



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION/WATER RESOURCES **Corps/Water Resources Development Act**

On March 8, the Army Corps of Engineers (Corps) published a public notice seeking feedback on provisions within the Water Resources Development Act (WRDA) of 2020 (86 FR 13346). "The [Assistant Secretary of the Army for Civil Works] (ASA(CW)) and the Corps will co-host focused sessions using webinars/teleconferences...at the following dates and times: March 16, 1p-3p EST for Navigation (Inland and Coastal) provisions; March 23, 1p-3p EST for Flood Risk and Coastal Risk Storm Damage provisions; March 30, 1p-3p for Ecosystem Restoration and Nuisance Species provisions; April 6, 1p-3p for Water Supply and Hydropower provisions; and April 13, 1p-3p EST for any WRDA 2020 provisions." For further information see: https://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/wrda_2020/.

CONGRESS **Appropriations**

On February 26, House Appropriations Committee Chair Rosa DeLauro (D-CT) announced that the House will accept requests for Community Project Funding in appropriations bills in the Fiscal Year (FY) 2022 budget cycle. Community Project Funding, often known as "earmarks," have been banned since 2011 when lawmakers sought to rein in federal spending. However, members of both political parties have acknowledged that funding for local projects can help to move complex legislation if there is accountability, transparency, and community support. "House appropriators said the focus on community spending makes Army Corps projects a natural fit, especially since they are among the largest federal efforts undertaken in many communities. They also noted earmarking money for specific Army Corps projects would allow lawmakers to move their communities to the front of the line amid a multi-billion dollar backlog." (*E&E News* 3/4/21)

In a press release, DeLauro said, "Community Project Funding is a critical reform that will make Congress more responsive to the people. Our bipartisan reforms will produce a small number of projects with strong community support, a transparent process where

no member's family can benefit and where projects are audited to ensure money was spent as planned." These reforms include a ban on for-profit recipients; a cap of 1% of discretionary funding for all projects combined; a maximum of 10 project requests per member; mandatory audits; evidence of community support for requested projects; a requirement for posting project requests online; public disclosure with the Subcommittee markups or 24 hours prior to full committee consideration; and members must certify that they, their spouse, and immediate family have no financial interest in requested projects. They build on existing requirements for accountability and transparency, and many were based on recommendations by the bipartisan House Select Committee on the Modernization of Congress. See: <https://appropriations.house.gov/news/press-releases/delauro-announces-community-project-funding-in-fiscal-year-2022>.

CONGRESS/WATER RESOURCES **Water Infrastructure/SRFs**

On February 25, Representative Deborah Lawrence (D-MI), together with 72 Democratic co-sponsors, introduced the Water Affordability, Transparency, Equity, and Reliability (WATER) Act as a starting point for discussions on a water infrastructure package. The proposal is based on assessments from the Environmental Protection Agency (EPA) of drinking water and clean water infrastructure needs. The bill introduction coincided with Senator Bernie Sanders' (D-VT) announcement of a strong push for "massive investments" in water infrastructure with an emphasis on environmental justice in the next round of budget reconciliation.

Specifically, the bill creates the WATER Trust Fund with up to \$35B per year, derived from a 3.5% increase (from 21% to 24.5%) in the corporate tax rate. Funds would be allocated by the EPA Administrator and Secretary of Agriculture, with 45% of the amount available for the fiscal year towards the Clean Water State Revolving Fund (CWSRF) and 43.5% to the Drinking Water State Revolving Fund (DWSRF). The remaining amount would go towards other established clean and drinking water programs, such as nonpoint source and water quality grants.

The bill expands the use of SRF funds to allow recipients to purchase private water treatment works from “willing or unwilling sellers” or apply them to expenses related to cancelling contracts with operators of publicly owned treatment works not adequately managing facilities or operations. It also requires recipients of both the CWSRF and DWSRF to enter into agreements authorized under section 8(f) of the National Labor Relations Act (“project labor agreements”).

