Association of State Floodplain Managers
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An Active Spring Ahead

After its spring two-week recess, Congress returns the week of April 12th to an active agenda, including many areas of importance to ASFPM members.

First and foremost will be action on legislation to extend the authorization for the National Flood Insurance Program (NFIP) to April 30 with retroactive coverage of the period during which the program had lapsed. A supplemental appropriations bill, which includes replenishment of the Disaster Relief Fund, is pending consideration in the Senate. In addition, action is likely on climate change legislation and on revisions to the Stafford Act. Staff work toward a 2010 Water Resources Development Act 2010 is under way with the expectation of having a draft bill late this spring. Consideration of this year’s budget resolution will begin in earnest after the recess.

The various Appropriations Subcommittees are continuing to hold hearings on agency budget requests for FY 2011 and are accepting outside witness comments before commencing to mark up bills in May and or June. A hearing on flood insurance reform issues has been scheduled for April 21st. On April 22nd there will be a markup of an abbreviated flood insurance reform bill, a bill to authorize an optional wind and flood policy, and a bill to provide a federal backstop for state catastrophe insurance pools.

NFIP Reauthorization

Even though there are two bills under active consideration that would have extended the authorization for the National Flood Insurance Program, the program authority lapsed on March 28th. Congress began its spring recess without being able to act on either bill.

H.R. 4851 is a straightforward extension bill that includes the same group of programs that have been undergoing month-by-month reauthorizations along with the NFIP. It includes unemployment benefits and highway programs, among others. The measure passed the House and then was stymied in the Senate by Tom Coburn (R-OK), who wanted to assure that all expenses would be offset by reductions in other programs. The Senate’s Democratic leadership argued that this should be regarded as emergency spending and, therefore, exempt from the pay-as-you-go requirement. Majority Leader Harry Reid (D-NV) has scheduled two procedural votes to facilitate a vote on the bill itself for the afternoon of Monday, April 12th, which is the first day the Senate will be in session after the recess. That measure includes a provision making the authorization retroactive to February 28.
H.R. 4213 is a package of tax provision extenders, but an extension of the NFIP authorization to December 31, 2010 was included in that bill by the Senate. The bill passed the House, then passed the Senate, but with amendments, some to the tax provisions. The measure has been returned to the House Ways and Means Committee for consideration of the Senate amendments. Furthermore, the budget offsets assumed when the bill first passed the House have now been used for other legislation (including the health care measure), so new offsets will have to be found before the bill will be brought to the House floor again.

Several bulletins have been issued by the Federal Emergency Management Agency (FEMA) to explain and provide guidance for this period when the NFIP has lapsed. Although no new policies can be issued and no renewals made, it is important to note that claims will still be paid. These NFIP-related bulletins have been posted on the ASFPM website at http://www.floods.org/n-news-hottopics/article.asp?id=44.

NFIP Reform and Wind Coverage – Hearing and Markup

A hearing on NFIP reform and the addition of an optional wind and flood policy has been scheduled for April 21 by the Housing and Community Opportunity Subcommittee of the House Financial Services Committee. Although the full slate of witnesses has not been developed, the Subcommittee does plan to hear from Craig Fugate, FEMA Administrator, the Government Accountability Office, and Representative Gene Taylor (D-MS) who has sponsored the legislation providing for wind and flood coverage.

The hearing will probably include examination of the objectives and accomplishments of the NFIP, needed improvements, expansion of participation, creation of an Office of Flood Advocate, and questions about rate structure and specifically the rate structure for areas newly mapped as floodplain. The idea of adding an optional wind and flood policy will certainly be considered as well.

The Financial Services Committee will mark up three items the next day, April 22:

1. A yet-to-be-drafted bill including generally agreed-upon, non-controversial elements of the flood insurance reform bill, H.R. 3121, as passed by the House in the previous Congress (110th Congress);

2. H.R. 1264, the Multi-Peril Insurance Act, introduced by Gene Taylor (D-MS), providing for a wind and flood policy; and

3. H.R. 2555, the Homeowners’ Defense Act, introduced by Ron Klein (D-FL), providing a federal backstop to state catastrophe insurance pools.

