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TO:	STEVE SMITH TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION
FROM:	MIKE MCINTYRE
SUBJECT:	MARCH MONTHLY LEGISLATIVE UPDATE
DATE:	MARCH 18, 2021

The March Monthly Legislative Update provides information on the following topics:

- Washington News
    - Additional Coronavirus Relief Approved by Congress
    - Earmarks Return to Congress
    - Bipartisan Advance Refunding Legislation Reintroduced
    - ASBPA Federal Advocacy Agenda
- Advocacy Update

WASHINGTON NEWS

Additional Coronavirus Relief Approved by Congress

On March 10, 2021, the House passed the Senate-passed version of the $1.9 trillion *American Rescue Plan Act of 2021* (H.R. 1319). President Biden signed the bill into law on March 12.

State and Local Fiscal Recovery Funds: The bill includes $360 billion to local, county, state, tribal, and territorial governments to help mitigate the fiscal effects tied to the COVID-19 pandemic (counties will receive a total of $65.1 billion; municipalities with populations over 50,000 will receive $45.57 billion; and municipalities with less than 50,000 people will receive $19.53 billion). Updated funding estimates have been calculated by the House Oversight and Government Reform Committee for all units of government receiving an allocation. Please keep in mind that final formula allocations will be developed by the U.S. Department of the Treasury so final numbers may vary:

- Topsail Beach: $124,957
- Surf City: $722,524
- North Topsail Beach: $217,430

The Senate made several changes to the allowable "uses of funds." The final four ways local governments will be allowed to use the funds are as follows:

- to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

- to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
- for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county government due to the COVID-19 public emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or
- to make necessary investments in water, sewer, or broadband infrastructure.

No funds can be used to deposit into pension funds or to offset revenue resulting from a tax cut. State and local recipients will be able to transfer funds to private nonprofit groups, public benefit corporations involved in passenger or cargo transportation, and special-purpose units of state or local governments.

The restriction on the uses of funds based on the need to provide government services have been tightened to stipulate that states, counties, and localities may use the money only to replace the amount of revenue lost during the pandemic compared to the prior full fiscal year; and state, county, and local governments have now gained the ability to use their allotments to provide "premium pay" to essential workers of up to $13 per hour, capped at a maximum $25,000. Essential workers are defined as those "needed to maintain continuity of operations of essential critical infrastructure sectors" or others as designated by state and local officials as critical to the "health and well-being" of their residents.

The measure sets 60-day deadlines to distribute most funds to state and local recipients. A second tranche of funds will be distributed to localities 12 months after the initial allocation. The Treasury Department can also withhold up to half of a state or territory's allocation for as long as 12 months based on its unemployment rate and require an updated certification of its funding needs.

States will have to distribute funds to smaller cities/towns (including the towns on Topsail Island) within 30 days of receiving a payment from the Department, with extensions permitted (so, approximately 90 days after the bill becomes law). A city/town cannot receive more than 75 percent of its budget as of January 27, 2020.

Capital Projects: The law also includes $10 billion for the Treasury Department to make separate payments to states, territories, and tribal governments to fund capital projects to support work, education, and health monitoring, including remote options, in response to the COVID-19 emergency.

There are other programs in the relief package that will help state and local governments and the residents and businesses you support. Please see the TFG Special Report on the American Rescue Plan Act for more information.

Earmarks Return to Congress

On February 26, 2021, House Appropriations Committee Chair Rosa DeLauro (D-CT) announced that the House Appropriations Committee will accept project-specific requests from Members during the FY 2022 appropriations process, marking the return of earmarks in the House for the first time since 2010. On

March 17, the House Republican conference also changed its internal conference rules to allow Republican Members to make earmarks requests.

The requests will be submitted under a program called "Community Project Funding."

Importantly, only public agencies will be eligible to receive earmarked funds. Also, the Committee will only accept a maximum of 10 Community Project Funding requests from each House Member. Other details about the House process can be found here.

The Senate has yet to make any formal decision about the return of earmarks. Senators Patrick Leahy (D-VT) and Richard Shelby (R-AL), the top members on the Senate Appropriations Committee, are working on an agreement to restore earmarks in the coming weeks. However, the Senate Republicans conference has yet to come out in favor of restoring earmarks, though discussions within the conference are ongoing. According to Axios, Democratic aides said that if Senate Republicans do not support the return of earmarks, they expect Senator Leahy to drop earmarks altogether rather than pursue a Democrat-only proposal. However, given that the House is already proceeding forward with earmarks, it will be difficult for the Senate not to follow suit.