The bill proposes several amendments to the DWSRF program. To the extent there are sufficient loan applications, at least 50% of the fiscal year capitalization grant amount must be awarded to disadvantaged communities. DWSRF funds could be used to replace lead service lines on private property and update public treatment systems or household wells to address challenges related to per- and polyfluoroalkyl substances (PFAS). It increases funding for addressing lead service lines in schools to \$1B per year until 2024 (up from \$5M per year), and doubles the amount of funding (from 1.5% to 3%) from the DWSRF that can go towards tribes that have not received other grants under the program. Finally, it permanently codifies the use of American iron and steel products for projects that receive DWSRF funding.

Additionally, the bill increases funding for technical assistance to rural and tribal communities to \$175M per year for FY2021-2026 (up from \$25M per year). It also creates grant funding for residential onsite sewage disposal systems and significantly increases annual funding for household water well systems (\$350M per year ongoing).

Finally, the bill includes a study of water and sewer services, including assessments of affordability (rates and potential rate increases, water disconnections due to lack of payment, and the effectiveness of the Clean Water Act and Safe Drinking Water Act funding); discriminatory practices and violations by water and sewer providers; public participation in efforts to regionalize public water and sewer systems; and data availability and methodology related to water and sewer service and discrimination. The study will result in a report due to Congress within one year with findings and recommendations for utility companies, federal agencies, and states.

WATER RESOURCES/ORGANIZATIONS **Infrastructure/ASCE**

On March 3, the American Society of Civil Engineers (ASCE) released their 2021 Report Card for America’s Infrastructure. Cumulatively, the nation earned a “C-,” up from a “D+” given in the 2017 report. The report assessed the state of infrastructure across 17 categories, including dams, levees, stormwater, wastewater, and drinking water. Each assessment

examined the infrastructure category based on the condition and capacity of existing infrastructure, funding and future need, operations and maintenance, public safety and resilience, and innovation within the sector. They also provided specific recommendations to raise the grade of each category.

“The most recent analysis reveals that while we’ve made incremental immediate gains in some of the infrastructure categories, our long-term investment gap continues to grow. We’re still just paying about half of our infrastructure bill – and the total investment gap has gone from \$2.1 trillion over 10 years to nearly \$2.59 trillion over 10 years.”

“While we grade 17 categories individually, our infrastructure is a system of systems and more connected than ever before. As we look at the low grades and analyze the data behind them, there are three trends worth noting: (1) Maintenance backlogs continue to be an issue, but asset management helps prioritize limited funding...; (2) State and local governments have made progress. Increased federal investment or reform has also positively impacted certain categories...; and (3) There are still infrastructure sectors where data is scarce or unreliable....” Sectors include levees and stormwater that “suffer from a lack of robust condition information or inventory of assets.”

Dams, levees and stormwater infrastructure all received a “D” grade, wastewater infrastructure received a “D+,” and drinking water infrastructure received a “C-.” Though these grades are low, the report acknowledges that funding has improved for some categories, like drinking water infrastructure. However, a consistent recommendation across all water categories is to fully fund the authorized federal programs that provide funding to local communities that often operate and maintain this infrastructure and to address maintenance backlogs that have built up over several decades. The report estimated the total combined need for drinking water/wastewater/stormwater infrastructure at \$1.05T, with a \$434B funding gap; \$93.4B for dam infrastructure, with a \$81B funding gap; and \$80B for levee infrastructure, with a \$70B funding gap.

“Importantly, the COVID-19 pandemic’s impacts on infrastructure revenue streams threaten to derail the modest progress we’ve made over the past four years. In addition, many sectors and infrastructure owners are learning what it will take to make our communities climate resilient as we grapple with more severe weather. Meanwhile, many of our legacy transportation and water resource systems are still in the D range. These infrastructure networks suffer from chronic under investment and are in poor condition. We’re headed in the right direction, but a lot of work remains.” See: <https://infrastructurereportcard.org/asce-2021-infrastructure-report-card-gives-u-s-c-grade/>.

The WESTERN STATES WATER COUNCIL is a government entity of representatives appointed by the Governors of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.