

## **CITY COUNCIL STUDY SESSION ITEM**

### **SUBJECT**

Federal Legislative Update

### **STAFF CONTACT**

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### **POLICY ISSUES**

Congress, the Administration, and Federal agencies each year approve actions that impact the City in a broad range of areas. Staff may recommend, and/or Council may wish to direct, communication to the City's Congressional delegation on a range of issues throughout the year.

### **DIRECTION NEEDED FROM COUNCIL**

☐ Action

☐ Discussion

☒ Information

Council may wish to provide direction to staff regarding particular legislative proposals.

### **BACKGROUND/ANALYSIS**

#### **DC Big Picture Update**

The extended summer recess for Congress began July 15 and will allow members time to attend the Presidential nominating conventions this month. Congress will return to session in early September after the Labor Day holiday and it will be a race to address FY17 spending before the start of the new fiscal year on October 1. Although House and Senate leadership continued to press forward on passing the 12 appropriations bills last week, there was not be enough time to wrap up appropriations in normal order, and there will need to be some action on a continuing resolution to keep the government funded into the new fiscal year. More information on appropriations is included below.

In addition to appropriations action, there was a major push to reauthorize the Federal Aviation Administration (FAA) ahead of the July 15 expiration. FAA reauthorization efforts began over a year ago and had been challenging as House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) pushed to spin off air traffic control functions from the agency, a proposal which failed to gain traction in the Senate. Negotiators reached a deal on a 14 month extension that does not include the controversial Shuster proposal.

Last minute action has been the name of the game in the last few weeks. Both chambers passed a Puerto Rico bailout bill just in time for the President to sign it before the commonwealth would have defaulted on a debt payment on July 1. The brinksmanship didn't result in a successful outcome on the Zika funding package, which was broadly opposed by Senate Democrats who objected to EPA regulatory rollbacks, stipulations on women's health funding and the revenue streams that have been identified to pay for the measure. The White House shares those concerns and also objects that the \$1.1 billion package falls short of the \$1.9 billion requested. So far, the stalemate has not broken, and it's not clear that there's a path forward before the worst of the summer mosquito season. Emergency funding for

Zika has the potential to impact budgets at state and local public health departments as prevention funds have to be redirected to respond to concerns with the Zika situation.

In their final days before recess, both chambers worked on a conference committee report on opioid addiction legislation dubbed the CARA bill (Comprehensive Addiction and Recovery Act) that seeks to address the nationwide epidemic of prescription opioid and heroin abuse. They were also expected to vote to go to conference on the annual defense authorization bill (the National Defense Authorization Act or NDAA). NDAA is one of a handful of bills that is passed every year, which makes it a popular target for policy riders.

Finally, the debate over gun control in the wake of the Orlando shootings and subsequent other violence has continued to color the debate on Capitol Hill. Following the Senate Democrats' filibuster of the Commerce, Justice and Science spending bill in mid-June, the Senate took several votes on gun control amendments, and while none of the amendments passed, Senators have continued to seek a path forward. In the House, Democrats hoped to leverage their sit-in on the House floor to secure gun votes. One measure was on the floor calendar as part of a package of mental health bills, but the measure was pulled after conservative Republicans withdrew their support over due process concerns. With the November elections looming, expect to see an ongoing push and pull over guns, but no likely action.

## **FY17 Appropriations**

The grind of the appropriations process has been slow and often shaky, but House and Senate leaders have been stalwart in continuing to push the process forward in regular order. Regular order in appropriations involves passing 12 spending bills, ironing out the differences and, eventually, sending them to the President for his signature. The calendar is the major limiting factor in the appropriations process at this point with just a few weeks of legislative work scheduled before the calendar turns to FY17 on October 1.

There is still no movement on a budget resolution, a spending blueprint that does not require the President's signature, but last fall's passage of the Bipartisan Budget Act, which set topline spending numbers for FY16 and FY17, paved the way for appropriators to begin their work even without passing an FY17 budget resolution. The Senate has marked up all 12 spending bills in the appropriations committee, but hit some roadblocks in recent weeks when trying to pass the measures on the floor. The House has completed 10 of 12 committee markups and passed four bills on the floor (a sign that they might be back on track after the Democrats' sit-in at the end of June that derailed the Financial Services spending bill on its first try).

The table below shows the status of each of the 12 spending bills that Congress will take up after the Labor Day holiday in September:

	Agriculture	CJS	Defense	Energy & Water	Financial Services	Homeland Security	Interior & Environment	Labor & HHS	Legislative Branch	Mil Con & VA	State & Foreign Ops	THUD
House Markup	•	•	•	•	•	•	•		•	•		•
House Floor			•	X	•				•	•		
Senate Markup	•	•	•	•	•	•	•	•	•	•	•	•
Senate Floor				•						•		•

In an unusual move, the House has taken steps to limit the amendment process on spending bills by shifting from open rules (when any amendment can be offered on the floor) to structured rules (where the Rules Committee determines which amendments are in order in advance) in an attempt to smooth the process. The move comes after the House Energy and Water appropriations bill was voted down in June after an amendment relating to LGBT discrimination was attached. In May, the same amendment nearly derailed the House Military Construction-Veterans Administration spending bill, which generally enjoys broad, bipartisan support. The new approach is meant to streamline floor consideration and avoid surprises for House leadership.

