

INAUGURAL FAC FEDERAL FLY-IN RECAP

On April 16-17th, nearly forty county commissioners and staff joined FAC in Washington, D.C. for FAC's first federal fly-in. Attendees received morning briefings from key Congressional members and agency staff, including Senators Nelson and Rubio, Congressmen Alcee Hastings and Mario Diaz-Balart, and officials from the Federal Emergency Management Agency (FEMA) and the U.S. Army Corps of Engineers (USACE). Following the briefings, small groups of county commissioners and staff traveled to The Hill to meet individually with members, committee staff, and agency staff, focusing their discussions on Florida's infrastructure needs and disaster recovery issues, as well as individual county priorities and initiatives. FAC is encouraged by our members' enthusiasm in expanding our federal program, and will continue working to advance our federal advocacy priorities and further develop relationships with Florida delegation members and key staff in DC.

FEDERAL TAX CUT AND JOBS ACT OF 2017 UPDATE

Intended to encourage private investment in areas facing high poverty and slow job growth, the Federal Tax Cut and Jobs Act of 2017 authorizes the governor of each state to recommend areas for designation as "Opportunity Zones." The program seeks to induce long-term investment through the use of tax incentives through provisions allowing investment in these areas to avoid federal capital gains taxes. Governors in each state must recommend 25% of eligible low-income, high-poverty census tracts to the U.S. Treasury Secretary for certification as an Opportunity Zones. Pursuant to this direction, Governor Scott released a list of 427 census tracts recommended to be designated. The U.S. Department of Treasury has 30 days to certify the nominated tracts. Once the zones are certified, local communities are encouraged to promote their Opportunity Zones for private investment. For more information and for a map of the specific census tracts recommended: <http://www.floridajobs.org/business-growth-and-partnerships/for-businesses-and-entrepreneurs/business-resource/opportunity-zones>

OMNIBUS SPENDING BILL – OPPORTUNITIES FOR LOCAL PROGRAMS

DIGITAL DIVIDE

The March 2018 Federal omnibus spending plan created a new broadband pilot program within the USDA. The \$600 million authorization charged the USDA to "conduct a new broadband loan and grant pilot program under the Rural Electrification Act of 1936..." and requiring that at least 90% of the households to be served by a project be in rural areas without sufficient access to broadband. The newly authorized pilot program is supplemental to the USDA's Rural Utilities Service existing telecommunications programs aimed at expanding broadband access to rural areas, including the Rural Broadband Access Loans and Loan Guarantees Program. During FAC's federal fly-in in April, Florida county representatives met with staff at the USDA. The agency has not determined whether the program will be administered as a new stand-alone program or as an expansion of its existing rural broadband

programs, but the attention to the issue at the federal level is encouraging and presents potential opportunities for Florida counties.

ELECTIONS SECURITY

The U.S. Election Assistance Commission has also notified states of the availability of \$380 million in election security funding also included in the spending bill. The funding requires a five percent match from the states and each state will determine how its funding is spent. The funds are earmarked for replacing voting equipment that uses a voter-verified paper record, upgrading computer systems to address security vulnerabilities, and to facilitate training for local elections officials. For additional information on the program and possible benefits to counties: <http://www.naco.org/articles/feds-release-380-million-election-cybersecurity>

INFRASTRUCTURE UPDATE

While it appears unlikely that Congress will pass any major infrastructure package before the 2018 elections, efforts to reauthorize the Federal Aviation Administration and pass a new Water Resources Development Act (WRDA) are underway. Specifically, the House recently passed a bill reauthorizing the FAA for five years (detailed below), and the Senate is expected to release its own bill this summer. Congress is also aiming to pass a 2018 WRDA bill, which would authorize critical water projects, studies, and programs to be undertaken by the U.S. Army Corps of Engineers (Corps). Committee discussions related to WRDA began early this year, but bills have not yet been released.

FEDERAL AVIATION ADMINISTRATION REAUTHORIZATION BILL

H.R. 4: FAA REAUTHORIZATION

The U.S. House overwhelmingly voted to pass H.R. 4 (115th Congress), which renews funding for the FAA through 2023. Nationwide, counties own one-third of all publicly-owned airports, and FAA reauthorization is necessary to continue programs that support airport development and maintain air service to communities across the country. FAA reauthorization, rather than short-term extensions, will allow for long-term planning and certainty for the aviation industry. Of note to counties is the Airport Improvement Grant program, funded at \$3.35 billion through 2023, which provides grants to public entities for airport planning and development. Additionally, the bill would continue the Essential Air Services program, funded at \$153 million in FY 2018 and increasing through 2023, which helps to maintain regular air service to small and rural communities. The bill also directs the Department of Transportation to study local government's role in development and implementation of drone policy.

The Senate is aiming to pass its own FAA bill in the upcoming months, so the two chambers can bring their versions to conference before the current FAA extension expires on September 30, 2018.

