

National Flood Determination Association

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Washington Legislative Report

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Where Things Stand

The Congress has just completed its first major work period and is now beginning the two week Spring Recess. This past week was full of activity culminating in passage of separate Budget Resolutions by the House and Senate. As soon as the Congress returns on April 20, a House-Senate Conference Committee to address differences will get underway to finalize the framework for the appropriations (spending) bills it will soon consider.

Also immediately after the recess, it is anticipated that a flood insurance reform bill will be introduced in the House. The bill will probably look a lot like the bill passed by the House in the last Congress but with some changes and updates.

On March 26th, Chairman Barney Frank of the House Financial Services Committee introduced The Mortgage Reform and Anti-Predatory Lending Act of 2009 (H.R. 1728). This is major, comprehensive legislation to significantly reform the home mortgage market. It is expected that the Committee will act on this bill in the weeks immediately following the recess and bring it to the Floor so that it can be passed along to the Senate by sometime in May.

On March 30th Chairman Chris Dodd of the Senate Banking Committee and Chairman Barney Frank of the House Financial Services Committee sent a letter to President Obama pledging close collaboration between themselves, their Republican counterparts and the Administration on legislation to modernize the financial regulatory system. A number of financial regulatory hearings have been held in the House Financial Services Committee on March 17, 20, 24 and 26. They focused on a systemic risk regulator, streamlining front-line regulation, strengthening the substance and structure of consumer and investor protection and development of legislation to reform the mortgage origination process. The Senate Banking Committee also held financial regulatory hearings and will continue to do so. That committee also held a hearing March 17 on proposals to modernize regulation of the insurance industry. Further action and hearings in preparation for drafting the legislation will figure significantly in the committees' schedules in late April and May.

In late April or very early May, the detailed version of the Administration's budget request for Fiscal Year 2010 will arrive on Capitol Hill. So far, the Congress has only received the budget blueprint since this is the first year of a new Administration. Since this is the first year of a new Administration, the process of getting the full, detailed new budget request to the Hill and commencing the appropriations process is beginning much later than the usual early February start.

So Far

In addition to the Budget Resolutions, the work of the Congress so far has included action on the major economic stimulus package (H.R. 1) and action on an omnibus appropriations bill (H.R. 1105) providing funds for the federal government's activities through September 30, 2009. March was an extremely busy month of Congressional hearings. Issues involving financial institutions regulation, the AIG problems, the mortgage industry and housing as well as climate change were particularly dominant. There was little other legislation acted on in committees. On April 2nd, however, a House committee reported out a bill reauthorizing the Pre-Disaster Mitigation Grant Program (H.R. 1746).

Economic Stimulus Package

Many federal agencies received funds through the stimulus package and are now consumed with getting the funds out the door quickly, but responsibly and with transparency. OMB has issued a 62 page guidance memorandum. Spending data can be followed by going to www.recovery.gov. During the fast-moving scenario involving passage of the stimulus bill, there was some consideration given to inclusion of a tax credit for mitigation activity, but the effort was not successful. Infrastructure funds in the package do include funds for levee and other water infrastructure repair. The Administration has indicated that an important focus of the stimulus spending should be public safety.

Omnibus Appropriations Bill

The Omnibus bill signed by the President in mid-March provided funds for the departments and agencies covered by the remaining 9 regular appropriations bills that had not been passed by the end of FY 2008. It was essentially unfinished business from the last Congress but it did carry a number of Congressional earmarks, which made it controversial. The bills covering Defense, Homeland Security and Military Construction were passed in regular order. The rest of the government had been operating under a Continuing Resolution which simply continued programs at the previous year's funding level. The second of the CRs expired on March 11 and the Omnibus bill was passed and signed by the President that day.

Authority for the National Flood Insurance Program (NFIP) was caught up in the CR/Omnibus situation. Now that the Omnibus has been signed, the NFIP has full authority to operate through September 30, 2009.