The appropriations process has been thrown off in recent weeks by the Orlando attacks and other shootings as Democrats seek a path forward on several gun control measures. In the Senate, the Commerce-Justice-Science (CJS) spending bill was filibustered for 15 hours by Democrats calling for votes on gun amendments. Those amendments and others from Senate Republicans failed, and the CJS bill remains at a standstill. In the House, planned floor action on the Financial Services spending bill was delayed last week but was ultimately passed by the House. The bill would cut spending for more than 20 federal agencies including the IRS and FCC, on July 7. The White House has threatened to veto the measure.

The likelihood that the appropriations process is ultimately successful in passing all 12 spending bills by the end of the fiscal year is extremely low, and another continuing resolution is extremely likely to keep the federal government's lights on into FY17 on October 1. House Democratic Whip Steny Hoyer (D-MD) is on the record saying that he doesn't expect that the House will get through all of the spending bills, and if they do, it's unlikely that any would be signed by President Obama. In fact, the White House has already issued veto threats for several of the House spending bills. This dynamic will undoubtedly lead to the need for a continuing resolution either through the election or into next year. Democrats and many Republicans see negotiating an omnibus for FY17 spending bill in the lame duck period following the election as the most likely outcome. However, there are some conservative Republicans pushing for a continuing resolution that extends into March 2017 to avoid having to cut a lame duck deal with President Obama. If those members continue to withhold their support for a shorter continuing resolution Democratic votes will be needed to pass a deal much like the budget deal last year.

In the Senate, Democrats are pushing back on the appropriations process saying that the spending bills that have been advanced don't follow the Bipartisan Budget Act, in particular pointing to partisan policy

riders, funding allocations they believe are unfair and create an imbalance between defense and nondefense spending levels. Democratic leaders have said that if there isn't a remedy to those concerns, they will no longer support appropriations bills. The Defense Appropriations bill was the first casualty of the Democrats' position when it failed to receive enough votes on a procedural motion in order to move forward. Meanwhile, Majority Leader Mitch McConnell (R-KY) has said that the chamber will keep its focus almost entirely on appropriations bills into September. By continuing to try to pass spending bills, even if they don't ultimately get signed, Republicans are creating a blueprint for negotiations on a continuing resolution and eventual omnibus bill.

## **Transportation & Infrastructure**

With the five-year FAST Act surface transportation bill in place, there is a much better blueprint for transportation funding in the Transportation, Housing and Urban Development (THUD) spending bill than there has been in recent years. Because it includes projects in many members' states/districts, the measure enjoys broad support. The Senate's THUD spending bill was passed last month on the floor. The House moved its THUD bill out of committee but has yet to take it up on the floor. With the looming threat of further protests from House Democrats, it's not clear what the prospects are for additional appropriations bills, including THUD, to move in the House.

## **Tax & Finance**

***Online Sales Tax*** – Progress on the Marketplace Fairness Act or similar Remote Transactions Parity Act that would allow states to collect sales tax on internet sales within their borders, remains slow in Congress. A new tactic has emerged as states begin passing their own legislation in hopes of setting up a court battle over the issue. With the calendar filled with appropriations action for the coming months, it's unlikely that these efforts will break through in the near future.

## **Energy & Environment**

***Energy Policy Bill*** – Progress on energy legislation has again stalled as Senate Democrats, led by Senator Maria Cantwell (D-WA), are wary to vote to go to conference committee with the House. The Senate's version of the energy bill is a careful balance of bipartisan priorities including provisions relating to energy efficiency, cybersecurity, infrastructure and authorizing the Land and Water Conservation Fund which supports state and local investments in open space and parks. The House, on the other hand, has advanced a partisan bill that combines several measures that have already received veto threats which Senator Cantwell and others have said isn't a serious starting offer for negotiations. Meetings are ongoing to reach a compromise and head to conference committee on what would be the first comprehensive energy bill since 2007.

***Waters of the US Rule (WOTUS)*** – In June, the Supreme Court ruled that landowners can challenge water permit-related "jurisdictional determinations" by the U.S. Army Corps of Engineers (Corps). The decision could have a major impact on the WOTUS rule if it is ultimately upheld by allowing affected parties to challenge specific instances of agencies using the rule to assert jurisdiction over property under the Clean Water Act. Litigation over the WOTUS rule is ongoing to see if the Corps and the

Environmental Protection Agency (EPA) have overstepped their jurisdictional bounds. The challenge to the rule is supported by many municipalities who see it as a regulatory infringement.

### **Housing, Human Services & Public Safety**

***Affordable Housing*** – Washington Senator Maria Cantwell has been pushing legislation to expand the Low Income Housing Tax Credit and make them more flexible and tailored to the differing needs of communities. She is partnering with Senator Orrin Hatch (R-UT), the chairman of the Senate Finance Committee.

***Mental Health & Addiction*** – There has been strong bipartisan movement on the Comprehensive Addiction and Recovery Act (CARA) which authorizes additional investment in drug abuse and addiction prevention and treatment in response to the nationwide opioid crisis. Senator Patty Murray (D-WA) was part of the conference committee, and Representative Suzan DelBene (D-WA) successfully added an amendment to the House version support the LEAD program (law enforcement assisted diversion), a popular program launched in King County that provides alternatives to incarceration for some offenders. The House has agreed to the conference committee's report, including Rep. DelBene's LEAD amendment, and the Senate may take action soon. In addition, a bill from Rep. Patrick Murphy (R-PA), HR2646 that would make changes to the mental health system is under consideration in the House, and supporters of mental health legislation are hoping that movement on the Murphy bill will jumpstart a similar measure that has been stalled in the Senate.

### **ALTERNATIVES**

N/A

### **RECOMMENDATION**

N/A

### **ATTACHMENT(S)**

N/A