H.R. 4, TITLE VI: DISASTER RECOVERY REFORM ACT

In addition to reauthorizing the FAA for five years, the bill includes several components of the Disaster Recovery Reform Act, which the House passed last year but has not been considered in the Senate. Specifically, Title VI of H.R. 4 makes numerous modifications to the federal government's system of preparing for and responding to natural disasters, including by modifying FEMA operations and procedures and by amending the Stafford Act, which governs the federal disaster preparation and response system. It focuses on improving pre-disaster planning and mitigation so that communities are better prepared for future disasters, including hurricanes, floods, wildfires, earthquakes and other disasters. The Transportation and Infrastructure Committee notes that for every \$1 spent on pre-disaster mitigation to help make communities more resilient to future disasters, between \$4 and \$8 can be saved in avoided disaster recovery costs. Components of the bill are detailed below:

Encourage Mitigation

- The bill includes a variety of provisions to encourage communities to take actions that mitigate against future disasters and will improve the resiliency of communities, including actions to be taken during recovery after a disaster has occurred.
- It adds "resiliency" as a use of hazard mitigation funding (with FEMA to define what constitutes "resilient" and "resiliency"), and allows 6% of the aggregate amount appropriated for major disaster federal assistance to be set aside to provide technical and financial assistance for pre-disaster mitigation activities involving public infrastructure. The measure also allows grants made for public works and economic development to be used for hazard mitigation.
- The bill expands the list of authorized activities that can be undertaken with hazard mitigation assistance to reduce the risk of future damage in an area affected by a wildfire, windstorm or flooding. Such activities would include erosion mitigation through reseeding, mulching and planting grass, and flood prevention by constructing dams in small tributaries, establishing erosion barriers, and improving drainage on trails and roads. Covered activities would also include installing warning signs, reducing hazardous fuels, and replacing or installing electric utility poles that are wind and ice resilient. FEMA also would be required to issue guidance regarding the acquisition of property for open space as a mitigation measure.
- The President, when making awards for hazard mitigation to states, must consider whether the state has adopted and is enforcing appropriate consensus-based building codes and standards for residential structures, and the extent to which federal funding will increase the level of infrastructure resiliency. Federal aid could be used for 180 days to pay the wages of additional personnel brought in to implement and enforce building codes in an area affected by a major disaster.

Specific Hazards

- The bill authorizes the President to provide hazard mitigation assistance to communities in any area affected by a wildfire where federal assistance had been provided, regardless of whether a major disaster has been declared. FEMA must report annually to Congress on any projects and funding provided for such mitigation.

- It also allows federal mitigation funds to be used to reduce risks in areas affected by earthquakes, including by improving regional seismic networks, geodetic networks and seismometers, global positioning system receivers and associated infrastructure for earthquake early warning.
- Aid provided to states and local governments for hazard mitigation that has not been obligated after three years could be withdrawn and awarded to other communities the next fiscal year.

Disaster Aid Administration

- The bill requires FEMA, when making recommendations to the President regarding whether to make a major disaster declaration, to give greater weight and consideration to areas suffering a severe impact from a disaster or from the cumulative effect of recent multiple disasters.
- It allows long-term recovery groups and domestic hunger relief groups to be part of the external groups with which the President may coordinate in providing relief to areas hit by disasters and emergencies. The President would be prohibited from conditioning the provision of federal assistance on a state or local government electing to participate in alternative procedures.
- FEMA would be required to provide annual guidance and training to state and local governments, first responders and utility companies on the need during disaster-caused power outages to prioritize assistance to hospitals, nursing homes and other long-term care facilities, and on how those facilities should prepare for power outages.
- In coordination with the Federal Highway Administration, FEMA must develop and issue guidance for state and local governments on repairing, restoring and replacing roads that have been inundated, damaged or destroyed by a major disaster.

Eligibility for Disaster Assistance

- The bill expands the definition of "private non-profit facility" to make food banks eligible for federal disaster aid.
- It also allows the President to waive the general prohibition against persons or businesses receiving federal disaster aid if they have received assistance under a different program. The state Governor must make the request to have the prohibition waived, and the President must consider FEMA's recommendations.
- For facilities owned by a state or municipality that is determined to be in the interests of the community, the measure decreases from 90% to 75% the federal share of funding a state or local government could receive to restore a facility.
- The measure also does the following:
 - o Clarifies that disaster assistance funding can be used for construction of a federally authorized water resources development project; such funding must be applied toward the federal share of the project, and cannot exceed that federal portion.
 - o Allows FEMA to waive requirements that disaster aid provided in error to a person or entity be repaid by that party (unless they committed fraud), and similarly prohibits FEMA from

trying to recoup aid provided more than three years prior. FEMA's authority to require the repayment of aid provided in error would be suspended if the inspector general determines that FEMA's error rate exceeds 4% in any 12-month period.

- Extends the dispute resolution pilot program through 2022.
- Allows FEMA to provide incentives to state, local and tribal governments to complete in a timely fashion the expenditures and activities related to disaster assistance.
- Allows FEMA to hire temporary FEMA employees who have served continuously for one year in the same manner as permanent employees.