Catastrophe Insurance – Homeowners’ Defense Act

H.R. 2555, introduced by Ron Klein (D-FL), establishes a federal catastrophe reinsurance capability for purchase by state reinsurance pools. It creates a Federal Natural Catastrophe Reinsurance Fund in the Treasury Department. It also sets up a National Catastrophe Risk Consortium as a nonprofit, non-federal entity to be a centralized repository of state risk information, to maintain a database related to the risk-linked securities market, to maintain an inventory of catastrophe risk obligations held by states and state-sponsored entities, and to issue some types of securities and other financial instruments linked to catastrophe risks. Further, the bill establishes a hazard mitigation grant program within the Department of Housing and Urban Development (HUD).
This bill is scheduled for mark-up in the House Financial Services Committee on April 22 (see above) and Committee Chairman Barney Frank (D-MA) predicts that it will be favorably reported out of committee. A coalition of environmental, reinsurance, and insurance interests has strongly objected to the bill on the basis that it will have the effect of encouraging unwise, at-risk development. The ASFPM submitted a letter to the two relevant subcommittees (1) expressing concern about the possibility of encouraging unwise development, (2) strongly objecting to the establishment of a new mitigation grant program at HUD that includes no connection to FEMA’s mitigation grant requirements or to state and local hazard mitigation plans, and (3) urging a strong requirement for vigorous mitigation activities in exchange for the federal catastrophe reinsurance.

Stafford Act Revisions

H.R. 3377, legislation making revisions to the Stafford Act, has been reported out of the House Committee on Transportation and Infrastructure and is very likely to be taken up on the House floor later this spring. The ASFPM has made some additional suggestions, including authorizing the work of inspection and permitting officials under the Disaster Relief Funds Public Assistance component and promoting delegation of responsibility to states associated with administration of the Hazard Mitigation Grant Program. Chad Berginnis, ASFPM Mitigation Policy Coordinator, presented ASFPM’s testimony at a subcommittee hearing on March 4, which focused on a recent report on the Stafford Act by the Conference of Mayors. The testimony is posted on the ASFPM website at: http://www.floods.org/npublicdocumentlibrary/dkfiledownload.asp?ftpfile=\National_Policy\ASFPM_Testimony_Stafford_3_4_2010.pdf. As the legislation moves through the legislative process, the ASFPM will continue to discuss these matters.

On the Senate side, Mary Landrieu (D-LA) is expected to introduce her own bill making revisions to the Stafford Act soon. It is still in the active drafting stage. Landrieu chairs the Disaster Recovery Subcommittee of the Senate Committee on Homeland Security and Governmental Affairs.

Water Resources Development Act

By late spring, the Water Resources Subcommittee of the House Transportation and Infrastructure Committee expects to have a draft Water Resources Development Act 2010 (WRDA). WRDA bills have, in the past, been issued every two years, but that schedule has not been maintained for some time now. The last WRDA was WRDA ‘07.

These bills contain authorizations for Corps of Engineers projects and often also address policy issues. This year it is likely that the bill will include a National Levee Safety Act. At present, the staff is immersed in reviewing numerous requests for Corps project authorization.

The Senate Environment and Public Works Committee is organizing itself for consideration of the many project requests.

National Levee Safety Act

WRDA ‘07 set up the National Committee on Levee Safety and charged it with developing recommendations for a national levee safety program. The report to the Congress was submitted on time in January 2009. Since then, the Committee has continued to meet and has developed specific legislative recommendations based on the report. House and Senate committee staff were recently briefed on the legislative recommendations. The ASFPM was represented by Sam Riley Medlock on the National Committee on Levee Safety and by Vice Chair Sally McConkey on the Review Committee.
The ASFPM has made recommendations to the House and Senate Committees urging a broader flood risk management perspective in development of a levee safety program. A white paper on the subject is nearing collaborative completion and will be shared with the Congressional committees posted on the website soon.

**Sustainable Watershed Planning Act**

The House Subcommittee on Water Resources has circulated drafts and collected comments on possible legislation to set up an office to develop a framework to better coordinate water-related programs and decision-making at the federal level and to provide a means of facilitating watershed planning from the local level up. It is not clear whether or not legislation of this kind will be ready for inclusion in WRDA or even for action as a separate bill in this Congressional session.