Budget

The budget overview released by the new Administration is an overview likened by some to reading the CliffNotes of the budget. In an important departure, this budget does include elements that had been off-budget because they were funded through supplemental appropriations bills – notably the wars in Iraq and Afghanistan and disaster costs. The \$3 trillion budget includes significant management initiatives designed to assist in reducing the deficit. In general, most agencies will see an increase in their budgets. Interestingly, the budget released for the Department of Homeland Security does not reflect funds for FEMA.

Flood Insurance

At this point, new flood insurance reform legislation has not been introduced in the House or Senate. Because this is a new Congress, the bills that were passed but not finalized in the last Congress would have to be re-introduced. It is expected that bills similar to those from the last Congress will be introduced, with a bill expected to be introduced in the House in late April

The House Financial Services Committee expects that a new bill will include some changes and adjustments. Since the previous bill was passed, a number of GAO reports dealing with flood insurance have been released as well as a report by the Office of Inspector General at FEMA and the major NFIP Evaluation. The Senate Banking Committee has not yet signaled expectations, largely because new staff handling this issue for the Majority has just arrived.

Representative Gene Taylor (D-MS) has again introduced his Multi-Peril Insurance Act, H.R. 1264, which would add an optional, actuarially rated wind and policy to the NFIP. That bill was introduced March 3. Representative Frank Pallone (D-NJ) has introduced a bill “to prohibit the Administration of FEMA from updating flood maps until the Administrator submits to Congress a community outreach plan”, H.R. 777. The bill also creates a tax credit for flood insurance premiums on property not previously in a mapped floodplain but in one on a new map. It is quite likely that more bills providing for map delays or otherwise associated with local mapping issues will be introduced. The large number of Provisionally Accredited Levee (PAL) agreements expiring this summer and continuing issues associated with mapping non-levee embankments can be expected to lead to other bills.

In both the House and Senate, timing of consideration of flood insurance reform will be very much associated with consideration of the urgent housing finance assistance legislation and financial regulatory reform legislation. Both are “front burner” issues for the Senate Banking and House Financial Services committees this spring.

Levee Issues

The Water Resources Development Act of 2007 established a Levee Safety Committee to make recommendations for a national Levee Safety Program. After a delay due to lack

of funding, the committee met intensively this past fall and winter and completed its report in January on schedule. It has not been officially released as it is still undergoing review at OMB, but there will be Congressional interest in reviewing and considering those recommendations. Hearings are anticipated this spring. Much of the report apparently deals with engineering and certification issues. Land use aspects of levee safety are not significantly addressed.

FEMA In or Out of DHS

It is unclear at this point how much attention this question will generate given so many other pressing issues. Chairman James Oberstar (D-MN) of the House Committee on Transportation and Infrastructure (the committee with jurisdiction over disaster relief and mitigation programs) has introduced a bill (H.R. 1174) to re-establish FEMA as an independent, cabinet level agency. The committee's Ranking Republican, Rep. John Mica (R-FL) co-sponsored the bill. A full committee hearing on the bill has been tentatively scheduled for April 23rd. Chairman Bennie Thompson (D-MS) of the House Homeland Security Committee, opposed independent status for FEMA as do both Chairman Joe Lieberman (I-CT) and Ranking Republican Susan Collins (R-ME) of the Senate Homeland Security and Governmental Affairs Committee. DHS Secretary has not yet indicated her views on this question, nor has the announced nominee for FEMA Administrator, Craig Fugate. (Since his nomination has not been officially received by the Senate, a nomination hearing has not been scheduled.)

Coalitions

The NFDA continues to participate in several coalitions of associations with certain interests in common:

Flood Map Coalition
USGS Coalition
Streamgage Coalition
Congressional Hazards Caucus Alliance

These coalitions meet intermittently to share information about programs, legislation, issues and status. They often have speakers join the meetings from Capitol Hill or from the federal agencies. The Flood Map Coalition receives regular briefings from FEMA's Risk Identification staff. The Congressional Hazards Caucus Alliance regularly holds briefings for Congressional staff on issues related to various kinds of hazards.