Housing Assistance

- The bill allows state governments to use federal disaster aid to build temporary and permanent housing for individuals whose homes were destroyed by a natural disaster. It also allows the use of assistance for housing in areas that have been impacted by natural disasters, but were not directly hit and declared a disaster area.
- It maintains the maximum amount (\$25,000, adjusted for inflation) in disaster assistance for housing that an individual or family may receive, but excludes from that maximum the cost of rental housing. Individuals with disabilities also could exclude from that maximum the cost to repair or replace accessibility-related improvements.
- Under the measure, these housing aid provisions would be retroactive for any major disaster or emergency declared on or after Oct. 28, 2012 (the date of Hurricane Sandy), thereby allowing victims of earlier disasters to benefit.

Other Provisions

- The bill requires FEMA to provide technical assistance to the governing bodies of condominiums and housing cooperatives (that provide essential services of a governmental nature to residents) on how to apply for disaster recovery funding. FEMA must also propose legislation to Congress on how to provide disaster assistance for the common areas of condominiums and housing cooperatives (which, unlike individually-owned units, are currently not eligible for aid).
- It also requires FEMA to coordinate with the Small Business Administration, the Housing and Urban Development Department and other appropriate agencies to develop a plan to streamline and expedite the collection of information from disaster assistance applicants, as well as a plan to collect and report information about disaster assistance that is awarded that could be posted on a public web site.
- FEMA must report on the inter-agency environmental and historic preservation expedited review process, and evaluate the categorical exclusions made by other agencies. Based on the evaluation and report, FEMA must make recommendations, including recommendations for categorical exclusions, and develop regulations to implement those recommendations. ("Categorical exclusions" are actions that agencies have determined through experience to have no significant environmental or historical impact, and therefore can be excluded from review and documentation.)

Evacuation Routes & Plans

- The bill requires FEMA to develop and issue guidance regarding the identification and designation of disaster evacuation routes.
- In doing so, FEMA must consider the viability of evacuation routes to withstand disasters (including fire and flood); how to improve the durability, strength and sustainability of these routes; and whether the routes can manage traffic moving in the opposite direction. In reviewing currently designated evacuation routes, FEMA must consider whether they have resisted the impacts of disasters and recovered quickly.

Special Needs Populations

- FEMA must also consider the need to evacuate special needs populations, including: the elderly; individuals with physical or mental disabilities; individuals in schools, nursing homes or detention centers; individuals with limited English proficiency; and tourists, seasonal workers or the homeless. It must also consider how to share information with evacuees, how to shelter evacuees (including their pets or livestock), and how to later return evacuees to their homes.

National Veterinary Emergency Teams

- The bill requires FEMA to establish one or more national veterinary emergency teams, which would be based at accredited colleges of veterinary medicine. The teams would deploy with national urban search and rescue response teams to disaster areas to monitor for and treat any zoonotic diseases that occur, and would also assist with the care of canine search teams and help locate and treat pets, service animals, livestock and other animals that are impacted by a disaster.

FEMA Transparency & Accountability

- The bill requires FEMA to publicly post information monthly on the disaster funding that has been awarded and the level of disaster resources available to FEMA.
- Specifically, FEMA must publish on its web site the amount of disaster assistance provided that fiscal year by catastrophic event (including by allocations, obligations and expenditures); the amounts spent for public assistance, individual assistance, mitigation, and FEMA operations; appropriations provided to FEMA by sources; and the expected date when those funds will be exhausted. It also must provide information on disaster funds available from prior budget years, obligations made in the current year for catastrophic and non-catastrophic events, and any prior obligations that had been recovered.
- Within five days of awarding a public assistance grant in excess of \$1 million, FEMA must publish on its web site the specifics of the award. Within five days of issuing a mission assignment in excess of \$1 million that directs another federal agency to take certain actions in support of provided disaster aid, FEMA must publish on its web site details regarding the assignment. Any subsequent changes to the assignment must be updated on the web site.
- FEMA also must publish on its web site each month the specifics of every contract that exceeds \$1 million, with the information broken down by disaster and damage category. Within ten days of the end of a fiscal year, FEMA must report to Congress on the contracts awarded that year without

competitive bidding and the reasons competitive bidding was not used, detailing the amounts awarded and the damage categories for the contracts.

- The agency would be prohibited from making payments towards any contract entered into after Aug. 1, 2017, that prohibits FEMA or the Government Accountability Office from auditing or reviewing the contract.

Puerto Rico Sheeting Contracts

- The bill requires the Homeland Security inspector general to initiate an audit of, and report to Congress on, contracts that were awarded by FEMA for tarps and plastic sheeting for victims of hurricanes Irma and Maria in Puerto Rico and the U.S. Virgin Islands.
- Two FEMA contracts last year with a central Florida company to provide tarps and plastic sheeting to Puerto Rico for hurricane victims were canceled due to failure to deliver.
- Under the measure, the IG must review the process used by FEMA to evaluate bidders and award contracts, including its evaluation of the capacity of each contractor and its assessment of a contractor's past performance, including in providing large-scale deliveries. The IG's review must also review the extent to which the contractor's failure to meet the terms of contracts, and FEMA's cancellation of the contracts, affected the provision of tarps and plastic sheeting to victims in Puerto Rico and the U.S. Virgin Islands who needed them to cover their roofs and were desperate for shelter.