEMA. The House version of the FY2012 Homeland Security bill cut these grant programs significantly. The Senate bill is \$557 million above the House level.

Also, unlike the House bill which simply provided a lump sum for all State and Local Programs, the Senate bill provides specific funding levels for the grants, including:

- State Homeland Security Grant Program - \$430 million;
- Urban Area Security Initiative - \$400 million;
- Emergency Operations Centers - \$15 million;
- Port Security grants - \$200 million;
- Transit Security grants - \$200 million;
- The bill provides \$750 million for fire equipment and firefighter hiring. Additionally, waivers of certain provisions of the SAFER grant program are included.
- No specific funding is provided for Citizens Corps, Driver's License Security, Buffer Zone Protection Program, Metropolitan Medical Response System and Interoperable Emergency Communications grants. Activities previously funded under these programs are eligible in the funded programs;
- \$155.5 million for the National Domestic Preparedness Consortium, \$48.5 million above the House;
- The bill provides \$350 million for Emergency Performance Grants, \$11 million about the FY2011 level.

The Senate bill included \$6 billion for FEMA's Disaster Relief Fund, which is \$2.3 billion more than the House bill and \$4.2 billion more than initially requested in the President's budget. However, due to the number of recent natural disasters, FEMA was running out of money so Congress decided to include \$2.65 billion in FY2012 funds for FEMA and other disaster aid programs in the latest Continuing Resolution. The Senate bill also provides \$41.3 million for Urban Search and Rescue Teams under FEMA, a \$6 million increase above the FY2011 level.

The House Appropriations Committee had completed most of its work on the FY2012 bills before the August recess. The House has passed 6 of the 12 bills. The full House Appropriations Committee has marked up three more bills – Commerce-Justice-Science, Financial Services, and Interior-Environment. Two other bills – State-Foreign Operations and Transportation-HUD have been marked up on the subcommittee level. They are not expected to be taken up by the full Committee. One bill, Labor-HHS-Education, is not expected to be marked up by the subcommittee or full committee, but a draft of the bill was released on September 29.

Because none of the FY2012 appropriations bills were completed when the new fiscal year started on October 1, Congress had to pass a Continuing Resolution to keep the government operating. On September 29, Congress passed a 4-day Continuing Resolution that went through October 4. Before it expired, they passed another Continuing Resolution that funds the government through November 18.

In the meantime, House and Senate appropriators will begin drafting an omnibus appropriations bill that combines all 12 appropriations bills into one large bill. Policy riders and the different spending levels in the bills will not make negotiations easy, but the current goal is to try to get the omnibus completed by November 18. If that does not happen, they will have to pass another short-term Continuing Resolution until they can complete their work on the FY2012 bills.

Free Trade Agreements

In September, the House passed a bill (H.R. 2832) to reauthorize the Generalized System of Preferences (GSP), which governs trade with developing nations. The bill was referred to the Senate. During the Senate floor debate on the GSP bill, an amendment was included to extend the Trade Adjustment Assistance (TAA) program for workers displaced by trade. The Senate passed the bill on September 22 and it is now pending in the House. Extension of TAA benefits, which expired in February, has been the key to the President and Democrats agreeing to proceed with the three pending free trade agreements. On October 3, the House Rules Committee approved a rule for floor consideration for the GSP/TAA bill and is expected to report out the rule later today. The House will need to approve the bill before the Senate proceeds with the trade agreements.

On October 3, the President also submitted the implementing bills for the free trade agreements (FTAs) for Columbia, Panama, and South Korea to Congress. The implementing bills for the FTAs will be considered under Trade Promotion Authority -- formerly known as "fast track" -- which is an expedited procedure for Congressional consideration of certain trade agreements. The fast-track authority provides that Congress will consider trade agreement implementing bills within mandatory deadlines, with a limitation on debate, and without amendment.

Trade Promotion Authority (TPA) actually expired on July 1, 2007. However, TPA procedures apply to implementing bills for free trade agreements entered into before that date. Four free trade agreements were signed in time to be considered by Congress under TPA -- Peru, Columbia, Panama, and South Korea. The implementing legislation for the U.S.-Peru Trade Promotion Agreement was passed by Congress and signed into law by President Bush on December 14, 2007. The three remaining agreements with Columbia, Panama, and South Korea have been pending since then.