Bipartisan Advance Refunding Legislation Reintroduced

On February 25, 2021, Senators Roger Wicker (R-MS) and Debbie Stabenow (D-MI) reintroduced the Lifting Our Communities through Advance Liquidity for Infrastructure (LOCAL Infrastructure) Act (S. 479), which would restore advance refunding of tax-exempt municipal bonds. Advance refunding of tax-exempt municipal bonds allows public entities to refinance outstanding municipal bonds to take advantage of more favorable interest rates and borrowing terms. The savings generated from advance refunding helps reduce the cost of major capital improvement projects and other local priorities.

Advance refunding was eliminated in the *Tax Cuts and Jobs Act* in 2017. Prior to its elimination, advance refunding saved public entities billions of dollars every year. The Government Finance Officers Association estimated that advance refunding saved taxpayers at least $12 billion between 2013 and 2017 that would have otherwise been paid in debt service.

A House companion bill is expected to be reintroduced in the House later this month by Representatives Dutch Ruppersberger (D-MD) and Steve Stivers (R-OH).

ASBPA Federal Advocacy Agenda

We wanted you to be aware that the American Shore and Beach Preservation Association has published its 2021/2022 Legislative and Federal Agency Advocacy Agenda. The agenda details the following coastal resilience priorities:

Investment in Coastal Resilience

The federal government must invest in coastal resilience, restoration, sediment management and research at a scale commensurate with the challenge.

Congress should:

- Fund coastal communities impacted by COVID.
- Invest in coastal resilience appropriations prior to disasters.
- Fund coastal resilience via energy development.
- Pass a Water Resources Development Act (WRDA).

The Administration should:

- Implement past WRDAs.
- Implement coastal budgeting reform policies.
- Expedite appropriated funding going to coastal projects.
- Request coastal funding commensurate to the challenges faced.

Project Implementation for Coastal Resilience

The federal government must advance resilience and restoration projects through collaborative, risk-informed decision-making that prioritizes action over inaction, with regulatory standards that protect environmental resources over the long-term.

Congress should:

- Fund regulatory agencies to expedite coastal project review.

The Administration should:

- Expedite regulatory and permitting timeframes.
- Beneficially use dredged material.
- Review and update regulations to help advance coastal resilience.

Regional Planning for Coastal Resilience

The federal government must support state and regional efforts to plan and implement systemic coastal resilience, beyond just project-based responses to local vulnerability.

Congress and the Administration should support coastal resilience planning for:

- Atlantic Coast
- Gulf Coast
- Pacific Coast
- Great Lakes

The full policy recommendations are outlined in the agenda document.

ADVOCACY UPDATE

Updates on TISPC's federal priorities are outlined below.

Topsail Beach Sand Borrowing Issue

As we previously reported, all federal agencies were directed by President Biden in Executive Order 13990 to "immediately review and, as appropriate and consistent with applicable law, take action to address the promulgation of Federal regulations and other actions during the last 4 years that conflict with these important national objectives, and to immediately commence work to confront the climate crisis." One of the actions that is under review as a result of the executive order is the action taken by former U.S. Interior Secretary David Bernhardt in November 2019 to reverse the long-standing U.S. Fish and Wildlife Service (USFWS) interpretation that disallowed the borrowing of sand from within a Coastal Barrier Resources System (CBRS) unit for use outside a CBRS unit.

It is our understanding that all federal agencies are working to comply with the directive outlined in Executive Order 13990, but we do not yet have an update on the status of the 2019 CBRS policy change. We will continue to closely track this issue as the situation progresses.

North Topsail Beach CBRA Mapping Issue

As you know, the North Topsail Beach CBRA mapping bill must be reintroduced this year in the new 117th Congress. We have had several conversations with the Congressional delegation regarding reintroduction of the bill. North Topsail Beach officials have also discussed reintroduction of the bill directly with Congressman Murphy and his staff, and we have been keeping in close contact with Alderman Leonard, who is leading this issue on behalf of North Topsail Beach.

Given that this is a new Congress and the bill must be reintroduced, we advise that North Topsail Beach again approve a resolution expressing the Town's commitment to resolving the issue, as the Town has done for previous Congresses. (A resolution similar to the one approved in 2017 – Resolution 2017-34.)

In addition to discussing and coordinating reintroduction of the bill, we have also talked with North Topsail Beach and the Congressional delegation about further exploring the "land substitute" concept. We have submitted an information request to North Topsail Beach to help update the current information we have regarding the land substitute so we can begin having more detailed discussions about the land substitute concept with the Congressional delegation and others.

