



City of Clearwater, Florida 2017 Federal Legislative Agenda



CLEARWATER
BRIGHT AND BEAUTIFUL • BAY TO BEACH



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City of Clearwater 2017 Federal Legislative Agenda

Water Resources

National Flood Insurance Program

Support efforts to improve the National Flood Insurance Program for the benefit of all participants.

Monitor FEMA's implementation of the Homeowner Flood Insurance Affordability Act.

Waters of the United States

Monitor activity related to the implementation of the EPA's rule on Waters of the U.S. **Oppose** any aspects of the proposed rule that could lead to unrealistic and over-burdensome regulations that would negatively affect the City of Clearwater.

Water Conservation Financing

Monitor implementation of the Water Infrastructure Finance and Innovation Act (WIFIA). **Support** adequate funding of the WIFIA program. **Support** any applications submitted by the City for a WIFIA-backed loan.

Clearwater Pass Maintenance Dredging

Support adequate annual funding for the Corps of Engineers Operations & Maintenance account, including additional funding for dredging not identified in the annual Administration budget. **Support** additional funding specifically provided for "Small, Remote, or Subsistence Navigation" dredging activities.

Sand Key Beach Nourishment Project

Support adequate annual funding for the Shore Protection projects under the Construction General account for the Army Corps of Engineers. **Support** the inclusion of funding of the Sand Key project in the Army Corps of Engineers Work Plan.

Local Government Issues

Tax-Exempt Bonds

Oppose legislation that would threaten the tax exemption on state and local bonds, including a 28 percent cap on tax-exempt municipal bonds.

Remote Sales-Tax Legislation

Support legislation that requires companies making catalog and internet sales to collect and remit the associated taxes. **Support** federal tax policies that maintain revenue streams to local governments.

Transient Occupancy Taxes

Oppose legislation that would exempt online travel brokers from paying taxes on the full room rate paid by the consumer, thereby costing Pinellas County the opportunity to collect appropriate Transient Occupancy Taxes from visitors to the region.

Proposed Spending Reductions

Monitor proposed cuts to non-defense discretionary programs of importance to the City of Clearwater.



Transportation

Infrastructure Investment

Support new federal investment in infrastructure. **Support** all opportunities to secure funding for Clearwater's infrastructure priorities.

Alternative Fuels Tax Incentives

Support the retroactive extension of a \$0.50 per gallon equivalent tax incentive for natural gas when used as a motor fuel.

Metropolitan Planning Organization Coordination and Planning Area Reform

Monitor implementation of the Metropolitan Planning Organization Coordination and Planning Area Reform rule by the Federal Highway Administration and Federal Transit Administration.

Public Safety

Public Safety Programs

Support continued adequate funding for a wide variety of Department of Justice and Department of Homeland Security grants, e.g., Community Oriented Policing Services, Byrne Justice Assistance Grants, Assistance to Firefighters Grants, Staffing for Adequate Fire and Emergency Response Grants, and the Urban Area Security Initiative. **Support** any City of Clearwater applications for these funds.

Economic Development & Social Services

Department of Housing and Urban Development Formula Programs (CDBG & HOME)

Support adequate funding for future fiscal years for both the Community Development Block Grant and the HOME Investment Partnerships programs because of their critical role in Clearwater's overall efforts to support those that are least fortunate.

Environmental Protection Agency's Brownfields Program

Support continued adequate annual funding for the Environmental Protection Agency's brownfields program, including at least \$90 million for the Section 104(k) competitive grant program. **Support** legislation to reauthorize the Environmental Protection Agency's brownfields program. **Support** any City of Clearwater applications for brownfields funding assistance.

Supportive Housing for the Elderly and for Persons with Disabilities - Department of Housing and Urban Development's Section 202 and 811 Programs

Support continued adequate annual federal funding for the Department of Housing and Urban Development's Supportive Housing for the Elderly program (Section 202) and Supportive Housing for Persons with Disabilities program (Section 811).

Homeless Assistance – Continuum of Care Program

Support continued adequate annual funding for Department of Housing and Urban Development Homeless Assistance Grants, particularly for the Continuum of Care Program.

Economic Development Administration

Support continued adequate funding of the Economic Development Administration. **Support** City of Clearwater grant applications through EDA programs.



Energy & Environment

Offshore Energy Exploration

Monitor the potential expansion of offshore energy exploration in Florida's federal waters.

Land and Water Conservation Fund

Support an annual appropriation of at least \$110 million for the state conservation grant program of the Land and Water Conservation Fund. **Support** legislation reauthorizing the Land and Water Conservation Fund, including an increased authorization for the state conservation grant program, both of which would better position the City of Clearwater for parks and recreation development projects.



FEDERAL ISSUE: National Flood Insurance Program

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: In 1968, Congress established the National Flood Insurance Program (NFIP) to address the nation's flood exposure and challenges inherent in financing and managing flood risks in the private sector. Private insurance companies at the time claimed that the flood peril was uninsurable and, therefore, could not be underwritten in the private insurance market. A three-prong floodplain management and insurance program was created to (1) identify areas across the nation most at risk of flooding; (2) minimize the economic impact of flooding events through floodplain management ordinances; and (3) provide flood insurance to individuals and businesses.

Until 2005, the NFIP was self-supporting, as policy premiums and fees covered expenses and claim payments. Today, the program is roughly \$25 billion in debt due to a number of large storms.

In mid-2012, Congress passed, and the President signed, the Biggert-Waters Flood Insurance Act (BW12), a 5-year reauthorization of the NFIP that attempted to restore the program to firmer financial footing by making a number of changes to the program that impacts the Island's residents. Then, in early 2014, the Homeowner Flood Insurance Affordability Act (HFIAA), was enacted in an attempt to address some of the so-called unintended consequences of BW12.

While HFIAA delayed many of the premium increases implemented by BW12, in the long run, the only real difference between rate increases envisioned by the two bills is that HFIAA reinstated grandfathering. This provision originally ended by BW12 allows property owners to pay flood insurance rates based on original risk, not that which is determined by new community flood maps.

Authorization of the NFIP expires September 30, 2017, which means the 115th Congress will need to address the program this year. Reauthorization will likely include reforms to the NFIP.

There are 12,148 NFIP policies in Clearwater for both homes and commercial properties.

HFIAA Implementation

While it is unclear if Congress can successfully address the shortcomings in HFIAA during the remainder of the 114th Congress, FEMA will continue to spend significant time implementing the legislation. This includes creating a Flood Insurance Advocate, allowing for option high-deductible policies for residential properties, communicating full flood risk determinations to property owners regardless of whether their premiums reflect such risk, implementing changes to how FEMA handles map revisions, completing a study of community-based flood insurance options, attempting to secure reinsurance of coverage provided by the NFIP from private markets, providing refunds to pre-FIRM primary homeowners who overpaid due to BW12, providing guidelines for property owners describing alternative means of flood mitigation, other than elevation, that can reduce flood risk and inform property owners about how mitigation can lower premiums, completing an Affordability Study and a "Draft Affordability Framework," allowing for the monthly payment of flood insurance premiums, and reporting to Congress on the number of annual policy premiums that exceed one percent of the total coverage provided by the policy.

