

CITY COUNCIL STUDY SESSION

Federal Legislative Update

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DIRECTION NEEDED FROM COUNCIL**INFORMATION
ONLY**

No formal action is required; this is an informational briefing. 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.

RECOMMENDATION

NA

BACKGROUND & ANALYSIS**BIG PICTURE UPDATE**

The U.S. House and Senate are in recess until after the mid-term elections on November 6. Over the last few weeks the media and the nation watched the battle in the U.S. Senate over Judge Brett Kavanaugh's confirmation to the Supreme Court. Time will tell what the impact of the fiercely partisan and highly emotional confirmation will have on the mid-term elections.

Despite the focus and tone of the Kavanaugh proceedings, Congress did work in a bi-partisan manner to move several key legislative matters. Several of these pieces of legislation (opioids legislation, the Water Resources Development Act reauthorization, Federal Aviation Administration reauthorization, tax reform, among others) are significant in size, impact, and scope to the country. Some contentious issues left undone prior to the recess will likely result in high-profile debates after the mid-term elections over funding for a border wall and census questions and process.

BUDGET AND APPROPRIATIONS

Funding for FY 19 is secure for much of the federal government. Congress passed, and the President has signed, appropriations bills providing funding for *Energy and Water*, *Legislative Branch and Military Construction (Mil-Con) Appropriations* and *Labor Health and Human Services (HHS), Defense and Education Appropriations*. The Labor HHS and Defense package covers nearly 70 percent of the annual discretionary federal government budget. A continuing resolution (CR) funds the rest of the government until December 7.

Many of the bills covered in the CR are normally controversial and this year could become even more highly charged. Senate Majority Leader Mitch McConnell (R-KY) is already predicting a "lively" lame-duck session and did not close the door on the possibility of a mini-shutdown. Funding bills covered

under the CR include: Interior, Agriculture, Financial Services, Transportation-Housing and Urban Development (HUD), Commerce, Justice, State, State-Foreign Operations and Homeland Security.

Likely to be of greatest controversy is the President's border wall funding request contained in the Homeland Security Appropriations bill. House Republicans have approved, without any Democratic support, the President's request of \$5 billion for the wall. A bipartisan bill being considered in the Senate allocates \$1.6 billion for the wall. The White House is seeking a total of \$25 billion over five years to complete the project.

WATER RESOURCES DEVELOPMENT ACT (WRDA) REAUTHORIZATION APPROVED

The House and Senate sent a water resources reauthorization bill to the President for signature on October 12. It is expected to be signed any day now. Commonly known as WRDA, the bill is also referred to as "America's Water Infrastructure Act of 2018". It will provide:

- Authorization of the U.S. Army Corps of Engineers (Corps) activities and projects for ports, water ways, flood protection and other water infrastructure improvements. The Port of Seattle's Seattle Harbor Navigation Improvement Project is authorized under the agreement.
- Funding authorization for the rehabilitation of Corps constructed dams is increased from \$10 million to \$40 million.
- Greater investments and improvements to the nation's drinking water delivery system. This includes authorization of \$4.4 billion over three years for the state drinking water revolving loan fund program, aid to states and utilities with compliance and asset management activities, updates to the antiterrorism and resilience measures at public water systems, and improved transparency for consumers about the quality of drinking water.
- The agreement addresses stormwater and wastewater infrastructure improvements and reauthorizes and strengthens the Water Infrastructure Finance and Innovation Act (WIFIA) program.

In addition to authorization for the Seattle Harbor Navigation Improvement Project, the reauthorization provides funding for other Washington state projects, including:

- A provision directing the Corps to "consult with the U.S. Department of the Interior to determine the extent to which American Indian tribes have been displaced by construction at two dams on the Columbia River—the Bonneville Dam in Oregon and the John Day Dam on the Oregon-Washington border."
- Authorization of \$110 million a year for watercraft inspections, including in the Columbia river basins, to prevent the spread of invasive aquatic species into those watersheds.
- An extension of annual authorizations for dam and levee safety activities through fiscal year 2023. Howard Hanson and other Corps' operated dams in Washington should benefit from this.
- A provision expediting feasibility studies for several projects, including the Tacoma Harbor navigation project.

The bill received broad support, including from the National Association of Counties, U.S. Conference of Mayors, National League of Cities, American Association of State Highway and Transportation Officials and the Water Infrastructure Network.

OPIOID FUNDING

Earlier this month, Congress sent the President a “wide-ranging package of opioid measures” for his signature. The bill ([H.R. 6](#)) would approve new grants for treatment programs and expand Medicaid reimbursement for inpatient drug rehabilitation services. It would also authorize almost \$8 billion for grant programs, including grants for states, grants for residential treatment programs for pregnant women with substance use disorders, and grants to support tracking and treating hepatitis C infections. In addition, the Labor-HHS Appropriations bill approved by Congress and signed by the President provides \$3.78 billion for programs addressing opioids and mental health, an increase of \$2.7 billion over 2017 funding levels. This includes:

- \$1.5 billion in enhanced state grants to address the opioid epidemic;
- \$350 million for opioid overdose surveillance and prevention at the Centers for Disease Control and Prevention, as well as enhancement for State Prescription Drug Monitoring Programs;
- \$495 million to improve access to opioid and substance use disorder treatment in rural and underserved areas; and
- \$100 million to address the needs of children who are affected by parental substance use.

TAX CUTS

In September, House Ways and Means Committee Chairman [Kevin Brady](#) (R-TX) released three bills that constitute the House Republicans’ proposal for a second tax-cut package. The House quickly passed out all three bills and they are now in the Senate. The three bills are:

HR 6756, Tax Reform 2.0 for New Businesses—Among other things, the bill would allow new businesses to deduct more of their startup costs and would modify limits on the value of net operating losses and general business credits that a startup can use after an ownership change. This bill passed the House with support from both sides of the aisle.