The Senate Environment and Public Works Committee has no similar legislation yet.

**Affordability Issues—Levees, Flood Maps, Flood Insurance**

Several bills have been introduced in the House and Senate to delay issuance of new flood maps, most often associated with levees that cannot be accredited. The affordability of flood insurance in areas newly mapped as floodplains seems to be the key factor in the objections to map issuance, although some relate also to questions about map accuracy. No action has been scheduled as yet this Congress on any of these measures, but the possibility certainly exists.

A Levee Caucus has been formed in the House of Representatives, composed of Members who have levee/flood map concerns in their districts as well as some that have concerns about newly mapped areas even if a levee is not involved. Additionally, a group of 16 Senators has sent a letter to Assistant Secretary of the Army for Civil Works, Jo Ellen Darcy, and FEMA Administrator Craig Fugate, raising concerns and questions about levees, levee repair, flood maps, and flood insurance affordability. The letter requests a meeting with both of them.

ASFPM representatives and leaders will meet with offices of some of those House Members and Senators who have expressed such concerns to urge that they work to develop constructive, forward-thinking solutions to these challenges.

**Climate Change Legislation**

The next stage for action on climate is in the Senate. Several bills with various ways of “mitigating” carbon emissions have been introduced or drafted. Note that climate change conversations use the word “mitigation” differently than it is used in hazard reduction. Climate “adaptation” includes the adjustment of the natural resources environment and the built environment to accommodate the effects of climate change.

The ASFPM has been urging those developing the Senate version of this legislation to include provisions encouraging adaptation. The House-passed bill, H.R. 2454, does include an adaptation section that addresses natural resources but does very little to address adaptation of the built environment. Senate committee leaders and other Senators taking a lead on this issue directed staff to work during the recess to develop recommendations for legislative compromise and action later in April.
Budget Resolution

The development of a Budget Resolution has been delayed by House and Senate attention to health care and other pressing issues. The Chairmen of the House and Senate Budget committees have indicated their intent to focus on Budget Resolution development immediately following the recess. The Budget Resolution(s) guide actual appropriations for FY 2011 spending by formulating a set of budgetary assumptions, which are used by the Appropriations committees to set ceilings for each subcommittee.

Appropriations

Both House and Senate Appropriations Subcommittees are accepting Outside Witness Testimony on the FY 2011 budget requests for the federal departments and agencies. Due dates and instructions vary, but are posted on the subcommittee websites. The ASFPM has submitted Outside Witness Testimony on the Corps of Engineers budget request, focusing on the requests for the National Levee Inventory, Planning Assistance to States, and Flood Plain Management Services. Testimony on FEMA’s budget request and those of selected other agencies also will be submitted.

Some appropriations hearings with department and agency officials are continuing. The next step will be to develop and mark-up the appropriations bills. With the budget resolution development behind schedule, it is unclear whether or not subcommittees will begin to mark up in May or June even if a Budget Resolution has not yet been finalized.

Coalitions

The USGS Coalition met on March 24 to hear from and have a discussion with Marcia McNutt, the new Director of the U.S. Geological Survey. She is committed to enhancing the role of the USGS within the Department of the Interior and to supporting the Secretary of the Interior’s indication that he will elevate the science component of the Department’s mission.

The Streamgage Coalition continues its efforts to meet with committee staff and members of Congress and Congressional staff to stress the importance of streamgage data to federal water programs, to state and local governments, and to other stakeholders as well.

The Flood Map Coalition met April 7 to receive a briefing from FEMA staff on the status of the mapping program and the transition from Map Modernization to RiskMAP. The coalition considered sending a letter of support for the mapping budget request and seeking an additional amount to bring the request to $200 million from $194 million.

The Stafford Coalition will meet April 15 with staff of the Senate Homeland Security and Governmental Affairs Committee to learn more about draft revisions to the Stafford Act.

The Congressional Hazards Caucus Alliance met on March 23 to discuss upcoming briefings on Capitol Hill.

All legislation referenced can be found by going to: http://thomas.loc.gov.