Meanwhile, effective April 1, 2016, the first significant wave of NFIP rate increases resulting from HFIAA were instituted. As noted above, HFIAA called for the NFIP to limit rate increases to no more than 18 percent for any one policy with exceptions. However, FEMA has interpreted HFIAA to allow for



the total amount charged to the policyholder to increase an average of 19.8 percent for all 5.5 million FEMA policies and an increase of 37 percent for certain policies.

The most notable exception is that older non-primary residences and older business properties will continue to see annual increases of up to 25 percent. However, because of a new mandatory \$250 surcharge on certain properties, some may see a premium increase of 37 percent as of April 1, 2015.

This new mandatory surcharge and the Federal Policy fee found on every FEMA flood insurance policy are not considered premiums by FEMA, and thus are not subject to the limitations described in the HFIAA. FEMA has admitted that as a result, the increase in the total amount charged to a policy may exceed 18 percent.

Affordability Study

In 2015, the National Academy of Sciences released two reports on Affordability of National Flood Insurance Program Premiums. Overall the reports unfortunately left many questions unanswered, indicating that many decisions must be made by policy makers (Congress, in this case) and that the report's specific and clear guidance is limited due to a lack of data.

The reports focus in a highly technical manner on examining options for providing premium assistance to certain NFIP policyholders and suggest tying such assistance to mitigation grants or loans. Specifically, the second report found that "linking mitigation with premium assistance can lead to property owners having a cost effective combination of mitigation and insurance coverage." The reports do not simply suggest ways to arbitrarily lower flood insurance policy costs across the board.

Now that the affordability study is complete, FEMA is expected to propose an affordability framework to Congress within 18 months (by the summer of 2017). Based on these reports, that framework will likely include some form of premium assistance and mitigation efforts.

City of Clearwater Position

The City of Clearwater supports reauthorization of the National Flood Insurance Program (NFIP) with legislative, policy and programmatic modifications to improve the affordability and transparency of the program through reforms in the following areas:

- 1) Affordability/Rate Structure
 - a. Maintain a focus on affordability; however, if rates must rise, provide a more reasonable glide path for all properties
 - b. Ensure rates are consistent for all properties, including second homes and businesses
 - c. Ensure NFIP rates are not excessive or unfair by making the rate-setting process more transparent to the public
- 2) Programmatic Modifications to Enhance NFIP's Financial Sustainability
 - a. Consider Write-Your-Own reforms including reducing commissions while further incentivizing NFIP policy sales efforts
 - b. Encourage greater participation by those outside of the 100-year floodplain via expanded use of the Preferred Risk Policy
 - c. Further strengthen enforcement responsibilities to ensure those in the 100-year floodplain have and maintain flood insurance
 - d. Privatization that maintains affordability and requires whole profile of risk (no cherry picking)
- 3) Mitigation
 - a. Increase funding for existing flood mitigation programs
 - b. Establish tax credits for mitigation efforts



- c. Consider voucher/loan programs to further emphasize mitigation, particularly for lower-income participants

RECOMMENDED POSITION: *Support* efforts to improve the National Flood Insurance Program for the benefit of all participants. *Monitor* FEMA's implementation of the Homeowner Flood Insurance Affordability Act.



FEDERAL ISSUE: Waters of the United States

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: A series of decisions by the U.S. Supreme Court over the past decade imposed restrictions on the scope of wetland regulation governed by Section 404 of the Clean Water Act (CWA), which regulates “dredge and fill” activities in navigable waters and their adjacent wetlands. Opponents of these restrictions have urged Congress to redefine Waters of the U.S. (WOTUS), and apply that definition to all aspects of the CWA.

As legislation along those lines failed to pass previous Congresses, the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (ACOE) during the Obama Administration developed guidance and a final rule to redefine WOTUS. There is concern that this effort significantly expanded the definition of WOTUS to include tributaries, ditches, canals, and other water bodies that can potentially drain into navigable waters, interstate waters, or the territorial seas. These water bodies would be subject to new requirements, and some waters currently covered by a permit would be subject to additional monitoring and regulation when those permits are renewed.

Meanwhile, President Trump signed an executive order in February to begin the process of reversing the WOTUS rule.

While the executive order cannot itself repeal WOTUS, which was finalized in May 2015, the order directs EPA and the Army Corps to begin a formal review of the regulation, a likely first step to dismantling it.

The executive order also signals a significant change in the government's legal strategy for deciding which wetlands and streams are protected under the Clean Water Act. For more than a decade, federal agencies have relied on Justice Anthony Kennedy's opinion in the 2006 wetland-permitting case, *Rapanos v. United States*, in determining where the federal reach over waterways begins. The court ruled in favor of *Rapanos*, but in a 4-1-4 vote, the majority split on what approach to use to define government jurisdiction.

The order specifically asks the agencies to consider the late Supreme Court Justice Antonin Scalia wrote in the 2006 case *Rapanos v. United States*, saying the Clean Water Act ought only to cover navigable waters and waterways “with a continuous surface connection” to them — a far more restrictive definition than what the Obama EPA put into its rule. Relying on Scalia’s opinion would likely restrict federal jurisdiction.

Because the WOTUS rule already is final, the Administration would also have to follow the Administrative Procedures Act, meaning it will need scientific backing to dispute, among other things, the 408-page technical report that accompanied the Obama regulation.

The rule is currently on hold. The Court of Appeals for the Sixth Circuit, based in Cincinnati, ordered it halted in 2015 while numerous lawsuits challenging the rule wind their ways through the court system. The executive order instructed the EPA to ask the Sixth Circuit court to put the litigation against WOTUS on hold while the administration reviews it.

RECOMMENDED POSITION: *Monitor* activity related to the Waters of the U.S. rule. *Oppose* any aspects of the proposed rule that could lead to unrealistic and over-burdensome regulations that would negatively affect the City of Clearwater.



FEDERAL ISSUE: Water Conservation Financing

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: In an effort to respond to the lack of federal funding opportunities for new water infrastructure projects, Congress created a five-year pilot program called the Water Infrastructure Finance and Innovation Act (WIFIA) in the Water Resources Reform and Development Act (WRRDA) of 2014 (H.R. 3080). WRRDA was signed into law in June 2014. Under WIFIA, eligible entities, including local governments, may apply for a low-cost, long-term secured loan from the Army Corps of Engineers and the Environmental Protection Agency (EPA) to finance eligible water infrastructure projects. Loans may be used for clean water and drinking water projects through the EPA, as well as water resources projects (e.g., flood control and navigation) through the Corps. Eligible activities include: planning, feasibility studies, environmental review, permitting, engineering and design, construction, rehabilitation, and property acquisition.

WIFIA would access funds from the U.S. Treasury at long-term Treasury rates and use those funds to provide loans or other credit support for water projects. Funds would flow from the Treasury, through WIFIA, to larger water projects (projects must cost at least \$20 million) or to State Revolving Funds wishing to borrow to enlarge their pool of capital. By being able to access funds at Treasury rates, communities receiving WIFIA loans can save up to 20 percent compared with current borrowing rates, significantly accelerating water infrastructure investment. WIFIA backed-loans would have a 35-year repayment period, with no payment obligations until five years after completion of the project.

