

To: Phillip Drujak
From: Vicki Cram, Carolina Mederos
Date: October 9, 2018
Subject: Miami-Dade County Monthly Reports

This memorandum provides a summary of work performed on behalf of Miami-Dade County by Squire Patton Boggs to date in 2018. Currently, the House is not in session until after the elections, while the Senate is still in session and is working on finalizing legislation and nominations, having now successfully, but extremely contentiously, placed Justice Brett Kavanaugh on the Supreme Court.

This year, Congress vowed to return the FY 2019 appropriations process to “regular order” with some success. Both chambers passed all 12 of their spending bills out of committee. At the time of this memo, Congress has approved its second FY 2019 appropriations “minibus,” which included the two largest spending bills – Defense and Labor-HHS-Education – as well as a Continuing Resolution to fund the remaining departments through December 7. The President signed the measure on September 28 (this follows the President signing the FY 2019 Energy-Water, Military Construction-Veterans Affairs, and Legislative Branch appropriations bills into law on September 21).

The remaining bills – Agriculture, Commerce-Justice-Science, Financial Services, Homeland Security, Interior-Environment, and Transportation-HUD – were held up due to disputes over border wall funding and contentious policy riders included in the House versions of the bills. How these bills are resolved will depend in large part on the outcome of the elections. Complicating those lame duck negotiations is the passage of the Labor-HHS-Education and Defense bills, the biggest funding priorities for Democrats and Republicans, respectively, which are often used to leverage passage of other, more contentious spending bills. Squire Patton Boggs has kept the County apprised of all notable activities related to the movement of the 12 appropriations bills through the process, including a frequently updated chart of all programmatic funding levels of interest to local governments (along with some policy riders of interest).

Among some of the notable accomplishments of the second session of the 115th Congress are:

- Passage of a Federal Aviation Administration reauthorization. Throughout the year, Squire Patton Boggs has kept the County and Miami International Airport updated on the hearings, markups, amendments, and movement of the respective House and Senate FAA bills. After years of short-term extensions, on October 5, 2018, the President signed the five-year,

\$90 billion authorization, which marks the longest FAA reauthorization passed by Congress since the 1980s. The legislation addresses industry workforce programs, aviation safety, and drone integration. It does not include the “privatization” of the air traffic control system.

- The Senate will concur with respect to the Water Resources Development Act this week and move the legislation to the White House for the President’s signature. The bipartisan agreement on comprehensive water resources infrastructure legislation, known as *America’s Water Infrastructure Act* (AWIA/S. 3021), would provide funding for projects located throughout the U.S., including port, waterway, flood protection, and other water resources infrastructure improvements. It also contains measures that would provide funding to improve drinking water infrastructure, update resilience measures at public water systems, and streamline the regulatory approval process for hydropower infrastructure. Additionally, the legislation would require a study on whether the U.S. Army Corps of Engineers (USACE) should be housed at an agency other than the Department of Defense.

AWIA contains the Water Resources Development Act (WRDA) of 2018, which would authorize USACE to begin construction on 12 new water resource development projects, make modifications to other existing projects, and expedite feasibility studies on more than 65 other projects. These water resources projects include ports, channels, locks, dams, flood protection, ecosystem restoration, and other infrastructure that supports the waterways transportation system and provides flood protection for communities.

This legislation increases the number of pilot projects for the beneficial use of dredged material from 10 to 20. Further, it also increases the number of projects eligible for a pilot program that allows USACE to provide a non-federal interest full management control over projects, pursuant to Section 1043 of WRRDA 2014, from 15 to 20 projects. Additionally, Section 203 of WRDA 1986 permitted non-federal interests to carry out authorized water resources development studies. This section requires USACE to provide technical assistance to non-federal interests for any aspect of the study and allows USACE to accept and expend funds from non-federal interests to undertake inherently federal responsibilities related to the study. The legislation also directs USACE to expedite projects for flood risk management or hurricane and storm damage reduction in Texas, Florida, Georgia, Louisiana, South Carolina, and the Commonwealth of Puerto Rico. The legislation reauthorizes the Water Infrastructure Finance and Innovation Act (WIFIA) program at \$50 million for each of FY 2020-2021 and removes the program’s “pilot” designation. It allows state infrastructure financing authorities to finance up to 100 percent of eligible project costs with WIFIA funds (normally a maximum of 49 percent of a project may be financed through WIFIA) and clarifies that a WIFIA loan may not be repaid with federal funds provided under the Drinking Water and Clean Water State Revolving Fund (SRF) programs.