Surf City and North Topsail Beach Federal Project

We continue to be available to assist Surf City and North Topsail Beach as their discussions continue with the Corps regarding advancement of the federal project, which we successfully achieved.

Topsail Beach Flood Mapping Issue

We continue to be available to assist the Town of Topsail Beach with resolving its FEMA flood mapping issue. Topsail Beach is to keep us apprised as to the status of their efforts so we can engage the Congressional delegation, as needed and as discussed.

On a separate but related topic, we saw the news article from Coastal News Today that was circulated to TISPC on March 15 regarding expected change to the National Flood Insurance Program (NFIP) under a system called Risk Rating 2.0. We have previously reported details about Risk Rating 2.0 to TISPC in the March, July/August, and November/December 2019 Monthly Legislative Updates. Some of those details are provided again below (in italics), as they remain relevant to the discussions regarding Risk Rating 2.0. Also, please keep in mind that the NFIP needs to be reauthorized this year, and many lawmakers have stated that they want to protect policyholders from excessive premium increases caused by Risk Rating 2.0 in any reauthorization bill. We expect similar discussions to occur again over the next several months. In fact, just last week, Senate Majority Leader Chuck Schumer (D-NY) expressed his objections to Risk Rating 2.0 to FEMA due to the potentially significant impact it will have on New York property owners. According to the New York Times, Leader Schumer has asked FEMA to reconsider moving forward with the plan, but FEMA has not yet said it would delay implementation. The article also states, "The pushback from Senator Schumer is important because, as Senate leader, he can exert significant influence over FEMA. He controls the Senate floor, so he holds sway over the timing of critical confirmation votes — including Deanne Criswell, the Biden administration's nominee for FEMA administrator — and other senior roles. FEMA also depends, like every agency, on congressional approval for its annual funding and must persuade Senate leaders to support any requests for additional money or authority for new programs — for example, to better respond to disasters or prepare for the effects of climate change. For reasons like these, the agency's relationship with the Senate leadership is particularly important."

As you know, in March [2019], FEMA introduced a new NFIP premium rating system called "Risk Rating 2.0," which is expected to drastically change rates for millions of NFIP policyholders. FEMA originally planned to begin implementing the new rating system in October 2020 for single-family homes in the coastal Southeast (Texas to North Carolina), but FEMA is now delaying its implementation plans by a year to October 2021 because "additional time is required to conduct a comprehensive analysis of the proposed rating structure," according to FEMA.

Many lawmakers have expressed concern with the new rating system, citing that it is unclear exactly how and where ratepayers will be impacted. Some lawmakers are weary of approving an NFIP reauthorization bill without addressing Risk Rating 2.0, but given the lack of information about the impacts of Risk Rating 2.0, it is difficult to determine exactly what can or should be done.

Background: The new rating system will determine risk by incorporating multiple variables, such as different types of floods, the distance a building is from the coast or another water source, and the cost to rebuild the structure. This will be the first time FEMA incorporates into its flood insurance rates the cost of rebuilding a structure, which FEMA officials say will address an inequity where lower-value homes have paid the same rates as higher-priced homes. FEMA officials also say that homeowners will see insurance *rates that more accurately reflect the potential dangers they face and be better informed of their real flood risks.*

FEMA provided an example of how the new system would work for two homes in the 100-year floodplain: The first home, at the edge of the 100-year floodplain, faces low risk of flooding from inland flooding or storm surge. The second home is located in a different location closer to the flood hazards and faces a higher risk from both inland flooding and storm surge. Under the current system, each home pays the same premium. Under the new system, the first home's premiums would decrease significantly, while premiums for the second home would increase significantly. It is important to keep in mind, however, that Congress has set limits on how much FEMA can increase premiums annually, and there are currently protections in place for grandfathered properties.

With some homeowners set to see higher rates, FEMA said it is evaluating ways to minimize financial burden and unintended harm, such as through a phased-in approach to transition policyholders to the new system. FEMA has admitted, however, that it does not yet fully understand the impact the new system will have on premiums.

Stakeholders are expressing concern that the new policy could hurt communities with the greatest perceived flood risk, and potentially cause issues in the housing market similar to the issues experienced after the Biggert-Waters NFIP reauthorization of 2012, which resulted in major premium increases for many policyholders. Members of the House and Senate are already pledging close scrutiny of the plans being rolled out by FEMA.