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SUBJECT: Washington Update

During August, Congress recessed for the summer, subject to recall by the congressional leadership after negotiations failed to develop a COVID-19 relief package in early August. Despite the lack of consensus, progress on other fronts occurred.

The following summarizes the outlook for legislative efforts when Congress returns to work after Labor Day:

Senate Unveils Revised Coronavirus Relief Package

The House and Senate failed to agree to a compromise health and economic relief assistance package when Senate Republicans rejected a House offer that would have scaled back the HEROES Act from \$3.5 trillion to \$2.5 trillion and urged passage of its HEALS Act with a cost of \$1 trillion. As a follow-up to this, Senate Majority Leader Mitch McConnell (R-KY), released the “skinny” version of the HEALS Act, now titled Delivering Immediate Relief to America’s Families, Schools and Small Businesses Act. Unlike the House’s HEROES Act, the measure would limit assistance to extended unemployment insurance payments to 70 percent of a person’s prior wages through December, provide liability waivers to employers whose employees return to work and contract COVID 19, small business assistance, and increased funding for virus testing and personal protective equipment (PPE) needs. The absence of key priorities contained within the HEROES Act prompted an instantaneous rejection by House and Senate Democrats. Despite the appearance of gridlock, congressional staff believe that within the coming weeks the House and Senate will return to the table to develop a compromise. Among the speculation is the potential that an agreement might be wrapped into a Continuing Resolution that must be approved before September 30 to ensure governmental operations continue beyond October 1. If this occurs, it highly likely that support for ratepayer assistance, tax credits for mandatory paid leave, and economic assistance for local governments will play a central part in negotiations.

Given the almost changing nature of the debate, the key elements of any effort to pass an agreement appear to target the following differences:

- House has agreed to reduce HEROES Act to \$2.5 trillion in assistance, but the Senate and White House continue to insist on \$1 trillion.
- House remains committed to \$1.5 billion in water service ratepayer assistance. The Senate is silent on the value of such assistance.
- House proposes to extend tax credits for mandatory family leave associated with COVID-19 impacts to public agencies as previously provided to the private sector. The Senate does not provide for such assistance. Instead, it has offered to appropriate \$10 billion to support childcare businesses in order return workers to their place of employment.
- The Senate proposes a federal cause of action (waiver of liability) for employers that require workers to return to work and subsequently contract the virus at work. The House vehemently opposes the provision.
- The House maintains current unemployment benefits (\$600 additional payments). The Senate provides for reduced unemployment benefits with a maximum of \$300 and a target of 70 percent of a worker's lost wages.
- The House provides almost \$900 billion to provide financial assistance to state and local governments (excluding special districts unless Governor directs assistance). The Senate has resisted this approach suggesting that previously appropriated funding under the prior three relief laws be repurposed to help offset revenue losses.
- Both bills provide extension of provisions to allow for borrowing pensions and delay mandatory withdrawals.

WRDA Reauthorization Enters Final Stretch with Potential for Water Infrastructure Assistance

The House Committee on Transportation & Infrastructure and Senate Committee on Environment and Public Works staff have begun efforts to “pre-negotiate” a compromise Water Resources Development Act (WRDA) that Members could review and expedite a final bill in September. However, differences between the pending bills (Water Resources Development Act of 2020 (H.R. 7575), Drinking Water Infrastructure Act (S. 3590) and America’s Water Infrastructure Act (S. 3591) coupled with the potential to expand negotiations to address broader water infrastructure needs, along with western water policy issues, could complicate reaching a final agreement until after the elections. As of this writing, provisions increasing assistance to disadvantaged communities, regulation of Per- and polyfluoroalkyl substances (PFAS) cleanups, increasing state revolving loan funding (SRF) levels, renewing and expanding water recycling assistance programs, supporting assistance for wastewater monitoring and surveillance of COVID-19, and enhancing the adoption of smart water technologies to reduce wastewater treatment costs could become part of an expanded WRDA rewrite.

Fiscal Year 2021 Appropriations Move Through the House

The House has passed the key water and wastewater fiscal year (FY) 2021 spending bills and referred the bills to the Senate. The Senate Committee on Appropriations' Republicans and Democrat membership has been unable to find common ground to develop Senate spending bills. As a result, a Continuing Resolution, based on current year program spending levels must be enacted before October 1 to avoid a governmental shutdown. Because FY 2020 spending levels provided adequate assistance to core water infrastructure programs, including Water Infrastructure Finance and Innovation Act (WIFIA), SRF and water recycling, continued program operations should not be disrupted in the coming months, before a final spending agreement is reached.

Based upon the House-passed spending priorities, it appears promising that water program spending in FY 2021 could be robust. Among the highlights of the House priorities are:

- Mandate that U.S. Environmental Protection Agency (USEPA) maintain research into PFAS with goal of listing at least two chemicals chains as hazardous substances under Superfund;
- Mandate for USEPA to issue PFAS effluent limits for industrial discharges;
- Mandate to provide grants assistance to local agencies implement pretreatment programs;
- SRF for drinking water provided \$900 million with an additional \$3 billion in emergency spending;
- SRF for clean water provided \$1.4 billion with an additional \$7 billion in emergency spending;
- \$300 million for WaterSmart;
- \$50 million for Title XVI; and
- \$77 million for California water supply storage projects (Water Infrastructure Improvements for the Nation Act)