Under fast-track procedures, once the President transmits a trade agreement to Congress, then the implementing bills must be introduced in the House or Senate in next day they are in session. Senators and Representatives cannot amend the President's bill in committee or during floor consideration. The committees to which the bills have been referred -- Ways and Means in the House and Finance in the Senate -- have 45 days to report the bill, or be automatically discharged, and each chamber must vote within 15 days after the bill is reported or discharged.

The bill typically originates in the House, and after the Senate receives the House-passed bill, the Finance Committee would have another 45 days to report the bill or be discharged, and then the Senate would have another 15 days to pass the bill. On the House and Senate floor, the bill can be debated for no more than 20 hours. Senators cannot filibuster the bill. Only a simple majority is required to pass the bill. Taking the entire process together, Congressional consideration can take no more than 90 days from the date of introduction.

In accordance with these procedures, House Majority Leader Eric Cantor introduced the three implementing bills on October 3 -- 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". Congress has 90 days from yesterday to approve the bills.

However, the process is not likely to take that long as the House Ways and Means Committee is holding a mark up of the bills for October 5. The bills cannot be amended by the Committee, but it their opportunity to express their views on the trade agreements. The Committee is expected to report the bill out the same day and it will likely be voted on by the full House the week of October 10.

The bills will then be forwarded to the Senate for consideration. The bills are expected to proceed through the Senate without difficulty, but the Senate is not expected to pass them until the House approves the Senate-passed GSP bill that includes an extension of TAA benefits. The Senate leadership has already sent notice that the trade agreements could be taken up before their next scheduled recess on October 24. President Obama would like the bills to be approved before the official state visit by South Korea's president on October 13 so it is possible that they could be cleared before then.

FCC Resolution/D-Block Spectrum/Fire Rescue:

In September, the Board of County Commissioners approved a resolution urging Congress and the Federal Communications Commission (FCC) not to take action related to implementation of the National Broadband Plan that would limit or disrupt airwaves currently allocated for free broadcast spectrum.

On March 16, 2010, the FCC presented its National Broadband Plan to Congress, which recommended the reallocation for wireless broadband use of 500 MHz of spectrum, with 120 MHz being taken from airwaves currently allocated to local broadcast television. The FCC is currently seeking authority from Congress to hold spectrum incentive auctions to implement the recommendations of the National Broadband Plan.

The County's resolution cites two bills specifically – S. 911 and H.R. 2482 – that would provide the FCC with authority to conduct incentive auctions of currently licensed spectrum, including some broadcast television airwaves. Because that reallocation of spectrum could result in a reduction in and disruption to the airwaves currently used by free local television broadcast stations, which is an important means to access local news and information, particularly for senior citizens and low income persons, the County has urged Congress and the FCC to not take any action to implement the National Broadband Plan or disrupt airwaves currently allocated for free broadcast television through a spectrum incentive auction.

The County's resolution mentions two bills specifically – S. 911, the Rockefeller-Hutchison "Public Safety Spectrum and Wireless Innovation Act" and H.R. 2482, the Dingell-Green "Public Safety Broadband and Wireless Innovation Act". H.R. 2482 has been referred to the House Energy & Commerce Committee as well as the Science and Armed Services Committees. None of the committees of jurisdiction have taken any action on the bill.

S. 911 was reported favorably by the Senate Commerce Committee on June 8. Senator Rockefeller has said that he would like the full Senate to take up the bill as quickly as possible,

but it is not clear when the bill will move. Both S. 911 and H.R. 2482 would auction off broadcast spectrum. Because the Congressional Budget Office has estimated that incentive auctions of broadcast spectrum could raise as much as \$24 billion, it is possible that the Joint Select Committee on Deficit Reduction, better known as the "supercommittee", could decide to use the spectrum auction authorization as part of its debt reduction plans, which may delay any further consideration of S. 911 or the five other D-Block spectrum bills currently pending before the Congress.

While the County is concerned about the impact of a spectrum auction on access to free broadcast television, the National Association of Counties, National League of Cities, U.S. Conference of Mayors, law enforcement and first responder organizations have been actively working on S. 911 and other similar bills because the legislation would also reallocate a section of spectrum, known as D-Block to public safety officials for the creation of a national interoperable public safety broadband network and authorize funding for the incentive auctions to help build it.

S. 911 would reallocate the 700 MHz D Block to public safety, which will improve first responder communications and emergency response capabilities. Building a high-speed nationwide wireless network for first responders will allow public safety officials to communicate seamlessly from coast-to-coast with high-speed devices capable of transmitting video, image and data files rather than using outdated radios.