- Passage of the *Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act* (H.R. 6) which incorporates a wide range of provisions to address the nation’s opioid epidemic. The measure, which represents a bipartisan, bicameral agreement, largely modifies Medicare and Medicaid policies to better prevent and combat the crisis. Generally, other elements seek to expand comprehensive substance use disorder treatment, particularly in state and local communities, and address associated health workforce shortages. During the development of this legislation, Squire Patton

Boggs kept the County apprised of the more than 50 bills that the House passed addressing components of H.R. 6, as well as the comprehensive bill that the Senate drafted. We also informed the County of appropriations legislation addressing funding for the opioid crisis as it wended its way through the congressional process.

- There are still several items on Congress' "must pass" list prior to adjournment, which will be taken up in the lame duck session of Congress, likely including the Farm Bill, renewal of the Land and Water Conservation fund, and the expiration of the National Flood Insurance Program's (NFIP) authorization that ends on November 30. Other issues that may be addressed include tax extenders, immigration, pensions, and election security. We will be keeping a close eye on developments and will report on them to the County.

January

In January, as Congress geared up for the year, the Squire Patton Boggs team prepared for the movement of a renewal of the Water Development Resources Act. We analyzed draft bills, attended and summarized both the Senate Environment and Public Works Committee and the House Transportation and Infrastructure Committee hearings on WRDA. We also kept an eye on various trade associations' positions on the bills and reviewed the Problem Solver's Caucus Infrastructure report.

In addition, we analyzed the WRDA pilot program for dredged materials and provided information on the pilot program to the County.

Squire Patton Boggs also prepared memos on the following for the County: the potential government shutdown; the progress of the Continuing Resolution; the bipartisan Deferred Action on Childhood Arrivals (DACA) legislation; the White House Immigration proposal; and the House Rules Committee hearing on bringing back earmarks. We also drafted and sent our final quarterly Local Government Update and our annual report summarizing the activities of the previous year.

February

On January 30, President Trump delivered the State of the Union Address (SOTU) to Congress. Squire Patton Boggs is nationally recognized for our incisive analysis of the State of the Union Address, which we sent to Miami-Dade County the following day.

Following the SOTU, the President released his FY 2019 budget submission to Congress. We prepared an extensive budget analysis with focus on issues of particular interest to the County.

Building on Squire Patton Boggs activities from previous years, the U.S. Army Corps of Engineers announced the request for proposals for the beneficial use of dredged materials pilot projects pursuant to Section 1122 of the Water Development Act (WRDA) of 2016. We alerted the County to the RFP and provided advice on how to prepare the proposal. We also reviewed details of the funding for the program.

Additionally, we prepared an analysis of the President's announcement of his legislative goals to rebuild the nation's crumbling infrastructure. The proposal included \$200 billion in federal funds to spur at least \$1.5 trillion in infrastructure investments partnering with state, local, tribal, and private entities. The proposal included making new investments in rural America, returning decision-making authority to state and local governments, removing regulatory barriers, streamlining permitting, and supporting workforce development. In addition, we consulted with the County on preparations for the upcoming TIGER grant notice of funding availability announcements (now known as the BUILD program).

We reported on House Transportation and Infrastructure Chairman Shuster's withdrawal of his proposal for reforming the Air Traffic Control system, which had been a contentious issue holding up the Federal Aviation Administration's reauthorization during the prior year.