When originally written, the law prohibited the use of tax-exempt bonds to pay for the non-federal portions of the project, effectively taking away the most cost-effective tool for local governments that might seek WIFIA loans. However, the FAST Act, the five-year surface transportation bill passed by Congress in December 2015 includes a provision to lift the ban on using tax-exempt bonds for WIFIA loans. This may provide the City with an attractive funding stream for future water resource efforts.

Congress provided WIFIA with \$2.2 million in both FY 2015 and FY 2016 for implementation purposes. The Administration then requested \$20 million (\$15 million for loans; \$5 million for administrative purposes) in its FY 2017 budget request. In the FY 2017 Continuing Resolution, which was passed in December of 2016, Congress included \$20 million for the WIFIA program in FY 2017. According to the EPA, this should allow the agency to leverage \$1 billion in loan capacity.

On December 6, 2016, the EPA published a final interim rule establishing guidelines for the program, the application and administration process, and a proposed fee structures for assistance under WIFIA. The funding process established by the EPA has three phases. The first phase is Project Selection; this requires applicants to submit letters of interest that the EPA will evaluate and select projects to move forward. The second phase is Project Approval which will involve the submission of an application and the EPA will conduct a financial and engineering review. A non-refundable application fee to cover the cost of this review has been set at \$100,000 for large communities and \$25,000 for small communities. The results of the review will form the basis for negotiation with the borrower on the terms and conditions related to the project. The final phase is Negotiation and Closing which will conclude with the execution of the credit agreement, allowing the borrower to access the WIFIA funds. The applicant will be responsible for covering the credit processing fees to bring the project to closing, with the application fee offsetting a portion of the costs.

The Environmental Protection Agency has recently begun the first step of the funding process and is currently accepting letters of interest through April 10, 2017.



RECOMMENDED POSITION: *Monitor* implementation of the Water Infrastructure Finance and Innovation Act (WIFIA). *Support* any applications submitted by the City for a WIFIA-backed loan.



FEDERAL ISSUE: Clearwater Pass Maintenance Dredging

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: As a federal navigation channel, the Army Corps of Engineers is supposed to be 100 percent responsible for the cost of maintenance dredging of Clearwater Pass. The Pass requires maintenance dredging about every 5 years due to shoaling, which cuts off an important navigation channel for local commercial fishermen, charter boats, and other recreational vessels. However, due to budget constraints, this only occurs about every 10 years.

Clearwater Pass was last dredged and fully paid for by the Corps in 2001. The Pass was again dredged in 2012, but the City of Clearwater paid the entire \$750,000 cost of the project, as it was uncertain when the Corps may have funding available to complete the dredging. Eventually, the Corps did reimburse the City for about a third of the cost of that dredging operation.

The dredging project has a double benefit, as the sand that is removed is then used to renourish North Clearwater Beach.

To fund dredging projects that are not generally budgeted for by the Administration due to the difficult competition for funds from the Army Corps of Engineers, Congress has adjusted their funding strategy in the age of no-earmarks to add additional funding for what Congress terms “Additional Funding for Ongoing Work.” Among these amounts, Congress in Fiscal Year (FY) 2015 provided \$42.5 million in additional funding to the Corps for “Small, Remote, or Subsistence Navigation” operations and maintenance (O&M) activities. In FY 2016, Congress provided an increase in funding to \$48 million. This is the funding from which the Clearwater Pass must compete in the future to maintain the channel.

RECOMMENDED POSITION: *Support* adequate annual funding for the Corps of Engineers Operations & Maintenance account, including additional funding for dredging not identified in the annual Administration budget. *Support* additional funding specifically provided for “Small, Remote, or Subsistence Navigation” dredging activities.



FEDERAL ISSUE: Sand Key Beach Nourishment

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: Pinellas County has partnered with the Army Corps of Engineers to nourish Sand Key, located within the City of Clearwater, since 1988. The Federal Authorization for this project expires in December of 2043.

The Sand Key project is scheduled for nourishment in 2017. In addition, as a result of the erosion due to the hurricanes and storms of the 2016 season, the County requested funding for the rehabilitation of the shore protection project at Sand Key and executed an agreement for just under \$13 million in federal funding for the project in February of 2017. The project design and construction activities will be managed through the Army Corps of Engineers. Though this funding will mitigate recent storm damage, the project still requires additional funding for a full nourishment to take place. It is estimated that to complete a full nourishment of Sand Key will require an additional \$19 million, with just under \$12 million coming from the federal share and approximately \$7 million from state and county resources. It is essential that the funding for this nourishment project and the other Pinellas County authorized projects is included in the 2017 Work Plan.

To fund beach nourishment projects and studies that are generally not budgeted for by the Administration, Congress has appropriated additional funding for what Congress terms “Additional Funding for Ongoing Work.” In Fiscal Year (FY) 2016, Congress provided \$40 million in additional funding to the Corps for “shore protection” construction activities. This funding allows the Corps to develop its Work Plan and provide money for additional projects not originally budgeted for by the Administration. This is the funding source from which Pinellas County shore protection project must compete.

Additionally, the Sand Key nourishment project does require the acquisition of perpetual easements, to allow for construction and public access, from property owners in the project area. City and County staff have been engaged in securing the easements and are working closely with the Army Corps of Engineers to ensure property owners are well informed and can easily execute the documents needed to provide the easements.

RECOMMENDED POSITION: *Support* adequate annual funding for the Shore Protection projects under the Construction General account for the Army Corps of Engineers. *Support* the inclusion of funding of the entire Pinellas County shore protection project in the Army Corps of Engineers Work Plan.



FEDERAL ISSUE: Tax-Exempt Bonds

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: Although municipal bonds have been tax-exempt for almost 100 years, a number of federal proposals have been offered over the past few years that target this exemption, particularly as part of the debate to end the sequester or reduce federal spending. With local governments facing severe budget difficulties, any proposal to limit the tax exemption would put more pressure on local finances by reducing demand for tax-exempt bonds and increase borrowing costs for state and local governments, ultimately leading to higher taxes or reduced services.

It is estimated that the difference in the rate of earnings the City and other local governments would need to offer prospective buyers for their taxable bonds would depend on the market, but typically would range from 1.5 to 2 percent more for those offerings. On \$1 million borrowed, this would likely cost \$20,000 more in interest per year. Taking this further, if the City were to amortize a \$100 million loan over 30 years at taxable bond rates two percent higher than if the bonds were tax-exempt, the additional cost to taxpayers over those 30 years could be roughly \$30 million.

As in previous years, the Obama Administration proposed a 28 percent limit on all itemized deductions for high-income individuals in its Fiscal Year (FY) 2017 budget. If accepted by Congress, this would apply to all new and outstanding municipal bonds. According to a study conducted by the National Association of Counties, if this 28 percent cap had been in place over the past decade, borrowing costs to state and local governments would have increased by over \$173 billion, while a full repeal would have cost nearly \$500 billion over the same time period.

Meanwhile, the Trump Administration and the 115th Congress are expected to focus on comprehensive tax reform in 2017, making it a top priority. Among many other provisions, and to generate revenue to cover the cost of legislation, the Trump Administration has suggested its tax reform agenda will “reduce or eliminate most deductions and loopholes available to the very rich.”