Supporters believe that by providing a single section of contiguous broadband spectrum, public safety could not only utilize the most modern and reliable technologies for video and data communications, but could also move existing voice communications in other parts of the spectrum onto 700 MHz in the future. This would free up other areas of spectrum for potential commercial use while also reducing the costs to taxpayers of maintaining multiple communications systems.

In disasters and other emergencies, customers clog commercial systems as they attempt to communicate with friends and families, access information, and document the event online. This usage blocks first responders from accessing the network. To protect life and property, first responders must have priority access over other uses, which cannot be guaranteed by commercial networks operated by commercial providers.

By reallocating D Block, it would give public safety officials sufficient spectrum to utilize a variety of applications while also controlling access to the network during times of emergency. To date, public safety has been granted only small sections of spectrum over time, but never enough to consolidate communications into a single frequency band. This means that when multiple agencies respond to an event, they cannot communicate with each other because they each use radios that operate on different portions of the spectrum. Many first responders carry multiple radios just to ensure they can communicate with other responding agencies during emergencies. Giving public safety the D block would help end the need to utilize multiple communications systems which adds significantly to the cost and complexity of emergency communications. For these reasons, cities, counties and public safety officials have been lobbying for S. 911 and similar bills.

Current law calls for the D-Block to be auctioned to commercial bidders. The President and Congressional Democrats support reallocating the D-Block to public safety. However, House Republicans continue to support maintaining the current law. The House Energy and Commerce Committee Republicans and Democrats are continuing to negotiate on a bipartisan bill. A draft bill released by the majority staff in July would not have reallocated the D-Block to public safety, but would have allowed it to be auctioned to commercial bidders. Committee Democrats have proposed a bill that would reallocate the D-Block of the 700 MHz to public safety and would use the proceeds from other spectrum auctions to offset the cost of the public safety network's deployment, operation and maintenance. Their negotiations are ongoing, but the House Energy and Commerce Committee may try to mark up a bill in October. We will keep the County posted on any developments with this issue.

Fire Rescue/USDA Property Acquisition:

On August 19, 2011, Congresswoman Ileana Ros-Lehtinen introduced the County's lands bill. The bill, H.R. 2825, will permit the County to purchase approximately 2 acres of property at the Subtropical Horticultural Research Station from the U.S. Department of Agriculture (USDA) to build a new fire station to serve Pinecrest, Palmetto Bay, Cutler Bay, and surrounding communities.

In September, the four other members of the Miami Dade delegation, Congressman Mario Diaz-Balart, Congressman David Rivera, Congresswoman Wasserman Schulz and Congresswoman Frederica Wilson, agreed to co-sponsor the bill. We will work with them as the bill moves through the legislative process.

In September, we also discussed with OIA staff about having the bill introduced in the Senate. Senator Nelson introduced the Senate companion bill (S. 3050) during the 111th Congress. We expect that he will introduce the bill again this session when the timing is appropriate.

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 September 30, 2011. However, CMS has agreed to another temporary extension of the State's Medicaid waiver until October 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 by the end of the State Fiscal Year 2014 (June 2014) and be fully funded at \$1 billion. If they are unable to reach an agreement by October 15, the State will have to apply for another temporary extension of the State's Medicaid waiver. We will continue to provide updates to the County on this issue.

Children's Issues:

In September, the House and Senate passed the Child and Family Services Improvement and Innovation Act (H.R. 2883). The President signed it into law on September 30.

H.R. 2883 reauthorizes child welfare programs that were scheduled to expire on September 30. The bill authorizes \$325 million a year in discretionary funds for Child Welfare Services and \$545 million a year (\$200 million discretionary, \$345 million mandatory) for the Safe and Stable Families program which provides funding to states for services that address: family support, family preservation, time-limited family reunification and adoption promotion and support.

In September, the House and Senate also passed the Short-Term TANF Extension Act (H.R. 2943). The bill extends the Temporary Assistance for Needy Families (TANF) program's authorization through the end of the calendar year at FY2011 levels. The TANF program makes block grants to states to provide cash assistance, job training and other services to low-income families that have children. The President signed the extension into law on September 30.

Activities for October:

The House is scheduled to be out of session the week of October 17. The Senate is scheduled to be out of session the following week. Congress will be working on the omnibus appropriations bill and the Joint Select Committee on Deficit Reduction will continue its work. We will report on any developments on the free trade agreements and the State's Medicaid managed care plan. We will also continue to work with the County on our other assigned issues and any new matters as they arise.