HR 6760, Tax Reform 2.0 Tax Cut Permanence—Would make individual and pass-through tax cuts permanent. This bill passed the House largely along party lines.

HR 6757, Tax Reform 2.0 Savings—Would make changes to retirement and other tax-advantage savings rules. This bill passed the House with bi-partisan support.

LAND AND WATER CONSERVATION FUND

Senator Maria Cantwell (D-WA) is leading an effort to permanently reauthorize the Land and Water Conservation Fund. Created in the 1960s, the Land and Water Conservation Fund helps with the acquisition of parcels used for national parks, forests, refuges and public lands. The fund’s authorization expired September 30. During FY 18, Congress approved over \$487 million for the fund. Senator Cantwell’s bill (S. 569) was advanced by the Senate Energy and Natural Resources

Committee in early October. Similar legislation was approved by the House Natural Resources Committee in September.

NATIONAL FLOOD INSURANCE PROGRAM

The National Flood Insurance Program (NFIP), run by the Federal Emergency Management Agency (FEMA), was extended by Congress through November 30. This is the seventh extension of the program since September 2017. House and Senate committees continue to grapple with numerous proposals to reauthorize and overhaul the program. Funding for this program comes through the Homeland Security Appropriations bill.

FEDERAL AVIATION ADMINISTRATION (FAA) REAUTHORIZATION

Earlier this month, Congress passed and sent to the President for his signature, a five-year reauthorization of federal aviation programs. In addition to reauthorizing aviation programs, the bill would:

- Address the shrinking size of passenger seats on commercial airplanes by requiring the U.S. Department of Transportation (USDOT) to set minimum seat dimensions.
- Bar the use of e-cigarettes on commercial flights and prohibit mobile phone calls on planes, except for flight crews and law enforcement officials.
- Air carriers would be prohibited from involuntarily removing ticketed passengers once they have been cleared to board the plane.
- Within 60 days of enactment, air carriers would have to begin complying with a rule requiring them to report mishandled baggage and wheelchairs.
- The bill would give the Department of Homeland Security and the Department of Justice long-sought authority to counter threats posed by drones.
- The measure would codify a drone integration pilot program established by USDOT. The pilot program would allow state, local, and tribal governments to apply to use drones for technical, regulatory, or policy reasons, in partnership with private entities. The program would end three years after the memorandum is issued.
- Within a year of enactment, the FAA would be required to issue new regulations allowing small drones to transport property, including for commercial purposes like deliveries.

TELECOMMUNICATIONS

Federal Communications Commission (FCC)—Net Neutrality: Earlier this month, the FCC presented a filing to the U.S. Court of Appeals for the District of Columbia Circuit laying out its defense of actions to repeal Obama-era net neutrality rules that it adopted in December 2017. The action is in response to a legal challenge filed by internet companies, more than a dozen states (including Washington State), and public interest groups.

The FCC's filing justifies the agency's actions and asserts that states do not have the right to adopt their own net neutrality regulations. The FCC has been trying to reign in a growing number of states

that have enacted or are considering enacting net neutrality legislation since the 2017 federal repeal. The Justice Department is suing California, one of four states that have adopted internet laws that defy the FCC's regulations.

Federal Communications Commission (FCC)—5G Deployment

The FCC is taking several steps to ramp up the deployment of 5G networks and has approved new rules to ease the deployment of 5G infrastructure. The approved rules establish limits on fees and timelines that local jurisdictions can impose on systems necessary to deploy wireless facilities for 5G connectivity.

Fees would essentially be limited to the costs incurred by local governments to process applications and manage rights-of-way. The agency estimates this to be about \$270. Time limits to review new small antenna on *existing* structures are reduced to 60 days, from the current 90-day review period. Reviews of *new* installations are restricted to 90 days, down from 150 days. The 90- and 150-day limits still apply to the large, traditional cell towers that can stand 200 feet tall.

Local jurisdictions, including the U.S. Conference of Mayors, National League of Cities and National Association of Counties, among others, are opposing the new rules, saying they would limit local authority. As with other recent FCC moves (e.g., net neutrality roll-back), local governments are challenging this matter in the courts. The U.S. Conference of Mayors, the cities of Seattle, Portland, Santa Monica, New York, Boston, and others have moved ahead with or announced intentions to join a legal challenge of the rule.

The FCC also plans to launch the auction spectrum in November to, “usher in the era of 5G”. The 28 Gigahertz (GHZ) spectrum is scheduled to be auctioned on November 14 and another auction for spectrum in the 24GHZ band will immediately follow. The FCC hopes to sell 6,000 licenses for the airwaves.

AUTONOMOUS VEHICLES

The U.S. DOT recently released a framework for the consideration of federal regulations related to self-driving vehicle technology. The new [Automated Vehicles 3.0](#) uses the department's existing authorities to:

- Call for increased testing of self-driving technology for cars, buses, and semi-trucks.
- Create a new autonomous car testing pilot that will lead to testing and demonstration pilots nationwide by companies, cities, states, and others; and calls for a voluntary data exchange among companies and the public sector.
- Establish that an artificial intelligence system could constitute a “driver” under federal trucking rules in a bid to ease barriers to the technology for long-haul trucks. Major truck manufacturers such as Daimler and Paccar are working on automated driving systems for commercial trucks.

Congress continues to work towards developing a legislative framework to guide and focus federal policy and regulations in this area.

POLICY & FISCAL IMPACTS

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OPTIONS

N/A

ATTACHMENTS & AVAILABLE DOCUMENTS

N/A

AVAILABLE IN COUNCIL LIBRARY

N/A