This almost surely would include municipal bond deductions, meaning that bond issuers would have to offer higher rates to attract investors. It is estimated that the difference in the rate of earnings the City and other local governments would need to offer prospective buyers for their taxable bonds would depend on the market, but typically would range from 1.5 to 2 percent more for those offerings. On \$1 million borrowed, this would likely cost \$20,000 more in interest per year. Taking this further, if the City were to amortize a \$100 million loan over 30 years at taxable bond rates two percent higher than if the bonds were tax-exempt, the additional cost to taxpayers over those 30 years could be roughly \$30 million.

RECOMMENDED POSITION: *Oppose* legislation that would threaten the tax exemption on state and local bonds, including a 28 percent cap on tax-exempt municipal bonds.



FEDERAL ISSUE: Remote Sales-Tax Legislation

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: With some limited exceptions, retailers are only required to collect sales tax in states where they have brick-and-mortar stores. The burden then falls to consumers to report to state tax departments any sales taxes they owe for online purchases. Often, due to complex reporting requirements, consumers do not report those purchases when completing their tax returns. As a result, local retailers can be at a competitive disadvantage because they must collect sales taxes while out-of-state retailers, including many large online and catalog retailers, often offer their customers a discount by collecting no state or local sales taxes.

Therefore, the current sales tax system is perceived as being unfair to brick-and-mortar retailers that employ local residents, including local stores as well as national chains like Best Buy or Home Depot. The lost revenue is also a drain on local governments. In 2014, uncollected sales tax was estimated to have cost local governments \$23 billion nationwide.

To correct this inequity across the country, Congress introduced the Marketplace Fairness Act in both the House and Senate during the 113th Congress. The bill would have created two systems from which states could choose to facilitate the process of collecting these taxes. The first would have been the already established Streamlined Sales and Use Tax Agreement (SSUTA), which would have simplified state and local sales and use tax laws. Twenty-four states have already signed this agreement, which is also supported by the National League of Cities and the U.S. Conference of Mayors. The second alternative would have allowed for states to meet minimum requirements for their state tax laws and administration thereof. To protect small, online retailers, this legislation would have also exempted sellers who make less than \$1,000,000 in total remote sales from the requirement to collect taxes.

In 2013, the Senate passed the Marketplace Fairness Act with bipartisan support by a vote of 70-24, with Senator Nelson voting for the measure and Senator Rubio against it. In the House, companion legislation was not considered, although it had 67 cosponsors, including Florida Representatives Deutch, Ross, Wilson, and Diaz-Balart, and former Rep. Crenshaw.

The issue reemerged in the 114th Congress. Most recently, in August 2016, House Judiciary Committee Chairman Bob Goodlatte (R-VA) released a discussion draft known as the Online Sales Simplification Act (OSSA), which would implement a hybrid-approach to taxing purchases made remotely. Under the draft, states would be able to impose sales tax on remote sales if the state first participates in a clearinghouse established under the OSSA. Then, remote sales would be taxable if the origin state collects sales taxes, yet at a rate adopted by the destination state. The sales tax rate would be a single state-wide rate determined by each participating state. This is significant as it would eliminate the option for many communities to add additional sales taxes for various local needs.

The increasing pressure to pass remote sales tax legislation may have something to do with court cases in South Dakota and Alabama that are challenging a 1992 Supreme Court decision holding that states cannot require retailers with no in-state presence to collect sales tax. Both states have recently enacted rules requiring all retailers who sell more than a certain dollar amount of goods annually in the state to collect sales tax, regardless of physical presence. Overturning the 1992 decision would require the Supreme Court to take up at least one of the cases (and rule in favor of the state) or an act of Congress.



Given this, and the reluctance of many Republicans to pass such a law, the issue may remain in the courts for the next several years. However, there is still a small a possibility that remote sales tax language could be included in a broader tax reform package that could be considered in the 115th Congress.

RECOMMENDED POSITION: *Support* legislation that requires companies making catalog and internet sales to collect and remit the associated taxes. *Support* federal tax policies that maintain revenue streams to local governments.



FEDERAL ISSUE: Transient Occupancy Taxes

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: In the 111th and 113th Congresses, attempts were made to insert language into various pieces of legislation that would have exempted online travel brokers (Expedia, Travelocity, etc.) from remitting the full bed tax rate collected from consumers to the appropriate local government. For instance, if an online travel broker were to pay \$60 for a room in the City of Clearwater and then sell that room to a consumer for \$100, they would be able to, under the proposal, only remit \$6 dollars to the local government, in this case Pinellas County, instead of \$10 (using a 10 percent bed tax for illustrative purposes).

In late 2009, seventeen Florida counties, including Pinellas County, filed an action against a number of online travel companies (OTC's) alleging that the companies have failed to collect and/or pay taxes under the respective tourist development tax ordinances. Those 17 counties agreed to settle with the online travel companies for \$6.1 million in 2010. During 2012, there were several Florida State Circuit Court cases that ruled in favor of the online travel brokers. Two cases, including the 17 county case, cited that Florida law is not clear on the issue, while a Circuit Court Judge ruled more directly in July that the OTC's only owe local tourist taxes on the discounted rates they paid for the rooms. Then, in June of 2015, the Florida Supreme Court affirmed the lower court rulings, stating that online travel companies are not hotels and, therefore, do not have to pay occupancy fees.

Meanwhile, in 2012, the District of Columbia government won a suit where a judge ruled that online travel firms should repay back taxes on the full retail price of hotel rooms they sold to consumers in the years after the D.C. City Council passed legislation mandating they do so. In 2014, a conditional settlement was reached in this case with six online travel firms. Although they have a right to appeal the D.C Superior Court decision, they agreed to pay \$60.9 million in back taxes to the D.C. government. Between 1998 and 2010, the amount owed in the lawsuit was estimated to be over \$200 million.

By 2015, local governments had reportedly filed 88 lawsuits against Expedia and others for tax underpayment. The company won dismissal in 23 cases, while 35 remain active. The remainder of the cases have been settled, put on hold, referred to administrative proceedings, or otherwise resolved. A 2011 estimate by the Center for Budget and Policy Priorities suggests that state and local governments lose as much as \$396 million a year due to such remittance practices by online hotel purveyors.

These examples demonstrate how courts across the country have ruled differently on this issue over the past few years, which has led online travel purveyors to continue to seek federal legislation that would codify their goal of not remitting taxes on the price of the hotel room paid by the consumer. In 2012, several of these online discount travel brokers (including Expedia, Orbitz, and Priceline) organized and registered to lobby under a new organization called the "Interactive Travel Services Association," whose purpose is to advocate on several issues, including "taxes and fees related to travel."

In May 2013, Expedia and other online hotel room purveyors attempted to amend the Marketplace Fairness Act to achieve their transient occupancy tax objectives. Ultimately, this effort was unsuccessful and the bill was passed out of the Senate without this language.

In FY 2016, Pinellas County collected a record \$49.5 million in transient occupancy taxes, a 25.9 percent increase over the previous year. This increase was partially fueled a one percent increase in the Tourist Development Tax rate and by Pinellas County's agreement with AirBnB to collect and remit taxes on



their rentals. These taxes are used to support the tourism industry in the region as well as to fund certain capital projects, as defined by Florida Statute. The City of Clearwater submitted three applications for funding with the Tourist Development Council for the 2017 round of capital funding. Additionally, the Clearwater Marine Aquarium has also applied for funding. The importance of these projects to the City of Clearwater underscores the significance of this revenue source and the need to ensure it is not constrained by detrimental legislation.

