Association of State Floodplain Managers  
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Unpredictable, Erratic Congressional Session Wrap-Up

Senators and Representatives are back in town to complete necessary action on two major issues: the continued funding of the federal government and extension (or not) of the tax cuts set to expire at the end of December. There are many other pressing matters on the agenda, but 42 Republican Senators signed a letter to the Senate leadership indicating they would block action on any other legislation until action is taken on these two issues. Meanwhile, efforts are continuing to ready other legislation for House and Senate Floor action and to press for the urgency of consideration before the end of the current session. Prediction of what legislation may or may not be taken up is close to impossible.

In the House, in particular, there will be substantial changes in outlook for some pending legislation in the next session as Republicans will assume the majority role, meaning leadership, committee chairmanships and percentage of committee membership. In the Senate as well, calculations as to legislative prospects have altered as a result of the changing make-up of Senate membership following the November elections. These upcoming changes are influencing the dynamics of the lame-duck session with a sense of urgency among supporters of some legislation and a determination by others to delay action.

The Atmospherics

All of this is going on in the midst of other distractions. Both parties are organizing their leadership and committee leadership roles for the next Congress. House Republican decisions on committee chairmanships are expected during the week of December 6th. There is significant internal campaigning going on in both parties. The great office shuffle is also underway. Many incoming House and Senate members are in town, operating out of cubicles to organize staff and offices. Departing Members have had to vacate their offices and are also operating out of cubicles. Many continuing Members are moving to new offices following the office lottery. Office furniture fills the hallways; computers and phone lines are in various stages of disconnection and connection; and yet the business of the nation must go on!

Expectations

Action of some kind will be taken on the budget and tax issues, but the form and timing is still uncertain. An agreement on tax matters is under development.
On the budget, action could take any of a number of forms. The government has been funded at FY ’10 levels by a Continuing Resolution (CR) since the beginning of FY ’11 on October 1st. That CR expired on December 3rd and the Congress has, during this lame-duck session, already approved an extension until December 18th. Options now include: 1) a CR at either FY ’10 or FY ’08 levels for the remainder of FY ’11; 2) an omnibus appropriations bill for FY ’11 developed from Senate and House Appropriations Committee bills or drafts or 3) a short-term CR until sometime in late February or early March when the new Congress could act on the budget for the rest of FY ’11. (This would coincide with the release of the President’s budget request for FY ’12 and the beginning of the regular process of hearings on budget requests for the various departments and agencies.)

At this point, it is likely that the House will develop and pass a CR covering the rest of FY ’11. That path has become more complicated because the White House has requested that about $11 billion be added to the CR for a number of federal programs, Afghanistan infrastructure, and improved nuclear arms controls. Once the House passes a CR, it is anticipated that Senate leadership will attempt to substitute an omnibus appropriations bill for FY ’11. An omnibus bill would probably include the earmarks that were part of the committee bills and drafts for FY ’11. Since that would be unlikely to pass, maneuvering could result in Senate passage of either a short-term or long-term CR. No regular appropriations bills for FY ’11 have been enacted by the Congress.

**Possibilities**

The Congress is expected to adjourn once the tax and budget bills have passed. In the interim, and depending on efforts to block any other legislation, there are several bills of interest to ASFPM members that could be taken up.

**Omnibus public lands, waterways and wildlife bill**

Leaders in both the House and Senate are putting together lists for an omnibus bill that could include over 100 public lands and waters bills, most of which have passed either the House or Senate or have been reported out of either a House or Senate committee. The bills being considered deal with new wilderness areas, new elements of national parks and heritage designations as well as protections for wildlife, land preservation and conservation, rivers and water supply efforts. Many have had bipartisan support, but Republican leaders object to their final passage in an omnibus package that could include bills they would not support.

**Delay mandatory purchase requirement for flood insurance**

Senators Dick Durbin (D-IL) and Chuck Schumer (D-NY) introduced a bill (S. 3994) on December 1st to delay the mandatory purchase of flood insurance requirement for areas newly mapped as floodplain. The bill’s title is: “Flood Insurance Affordability and Risk Notification Act”. It mirrors language in the Flood Insurance Reform Priorities Act (H.R. 5114), passed by the House last July. That bill delays imposition of the mandatory purchase requirement for 5 years and provides for phased-in premiums to actuarial rates over the subsequent 5 years. According to Senator Durbin’s press release, it also “Requires FEMA to perform outreach to communities and homeowners who are affected by changes in floodplain maps. FEMA would be required to notify all property owners when their properties are included or excluded from these new maps and to educate homeowners about their risk to flooding and educate them about ways to mitigate that risk.”

The Senators indicated that they had been working to include similar language in a larger Senate draft flood insurance reform bill, but had concluded there was no chance that bill would be ready for action during this session. A stand-alone bill, they concluded, would have a better chance of being acted on alone or attached to another piece of legislation during the lame-duck session.

If this bill were to pass the Senate, it would quite likely pass the House as well since the House already passed such language as a part of H.R. 5114.
Of Note

The House Select Committee on Energy and Global Warming will be dissolved in the next Congress. During the lame-duck session on December 1st, the Select Committee held its last hearing, entitled: “Not Going Away: America’s Energy Security, Jobs and Climate Challenges.

The Senate Committee on Homeland Security and Governmental Affairs had scheduled an oversight hearing on FEMA’s “Preparedness for Catastrophic Disasters” for December 7th. The hearing has been postponed.

Expectations for the New Congress

The new Congress will officially convene on January 3rd. Often legislative activity does not get underway immediately, but more schedule information will have to await announcements from House and Senate leadership.

Major legislative issues which were addressed, but not completed, in the 111th Congress can be expected to see further development in the new Congress. Those would include a Water Resources Development Act, a national levee risk management program legislation, flood insurance reform and reauthorization, and Stafford Act reform. Less likely to see final action in the new Congress would be energy, climate change, and climate adaptation legislation as well as sustainable watershed planning legislation.

Committees will meet in January to develop their tentative work programs.

Other On-going Activity

ASFPM

During November and December, various members of ASFPM leadership who have been in Washington for other meetings have taken the opportunity to visit the offices of members of the Senate Banking Committee to follow up on flood insurance reform testimony presented by Vice Chair Sally McConkey on September 22nd. ASFPM representatives have spoken about the important connections between the newly issued flood maps, levee de-accreditation actions and flood insurance requirements. The Senate offices have been briefed on the various related work going on in the federal agencies: the “Re-Thinking the NFIP” project at FEMA, the National Committee on Levee Safety, the newly reconstituted Federal Interagency Floodplain Management Task Force, and re-working of the Principles and Guidelines used to plan and evaluate federal water resource development projects.

SmarterSafer Coalition

This coalition of reinsurance interests, environmental groups and some others has established two subgroups to develop policy and legislative recommendations. The Flood Insurance Subgroup is meeting often, studying mapping issues and soliciting recommendations from members. That subgroup will be receiving a briefing by FEMA on RiskMAP on December 9th. The Subgroup on Mitigation is also meeting often, soliciting recommendations for improvements in mitigation efforts, and looking into tax-related incentives for mitigation. ASFPM is not a member of the Coalition, but is participating in many of these discussions.

All referenced legislation can be reviewed by going to: http://thomas.loc.gov and typing in the bill number or title.