As Squire Patton Boggs has done for several years, we sponsored the Florida Association of Counties (FAC) reception at the NACO annual meeting in Washington, DC. We also attended the reception in March.

During February, we began preparing the annual programmatic appropriations forms required by congressional offices. Squire Patton Boggs typically shares this responsibility with Akerman LLP, and we began the FY 2019 process, working with Phillip Drujak of the County's Washington, DC office, of sorting through appropriations requests and drafting and submitting to the delegation multiple forms for support of programs such as CDBG, HOME, and others.

The recently passed *Tax Cut and Jobs Act of 2017* (P.L. 115-97) had created a new economic development program called Opportunity Zones. At the end of February, Treasury issued a guidance to governors regarding the new program. We provided the guidance to the County and included a report on a White House meeting concerning the program.

We continued to follow and report on developments with the DACA program, immigration, and other issues of interest.

March

Squire Patton Boggs drafted and submitted (to the delegation) six FY 2019 appropriations forms for programmatic funding levels for the Community Development Block Grant, the HOME program, the WIFIA program, Capital Investment Grant program, McKinney-Vento homeless program, and continued Zika funding. We coordinated with trade associations, like the American Water Works Association, on messaging and funding levels.

We also advised the County on the renewal of the Federal Transit Administration (FTA) Letter of No Prejudice (LONP). The LONP allows the County to incur costs to replace 136 Metrorail vehicles and to recoup the costs through its FTA formula apportionment.

We continued to follow up on funding for the non-domestic sand study and to track the TIGER grant announcements that occurred on March 9. We summarized hearings on the President's infrastructure proposal by the Senate Environment and Public Works Committee and other developments.

In late March, Congress passed the \$1.3 trillion *Consolidated Appropriations* (P.L. 115-141) package. The White House had issued a statement on behalf of the Administration supporting the bill, but the President threatened on Twitter to veto it, citing a lack of DACA support and border wall funding. Finally, the President signed the bill. As soon as it was signed, we prepared an in-depth analysis of the legislation (including policy riders) and updated our programmatic funding chart of all programs of interest to the County and local governments.

We also sent the County materials on the DOJ School Safety program.

April

Squire Patton Boggs performed an in-depth analysis of the Department of Transportation New Starts funding in the FY 2018 omnibus appropriations bill for the County's Washington, DC staff.

Additionally, in April, the Department of Transportation released the Bus and Bus Related Discretionary funding which resulted in Miami-Dade County's award of \$3.6 million. DOT also released the Notice of Funding Availability for the FY 2018 TIGER grant program, which the administration renamed BUILD grants. We prepared a memo on the details of the FY 2018 \$1.5 billion BUILD grant program, which was triple the previous year's funding level. We also discussed the program with County staff and consulted on the Smart Plan and potential funding opportunities.

During the month, we kept the County updated on such issues as: Economic Development Administration disaster funding; SNAP program changes outlined in the House Farm bill; Department of Justice Byrne Memorial Grants; and legislative activity on the DACA program. We also reviewed and consulted with County staff on recently passed County policy resolutions.

May

After each round of TIGER grant announcements, those jurisdictions that did not get an award can participate in a debriefing to learn their score and how to improve their grant application for the next round. Because the County had submitted an unsuccessful grant application for the FY 2017 TIGER grant program, Squire Patton Boggs arranged for and participated in the debrief on the County's TIGER grant which will position it more favorably for success in the next round.

Squire Patton Boggs also provided an analysis of the State Revolving Fund WIN proposal in the WRDA legislation and the position of trade associations on the proposal.

We also provided summaries of legislation as it advanced through the hearing process. For example, we analyzed: the House FY 2019 Commerce/State/Justice appropriations bill; the House Ways and Means markup of various opioid legislation; the House Transportation/HUD appropriations bill; the Joint Economic Committee hearing on Opportunity Zones; the White House rescissions package; and the White House immigration proposal.