RECOMMENDED POSITION: *Oppose* legislation that would exempt online travel brokers from paying taxes on the full room rate paid by the consumer, thereby costing Pinellas County the opportunity to collect appropriate Transient Occupancy Taxes from visitors to the region.



FEDERAL ISSUE: Proposed Spending Reductions

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: In mid-March, the Trump Administration released its so-called Fiscal Year (FY) 2018 “skinny” budget, a 62-page document that very generally proposes overall spending levels for the federal government for the next fiscal year. Among those agencies that fare best include the departments of Defense (10% increase), Homeland Security (6.8% increase), Veterans Affairs (5.9% increase), and the National Nuclear Security Administration (an 11% increase - imbedded in the Energy Department budget, which gets an overall decrease of 5.6%). Meanwhile, those agencies that face the most significant budget reductions include the following: EPA (31.4%), HHS (16.2%), State/U.S. AID (28%), Labor (20+%), Agriculture (21%), Transportation (12%), Commerce (16%), Education (13%), HUD (13.2%), Interior (12%). The President is expected to release a full FY 2018 budget in May that will provide much more detail than we have now.

Furthermore, the Administration released a supplemental spending request for FY 2017 that proposes to also cut a number of key City programs. Congress ultimately funds the government and can ignore much of what the President has recommended, but the FY 2017 supplemental and FY 2018 budget proposes so many reductions or whole elimination of programs while significantly boosting spending in other areas (defense, a southern wall, for instance) that many members of Congress support and will therefore be difficult to restore all funding to domestic agencies or programs of importance. If a piece of the pie gets bigger, the entire pie is not likely to grow – instead other pieces will get smaller.

Among other things, following are a number of areas of concern with the FY 2017 supplemental and FY 2018 budget. They include:

- The proposal to cut funding in half for the Community Development Block Grant (CDBG) program in FY 2017 and then to proceed to eliminate the program entirely in FY 2018 would prevent the City from addressing essential community development needs and serving the less fortunate in our community. The City receives a direct allocation through the program and we request that the funding level for the program remain at least level with the FY 2016 amount of \$3 billion. In FY 2016, the City received \$667,634 in CDBG funds.
- Elimination of the HOME Investment Partnership (HOME) program would greatly impact the City’s ability to connect our citizens with affordable, accessible housing. We support maintaining the current funding level of \$950 million. In FY 2016, the City received \$285,328 in HOME funds.
- The drastic cuts of \$310 million in FY 2017 and \$490 million in FY 2018 in Department of Justice grant programs would impact the City’s ability to keep our citizens safe. Programs such as the Byrne Justice Assistance Grants (JAG) allow the City to address public safety needs.
- The National Flood Insurance Program (NFIP) is impacted in two ways by the Administration’s proposal. The first is a suggestion to restructure the program “to ensure that the cost of Government services is not subsidized by taxpayers who do not directly benefit from those programs”. Although there is no additional detail provided, it is essential that flood insurance remain affordable for our citizens.
- The second change to the NFIP is a proposal to eliminate the appropriation for the NFIP’s Flood Hazard Mapping Program and potentially pay for these activities by adding another surcharge onto NFIP policies. With over 12,000 NFIP policies in force in Clearwater on both commercial



and residential properties, the affordability and stability of the NFIP is of vital importance to the City.

- Reduced funding to the Army Corps of Engineers by over \$100 million for FY 2017 and by \$1 billion in FY 2018 will directly impact projects important to the City, such as the nourishment of Sand Key.
- The proposal for FY 2017 to cut funding for the Economic Development Administration in half and then eliminate all remaining funding in FY 2018 would be detrimental to the City's ongoing economic development efforts. It is essential to support continued economic vitality and job opportunities in our community.

Many of these programs have been targeted before, often most recently by President Obama's Deficit Commission from 2010. While it is hard to know exactly how seriously to take these proposed cuts, it is clear there is significant pressure to reduce domestic discretionary spending (as opposed to military or non-discretionary programs like Social Security). Also, even if President Trump proposed these types of cuts, Congress would have to agree with them, which is far from a certainty.

Another threat to discretionary spending is sequestration. The Budget Control Act (passed in 2011) established budgetary caps in law for discretionary spending – one cap for defense accounts and another for non-defense accounts – through FY 2021. The penalty for spending over the caps is a sequestration of funds to ensure spending is in line with the budgetary caps established in law. Sequestration would result in a percentage-based cut to every account, program and project funded by discretionary spending.

For FY 2018, many Members of Congress are concerned about the discretionary spending caps being too restrictive. Since the budget caps are established by law, Congress does have the power to change the law to allow for higher spending levels. They did this in October 2015 when they reached a budget deal for FY 2016 and FY 2017 for new top-line spending levels.

Some lawmakers believe the best path forward for FY 2018 is to pass a budget resolution and write appropriations bills to the sequestration spending levels established in law and negotiate a “better” budget deal later in the year when it becomes obvious that the spending bills don’t have the votes to pass Congress, similar to what happened in FY 2016.

Another concern regarding sequestration and spending caps is the potential for the Administration and some Members of Congress to attempt to violate the “firewall” between defense and non-defense spending. The rationale for creating separate top-line spending levels for defense and non-defense programs was to mitigate concerns that there would be attempts to skew the spending allocation in favor of defense. While the “firewall” is established in law, that doesn’t mean that some won’t try to enact changes to allow for a boost to our military budget at the expense of non-defense discretionary spending.

RECOMMENDED POSITION: *Monitor* proposed cuts to non-defense discretionary programs of importance to the City of Clearwater.



FEDERAL ISSUE: Infrastructure Investment

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: Traditionally, Congress has invested in infrastructure via a number of methods, primarily through legislation or programs like transportation authorizations, Federal Aviation Administration authorizations, revolving loan funds, through the tax code via bond programs, or earmarks prior to 2009. The last big influx of new and unexpected investment in infrastructure occurred via the 2009 Stimulus bill, which, among other things provided \$105.3 billion for infrastructure, including \$48.1 billion on transportation, \$18 billion on water, environment, and public lands, and the remainder on government buildings, telecommunications and broadband, and energy infrastructure.

Recently however, federal funding for infrastructure still fell to a 30-year low as a share of Gross Domestic Product. The American Society of Civil Engineers said in its latest report that \$3.6 trillion was needed to bring all segments of U.S. infrastructure up to a state of good repair.

In response, the Trump Administration has made bold promises to invest \$1 trillion in infrastructure over ten years. President Trump has given few details about his plans, but has said he would like the private sector to provide much of the funding. He has also indicated funding could be available not just for roads and bridges, but also for airports, schools and hospitals.

The most detailed plan, authored by Wilbur Ross, the nominee for Secretary of Commerce, and economist Peter Navarro, suggests there will be \$1 trillion in "cost-neutral" investment funded mostly with repatriated foreign corporate income. More specifically, Trump has proposed reducing the rate companies would pay to bring cash held overseas by U.S. corporations to 10 percent, down from 35 percent. Those companies then could invest in infrastructure projects, benefit from a new 82 percent tax credit and effectively erase their 10 percent repatriation tax.

