



Akerman LLP  
The Victor Building  
750 9th Street, N.W., Suite 750  
Washington, DC 20001

T: 202 393 6222  
F: 202 393 5959

## Memorandum

---

From: Rick Spees, Jane Sargent and Jose Villalobos  
To: Board of County Commissioners  
CC: Phillip Drujak  
Date: December 2, 2022  
Subject: November 2022 Monthly Report

---

### **Legislative Update:**

We are now in the final weeks of the 117<sup>th</sup> Congress, which ran from January 3, 2021 and will officially end on January 3, 2023. We are currently in the post-election or Lame Duck session with dozens of House members retiring, either because they left voluntarily or were defeated in the election. The new members are going through their orientations but will not be allowed to vote until next year. There will be several new members of the Senate as well.

As I am sure you know, there is still one outstanding Senate seat, with the election in Georgia scheduled for December 6<sup>th</sup>. Already the Democrats have control of 50 seats, which means they will control the Senate next Congress. If Senator Warnock wins re-election, the Democrats will control 51 seats. Obviously if Herschel Walker wins, both parties will control 50 seats, but since the Vice President can vote to break ties the Democrats will be in charge. In the House, there is still one outstanding race that has not been called. And one Democratic member passed away this week. That means the partisan split is 221-212. In the open race, the Republican is ahead. And it is expected that the Democrats will win the special election for the newly vacant seat. That means that the partisan split of the 118<sup>th</sup> Congress will be 222-213, at least to start.

With the Republicans in control of the House, their first priority will be to choose the member that will become Speaker next Congress. To become Speaker, a member needs to secure a majority of votes in the House. Congressman Kevin McCarthy has been the Republican Leader

for the last four years. In normal times he would be elevated to become Speaker. However, there are a number of Republicans that are saying that they won't vote for him to become Speaker. We expect that eventually Congressman McCarthy will find a way to get the needed votes. However, if he is unable to accomplish this goal, the Republicans will turn to another member to lead them.

This is important for two reasons. First, the House Republicans are focused on their internal fights and are not working on legislation. Second the House conservatives do not want to pass any legislation in the lame duck session. If Kevin McCarthy needs to kill any legislation to get the votes he needs to become Speaker, he will try to do that. This will complicate the effort to pass any bills over the next month. Fortunately bills can pass the House provided the Democrats stick together.

There are a significant number of bills that folks want to see passed. The most important one is some form of a budget bill. To recap where we are on the appropriations front, there are twelve appropriations bills that make up the federal budget. Congress should pass all twelve before the new fiscal year starts on October 1<sup>st</sup>. This year, Congress was unable to pass any of the bills. To avoid a government-wide shutdown and to keep the government running, Congress passed a Continuing Resolution (CR) that keeps the federal agencies and programs operating at last year's level until December 16<sup>th</sup>. That deadline is less than three weeks away, yet little progress has been made to complete action on the budget. In general, the Democrats want to increase domestic spending more than the Republicans while the Republicans want more for defense. And there are other issues.

Having said that, the Republican Senate Leader, Senator McConnell said this week that he wants to get a comprehensive budget bill done. He is concerned about a number of issues. He wants to make sure that the Defense Department has the resources it needs. He also wants to pass more aid for Ukraine. And pass some relief aid for areas of the country that have been hit by natural disasters. His voice is crucial. Without his support the budget bill would be dead and the Congress would need to pass another CR that would carry the government until February or March of next year. Even with it, it will be hard to get the bill done as there are so many moving pieces and hard feelings. Until this week we were not optimistic of success on the budget. Now we see hope. If necessary to get the final bill done, Congress may pass another CR that will run until December 23<sup>rd</sup>.

Regarding other legislation, it will be difficult to get much done. Some bills may be added to the final budget bill but only if they are non-controversial. Again, the path forward goes through Senator McConnell's office. Bills need at least 10 Republican votes to avoid a filibuster in the Senate and get passed. Not many bills will get through this gauntlet.

We will be watching the progress of the lame duck session and will keep you informed.

### **Community Project Funding/Earmarks:**

One of the few issues that has been resolved in the FY 2023 appropriations process is that Community Project Funding or "earmarks" will remain in the final version of the bills whenever they are finished. The County has several pending requests in the House versions of the bills. We expect these projects will remain in the final version of the omnibus when it is completed.

Also, this week, House Republicans voted against a proposed earmark ban for the next Congress. Democrats brought the practice of earmarking back two years ago with increased transparency rules after a 10-year hiatus. At the time, Republicans allowed members to request earmarks under these new rules. While several Republicans still do not make earmark requests, the number has grown over the last two years with more than half of Republican House members now making requests.

However, there is still a sizeable number of members, particularly conservatives, that support continuing the earmark ban and tried to reinstate it when Republicans take control of the House in January. The Republican conference voted the proposed ban down this week – in part because Democrats will continue to control the Senate and White House and didn't want to cede further authority to the Democrats. We would expect that some Republican House members will continue their practice of not making earmark requests. There also may be some changes to the process when Republicans take control of the House Appropriations Committee, but the key is that earmarks will be permitted in the FY 2024 appropriations process next year.

### **Elections Outcome:**

There were no changes to the Miami Dade Congressional delegation as a result of the midterm elections. However, with the overall change in control of the House, the Republican House members in the delegation – Representatives Diaz Balart, Gimenez and Salazar – will now be in the majority and all members of the delegation will move up in seniority. Representative Diaz Balart has reached his six-year term limit as the lead on the Transportation-HUD Appropriations Subcommittee. Without a waiver to remain at the top of the THUD subcommittee, he will be forced to move to another subcommittee. Four other Republican chairs are in the same position so there could be significant shuffling on the House Appropriations Committee. Representative Wasserman Schultz will also move from the chair of the Military Construction-VA Subcommittee to the ranking member position. However, because of Democratic retirements, she may be in a position to move to the ranking member spot on a different subcommittee.

As for the Senate, Senator Rubio easily won re-election. He and Senator Scott will continue to serve in the minority as Democrats retained control of the Senate. Should Democrats win the runoff election in Georgia, they would hold 51 seats. Under the current 50-50 split Senate all committees are divided evenly. If Senator Warnock (D-GA) wins re-election, the committee ratios will change slightly. While Senator Rubio is the lowest ranking member on the Senate

Appropriations Committee, there are two retiring Republican Senators above him so he should hopefully be able to remain on the committee next session.

**Activities for December:**

The House and Senate are currently in session for the next couple of weeks. The existing CR runs until December 16<sup>th</sup>. However, if it looks like a deal on the omnibus is possible, they could pass another CR until December 23<sup>rd</sup> to give themselves a few more days to complete the bill. They will also be trying to complete the National Defense Authorization Act (NDAA) this month. A few other bills, such as the Water Resources Development Act, could be attached to the NDAA. Once they adjourn, the current session of Congress will come to an end and all pending legislation will die and will need to be re-introduced next session. When the 118<sup>th</sup> Congress convenes on January 3, 2023, the Republicans will control the House with a narrow majority. Democrats will retain control of the Senate for the next session regardless of the outcome of the Senate runoff in Georgia. In January, the House and Senate will finalize the committee assignments for members. The House Republicans have begun to layout their agenda in broad terms for next session, but the divided Congress could make it difficult to reach agreement on contentious issues. As always, we will continue to monitor and report on legislative and executive branch developments of interest to the County.