June

In early June, the U.S. Department of Transportation released the FY 2017 INFRA grant announcements, including \$7 million to Port Miami to replace two outdated cargo terminal gates at Port Miami. We followed up with a meeting of DOT staff.

As the reauthorization of the Water Resources Development Act began to pick up steam, Squire Patton Boggs engaged with the County and the congressional delegation on amendments regarding sand replenishment and S. 279, the “Sand Act.” *The Sand Acquisition, Nourishment and Development Act* was introduced by the Florida delegation in both chambers. It would repeal an archaic law that does not allow communities to buy sand from the Bahamas and other foreign countries to replenish shorelines and permit another sand source for counties, like Miami-Dade, which have depleted their usable offshore sand.

We reviewed, researched, drafted, edited, and worked with Philip Drujak of the County’s Washington, DC office on documents regarding setting the County’s federal agenda.

During June, we provided summaries and analysis of: the Senate Transportation/HUD appropriations bill; the immigration discharge petition in the House; proposed NEPA changes; House Homeland Security committee hearings on the opioid epidemic; Labor/HHS/Education appropriations; DOJ’s grant requirements; HUD oversight hearing; review of veterans provisions in appropriations bills; the DHS appropriations bill; DACA legislation; a White House meeting on Opportunity Zones; and movement on the Senate FAA bill. Further, we flagged U.S. Conference of Mayors resolutions that might impact County operations.

July

In July, House Transportation and Infrastructure Committee Chairman Shuster released a draft Infrastructure Plan. The bill called for significant federal investment in infrastructure projects through at least 2021. The draft called for a 15 cent-per-gallon tax on gasoline and a 20 cent-per-gallon tax on diesel, to be phased in over a three-year period. The fees would be indexed to inflation before they would be ultimately eliminated in September 2028. It also included similar corresponding increases in user fees on alternative fuels, such as a 10 percent tax on the wholesale price of bicycle tires and another on the price of electric car batteries. Meanwhile, a vehicle-miles-travelled tax would be phased in. The legislation was proposed to ignite a conversation around the Highway Trust Fund solvency and provide the basis for debate moving forward, despite the fact that the Chairman will retire at the end of the year. Squire Patton Boggs provided the County with an in-depth analysis of the discussion draft.

Squire Patton Boggs also provided an analysis of the Republican’s Tax Reform 2.0 proposal, which would make the recently reduced rates for individuals permanent and would expand tax-advantaged savings accounts, including for retirement and education.

Squire Patton Boggs provided outreach to other congressional delegations concerning support for the Sand Act (S. 279) being attached to S. 2800, *American’s Water Infrastructure Act of 2018* (WRDA), and contacted the staffs of Senators Merkley (D-OR), Wyden (D-OR), Cantwell (D-WA), Murray (D-OR), Cortez Masto (D-NV), and Heller (R-NV) to urge their support for its inclusion.

In July, we also provided information on the *STREAMLINE Act* (S.3157) regarding the preemption of local government control on the siting of small cells.

August

In August, Squire Patton Boggs provided updates on the following: undetectable firearms; potential FCC activity on a small cell order; EPA materials regarding the Clean Power Plan; and the FAA reauthorization extension.

We advised the County on strategy regarding its Department of Transportation BUILD grant applications.

Additionally, we prepared a quarterly update on all legislative and regulatory issues of interest to the County, and local governments in general.

September

The FCC released its small cell order in September. Squire Patton Boggs reported on the details and the subsequent hearing at the FCC where the order was passed on September 26.

Squire Patton Boggs advised the County on the requirements and process for the proposed South Corridor BRT to secure FTA Small Starts grant funds and enter the Project Development stage. In particular, we advised on required local funding, reporting requirements, and congressional strategy. We also advised on the Administration's execution of the New Starts process and congressional direction.

Additionally, the final compromise Water Infrastructure Development Act legislation was conferenced and Squire Patton Boggs analyzed the legislation for the County.