However, lowering the cost of money with tax credits to investors may not entice the kind of investment suggested because local governments already have access to the municipal bond market, which benefits from the lowest financing costs in more than 50 years. The Congressional Budget Office reported in 2015 that just 26 private-investment projects were completed or underway nationwide.

Meanwhile, the Trump Administration and Congress will also have to decide whether to allow investment in new projects or upgrade existing infrastructure. Private investors are more likely to invest if they can make a profit. That often means tolls on roads and bridges, rate increases on water infrastructure, or property taxes on other projects. That becomes more difficult for environmental improvements or projects located in more rural areas. Also, voters have shown a reluctance to accept tolling on existing infrastructure.

With regard to specific infrastructure projects, in late January 2017, a list of 50 infrastructure projects was circulated. The origin of the list is somewhat unclear with conflicting reports that it was compiled by the Trump transition team or by the National Governor's Association for the Trump transition team. The list mentions that the projects would be funded with 50% private investment. However, there is no additional public discussion regarding projects or a more formal plan, including how to pay for it using either public or private funds. These projects may be reflective of the type of infrastructure investment that will be supported by the Trump Administration.



Lastly, during his first week in office, Senate Democrats called President Trump's bluff (so to speak) and outlined an ambitious proposal to spend \$1 trillion on a broad range of infrastructure projects over the next ten years. Since the announcement, neither the President nor Republican members of Congress have responded in any significant way to the Democrats' offer.

The proposal suggests the following investments:

Reconstruct Roads & Bridges \$100B	Improve Airports \$30B
Revitalize Main Street \$100B	Address Ports & Waterways \$10B
Expand TIGER \$10B	Build Resilient Communities \$25B
Rehabilitate Water and Sewer \$110B	21st Century Energy Infrastructure \$100B
Modernize Rail Infrastructure \$50B	Expand Broadband \$20B
Repair & Expand Transit \$130B	Invest in Public Lands & Tribal Infrastructure \$20B
Vital Infrastructure Program \$200B	Modernize VA Hospitals \$10B
Rebuild Public Schools \$75B	Provide Innovative Financing Tools \$10B

Congressional Republicans on the other hand, continue to discuss a desire to provide more funding for infrastructure, but have not offered a formal proposal or a specific time as to when they may be able to tackle the issue given other priorities. Some continue to look at repatriation of corporate foreign income as an at least partial funding source, while others suggest those funds should be used for tax reform. There is little to no talk of Congress simply using deficit spending to fund infrastructure.

While it is unclear how this discussion will progress during the 115th Congress, it is possible that new infrastructure investment opportunities could be created and used to fund projects in Clearwater.

RECOMMENDED POSITION: *Support* new federal investment in infrastructure. *Support* all opportunities to secure funding for Clearwater's infrastructure priorities.



FEDERAL ISSUE: Alternative Fuel Tax Incentives

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: An older transportation authorization bill, known as SAFETEA-LU, provided a tax incentive for natural gas when used as a motor vehicle fuel. The \$0.50 per gallon equivalent incentive, which is provided to businesses, individuals, and tax-exempt entities that sell the fuel, essentially serves as a rebate.

In the fall of 2011, the City of Clearwater opened the first public natural gas filling station in the Tampa Bay area, and takes advantage of this tax incentive with every gallon of gas sold. In 2015, the rebate provided \$150,263 to the City, nearly double the previous year. In addition, the City recently dropped its station full price to \$1.17 per gasoline gallon equivalent (GGE) and \$0.98 per GGE for government vehicles, which is the lowest price in Florida and possibly the southeastern United States.

The \$0.50 incentive originally expired at the end of Fiscal Year 2009, and has been extended five times, most recently as part of a broad “tax extenders” package passed in December 2015. This extension is for two years, including a retroactive extension for 2015. The incentive expired on December 31, 2016. Various industry organizations will continue to pursue the extension in the 115th Congress.

RECOMMENDED POSITION: *Support* the retroactive extension of a \$0.50 per gallon equivalent tax incentive for natural gas when used as a motor fuel.



FEDERAL ISSUE: Metropolitan Planning Organization Coordination and Planning Area Reform

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: In the summer of 2016, the Federal Highway Administration (FHWA) and Federal Transit Administration's (FTA) issued a joint Notice of Proposed Rulemaking (NPRM) for "Metropolitan Planning Organization Coordination and Planning Area Reform." At the time, there were concerns that the NPRM could make significant changes to the structure and functioning of roughly one-third of the nation's Metropolitan Planning Organizations (MPOs), potentially including the Pinellas County MPO, Forward Pinellas. Subsequently, a final rule on the subject was released in January 2017.

The final rule does a few things. First, it changes the regulatory definition of a Metropolitan Planning Area (MPA) to require that a MPA include the entire urbanized area (UZA), as well as the contiguous area expected to become urbanized in the next 20 years. For clarification purposes, UZA is a census-designated term given to an area when it reaches 50,000 in population. This may mean merging existing MPAs when multiple exist within a UZA. Under prior regulations, MPA boundaries were determined largely by the MPO and Governor's criteria. However, boundaries will now be established by federal regulation while making MPA boundaries the defining basis for developing a likely single transportation plans.

Therefore, if there are multiple MPOs within each new MPA, the relevant Governor(s) and MPOs would determine whether or not a merger of the existing MPOs is appropriate. If they jointly determine that is not appropriate to have more than one MPO in a MPA, the MPOs have the choice of: 1) merging; or 2) changing the MPO boundaries so there is only one MPO in the new MPA. However, if they jointly determine that it is appropriate to have more than one MPO (assuming the "size and complexity of the MPA makes the designation of multiple MPOs appropriate"), then the MPOs must jointly: 1) produce one set of planning documents for each MPA; and 2) establish a written agreement that defines procedures for joint decision making between the multiple MPOs. In either case, planning agreements would be required under this proposal to include coordination and dispute resolution strategies between the state and the MPO, as well as MPO to MPO.

The final rule establishes criteria under which MPOs may seek an exception from the requirement that each MPA have only one set of planning documents. This exception, if approved by the Secretary, would allow multiple MPOs in an MPA to continue to exist separately and generate separate planning documents in cases where it is not feasible for MPOs to prepare unified planning products. In order to gain an exception, all MPOs in the MPA and their Governor(s) must submit a joint written request and justification to the Secretary. The submittal must: (1) explain why it is not feasible, for reasons beyond the control of the Governor(s) and MPOs, for the multiple MPOs in the MPA to produce unified planning products; and (2) demonstrate how the multiple MPOs in the MPA are already coordinating with each other and producing consistent planning documents and performance targets.

If the Secretary does not approve the request, the Governors and the MPOs will be given written notice as to why the exception was denied and will be able to submit supplemental information to address the deficiencies. The Secretary will then make a final determination based on that information. An approved exception is permanent, but FHWA and FTA will routinely perform reviews to ensure the coordination requirements are being met. Lastly, FHWA and FTA will produce guidance outlining situations where exceptions may be appropriate, as well as suggestions as to how Governors and MPOs can best demonstrate that their current coordination efforts meet the exception requirements.



The final rule also phases in implementation of the coordination requirements and the requirements for MPA boundary and MPO jurisdiction agreements. Under the final rule, compliance is required within two years after the date the Census Bureau releases its notice of Qualifying Urban Areas following each decennial census (with 2020 being the next decennial census). This is a significant change from the original proposed timeline for compliance, which was within two years of the rule going into effect.

FHWA and FTA claim the goal of the rule is to promote more effective regional planning. However, there are concerns surrounding the agencies' approach, including:

- Complexity and Cost: Merging MPOs would seemingly be a complex process, even when the parties are willing participants. This could also be the case in developing unified planning documents between two or more organizations.
- One Size Fits All - Each region is unique and should take a localized approach to planning. This proposal, however, seems to suggest taking a one-size-fits-all approach, which could possibly hinder, more than help, regional planning. It certainly also could remove local control from a variety of decisions.
- Uncertainty: There is uncertainty surrounding the impact on Transportation Management Areas (TMAs), which are areas with a population of 200,000 or more; and the potential for creation of new MPOs in the future. There is also significant concern as to how the disruption caused by this rule may impact both short- and long-term planning efforts.
- Question of Necessity: Many MPOs are already working across jurisdictional lines to coordinate planning efforts. This suggests there may be no need for a new federal regulation. A better option may be for the agencies to develop incentives that would encourage greater collaboration among existing MPOs.

On March 8, 2017, the Senate passed S. 496 by Unanimous Consent. This bill repealed the rule. A similar bill has been introduced in the House, H.R. 1346, by Congressman Lipinski. The bill has 26 bipartisan co-sponsors including Congressmen Webster and Mast from Florida.

RECOMMENDED POSITION: *Monitor* implementation of the Metropolitan Planning Organization Coordination and Planning Area Reform rule by the Federal Highway Administration and Federal Transit Administration.



FEDERAL ISSUE: Public Safety Programs

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: Federal grant funding for many Department of Justice (DOJ) and Department of Homeland Security (DHS) programs are provided as block grants with each state receiving a certain amount of funding, generally linked to population. That funding is then passed through to local jurisdictions to help support police, fire, emergency management, and homeland security functions of government. The Byrne Justice Assistance Grant (JAG) is an example of this.

In other instances, funding from federal programs is made available to local governments via competitive grant solicitations. Specifically, program funds can be used to hire police officers through Community Oriented Policing Services (COPS) or firefighters through Staffing for Adequate Fire & Emergency Response Grants (SAFER), and purchase equipment through the Assistance to Firefighters Grant (AFG). There is also another category of grants that are distributed to specific recipients based on certain criteria, such as the Urban Area Security Initiative (UASI), which provides funds to eligible regions to help communities prepare for, prevent, respond to and recover from potential attacks and other hazards.

The City of Clearwater benefits from both direct and indirect annual allocations from several of these federal programs, while other programs offer competitive grant opportunities from which the City has traditionally sought funds.

In FY 2015, Congress provided level funding for the COPS and JAG programs at \$180 million and \$376 million, respectively. Both the AFG and SAFER fire-related grants each received \$340 million, and UASI received \$600 million.

For FY 2016, COPS and JAG were provided with \$187 million and \$476 million, respectively. Congress provided \$345 million each for AFG and SAFER, \$600 million for UASI, and \$350 million for EMPG.

For FY 2017, the Senate included \$389 million for the JAG program and \$187 million for the COPS program while the House included \$425 million for the JAG program and \$0 for the COPS program in their versions of the FY 2017 Commerce, Justice and Science Appropriations bill. With regard to the homeland security programs, the House and Senate included \$340 million for each of the SAFER and AFG programs, \$350 million for EMPG, and \$600 million for UASI in their respective versions of the FY 2017 Homeland Security Appropriations bill. The federal government is currently operating under a Continuing Resolution through April 28, 2017. The FY 2017 appropriations process is not expected to be completed until that time.

The Trump Administration's FY 2018 budget proposal includes cuts of \$490 million to Department of Justice grant programs and cuts of \$667 million in FEMA and Homeland Security grant programs. Little detail is available at this time as to which specific programs would be cut or eliminated under the proposal.

RECOMMENDED POSITION: *Support* continued adequate funding for a wide variety of Department of Justice and Department of Homeland Security grants, e.g., Community Oriented Policing Services, Byrne Justice Assistance Grants, Assistance to Firefighters Grants, Staffing for Adequate Fire and Emergency Response Grants, and the Urban Area Security Initiative. *Support* any City of Clearwater applications for these funds.



FEDERAL ISSUE: Department of Housing and Urban Development Formula Programs (CDBG & HOME)

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: The City of Clearwater receives direct allocations of funding from two Department of Housing and Urban Development (HUD) formula programs: HOME Investment Partnerships (HOME) and the Community Development Block Grant (CDBG) program.

HOME funds are designed to create affordable housing for low-income households and are awarded annually as formula grants to participating jurisdictions, including the City of Clearwater. HUD establishes HOME Investment Trust Funds for each grantee, providing a line of credit that the jurisdiction may draw upon as needed. The program allows local governments to use HOME funds for grants, direct loans, loan guarantees or other forms of credit enhancement, rental assistance, or security deposits.

Meanwhile, CDBG is a flexible grant program that provides communities with federal funding to address a wide range of unique community development needs. The CDBG program provides annual grants on a formula basis to units of local government and states, including the City of Clearwater.

Since Fiscal Year (FY) 2010, nationwide funding for the HOME and CDBG programs has been cut by 48 percent and 25 percent, respectively, with varying changes to individual recipients. In FY 2016, \$3 billion was provided for the CDBG program, which was a decrease in funding from FY 2015 of less than one percent. HOME, meanwhile, received a small increase from \$900 million to \$950 million. In FY 2016, Clearwater received \$667,634 in CDBG funds and \$285,328 in HOME funding.

For FY 2017, both the House and Senate have proposed continuing to fund the CDBG and HOME at the levels of \$3 million and \$950 million respectively.

The budget proposal released by the Trump administration eliminates both CDBG and the HOME program. This would have a detrimental impact to the City. Although it remains to be seen whether the 115th Congress will agree with this proposal, an elimination of the programs or a reduction in their funding levels is now a part of the discussion in the formation of the FY 2018 budget.

RECOMMENDED POSITION: *Support* adequate funding for future fiscal years for both the Community Development Block Grant and the HOME Investment Partnerships programs because of their critical role in the City's overall efforts to support those that are least fortunate.



FEDERAL ISSUE: Environmental Protection Agency's Brownfields Program

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: The Environmental Protection Agency (EPA) administers a cleanup program to provide financial assistance to state, local, and tribal governmental entities for certain types of contaminated industrial sites, referred to as "brownfields." Sites eligible for this assistance tend to be where the known or suspected presence of contamination may present an impediment to economic development, but where the risks generally are not high enough for the site to be addressed under the Superfund program or other related cleanup authorities. The brownfields program focuses on providing federal financial assistance for "orphan" sites at which the potential need for cleanup remains unaddressed.

EPA's brownfields program awards two different categories of grants: one competitive and one formula-based. The City of Clearwater is only eligible for the former of the two. Within the competitive grant program, the EPA offers assessment, cleanup, and revolving loan fund grants. An eligible entity may apply for up to \$200,000 for a site contaminated by hazardous substances, pollutants, or contaminants; and up to \$200,000 for a site contaminated by petroleum. However, applicants can seek a waiver and request up to \$350,000 for assessments in certain cases.

In the near future, Clearwater may have a need to obtain additional cleanup funding for various sites. Unfortunately, the current limitation of \$200,000 per project is extremely restrictive, as many site cleanups exceed \$1 million. To facilitate site remediation and reuse, the funding maximum should be increased to allow for necessary resources to remediate orphan brownfield sites.

Clearwater's Brownfields Area (CBA) covers 1,842 acres and includes over 250 regulatory listed sites in over 7,000 properties. Over 125 of these sites have reported contamination. These sites range in size from less than one acre to greater than 40 acres. The CBA economic development potential has greatly decreased over the past 30 years. Private disinvestment combined with environmental decline has left an indelible mark on the area, characterized by business and job loss, impacting the CBA by leaving a legacy of abandoned lands tainted by former gas stations, dry cleaning facilities, print shops, and other similar uses. As a result of crime, distress, and economic deterioration, the CBA was designated a U.S. Department of Justice Operation Weed & Seed site in 1996, and a portion of the area has also been designated a Historically Underutilized Business Zone (HUBZone) by the U.S. Small Business Administration.

The City of Clearwater has implemented one of the most successful brownfields programs in the country, having completed over 100 assessment projects. The City, however, continues to have significant health, welfare, and environmental issues that need to be addressed. Clearwater has identified more than 125 additional contaminated sites in the CBA that may require environmental assessment. The City will need federal funding for these and previously assessed sites to complete reuse planning and cleanup.

In January of 2013, the City applied for an FY 2014 EPA Brownfields Assessment Grant in the amount of \$400,000 (\$200,000 each to assess potential hazardous substances and petroleum or petroleum product impacted properties within the CBA).

In FY 2014, the Section 104(k) competitive grant program received \$90 million, but saw a reduction in funding to \$80 million in FY 2015. Meanwhile, in the FY 2016 omnibus appropriations bill, Congress maintained funding for the Section 104(k) competitive grant program at \$80 million. Congress currently



proposes maintaining the same funding level of \$80 million for FY 2017, however the appropriations process is still ongoing at this time.

In June 2015, Senator Jim Inhofe (R-OK), along with five other bipartisan Senators, reintroduced the Brownfields Utilization, Investment, and Local Development (BUILD) Act to reauthorize the brownfields program through 2018. The bill would maintain the current authorization level of \$250 million per year; increase the previously mentioned \$200,000 funding limit per project to \$500,000, while giving the EPA the discretion to raise the limit to \$650,000 if necessary; and provide for the creation of multipurpose grants, allowing local governments to obtain up to \$950,000 to do site inventory, assessments, planning, or remediation for one or more brownfields sites.

RECOMMENDED POSITION: *Support* continued adequate annual funding for the Environmental Protection Agency's brownfields program, including at least \$90 million for the Section 104(k) competitive grant program. *Support* legislation to reauthorize the Environmental Protection Agency's brownfields program. *Support* any City of Clearwater applications for brownfields funding assistance.



FEDERAL ISSUE: Supportive Housing for the Elderly and for Persons with Disabilities - Department of Housing and Urban Development's Section 202 and 811 Programs

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: The Housing and Urban Development (HUD) Section 202 program helps expand the supply of affordable housing with supportive services for the elderly by providing interest-free capital advances to private, nonprofit sponsors to finance the development of housing. The capital advance does not have to be repaid as long as the project serves very low-income elderly persons for 40 years.

The Section 202 program also provides project rental assistance funds to cover the difference between the HUD-approved operating cost for the project and the tenants' contribution towards rent. Project rental assistance contracts are approved initially for three years and are renewable based on the availability of funds.

Meanwhile, the HUD Section 811 program is authorized to provide funding to develop and subsidize rental housing with an availability of supportive services for very low-income adults with disabilities. Traditionally, the Section 811 program provided interest-free capital advances and operating subsidies to nonprofit developers of affordable housing for persons with disabilities, in a similar manner to the Section 202 program. However, in Fiscal Year 2012, Congress chose not to fund these activities, and instead has moved toward providing funding for rental assistance. These funds go to state housing agencies that have entered into partnerships with state health and human services and Medicaid agencies, and are distributed to multifamily housing complexes that provide a range of services for the disabled.

In Pinellas County, the non-profit Boley Centers, Inc. receives HUD Section 202 and 811 funding to distribute to several housing complexes throughout the County, including the Jerry Howe Transitional Apartments in Clearwater, which provides housing for disabled veterans.

In the FY 2015 omnibus appropriations bill, both the Supportive Housing for the Elderly program and the Supportive Housing for Persons with Disabilities program received increases to \$420 million and \$135 million, respectively. For FY 2016, the Administration's budget proposed an increase in funding for the Section 202 and 811 programs to \$455 million and \$177 million, respectively. Congress, however, appropriated \$433 million for Section 202 and \$151 for Section 811 in the FY 2016 omnibus. For FY 2017, Congress has proposed an increase in funding to \$505 million for Section 202 and \$154 million for Section 811.

RECOMMENDED POSITION: *Support* continued adequate annual federal funding for the Department of Housing and Urban Development's Supportive Housing for the Elderly program (Section 202) and Supportive Housing for Persons with Disabilities program (Section 811).



FEDERAL ISSUE: Homeless Assistance Competitive Grants – Continuum of Care Program

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: In 1987, Congress passed the McKinney-Vento Homeless Assistance Act, as a response to the increase in homelessness in the United States. It originally created several programs within the Department of Housing and Urban Development (HUD) that focused on combating the root causes of homelessness. The McKinney-Vento Act has been amended many times, most recently in 2009, when President Obama signed the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act, which updated and expanded the definition of homelessness and made changes to existing programs under McKinney-Vento. Under the HEARTH Act, three previously separate HUD homeless assistance programs, the Supportive Housing Program (SHP), Shelter Plus Care program (S+C), and Single Room Occupancy (SRO) program, were grouped under the single umbrella Continuum of Care (CoC) program.

The CoC program provides competitive grant funding to local governments and non-profits, and requires communities seeking funds to develop a Continuum of Care system designed to address the critical problem of homelessness through a coordinated community-based process of identifying needs and building a system to address them. The approach is predicated on the understanding that homelessness is not caused merely by a lack of shelter, but involves a variety of underlying, unmet needs, including physical, economic, and social.

Under the CoC program, the SHP provides assistance to help the homeless transition from their current state to a more stable living situation. The goals of the program are to provide assistance to help the homeless achieve residential stability and foster independence through programs that increase their skill and/or income levels.

The S+C program provides rental assistance that, when combined with social services, provides supportive housing for homeless people with disabilities and their families. The program allows for a variety of housing choices, such as group homes or individual units, coupled with a range of supportive services.

The SRO was created to expand suitable residential opportunities for homeless individuals. This has been accomplished through compensating owners of eligible SRO residences, for a period of 10 years, for improvements made to kitchen and bathroom facilities in eligible SRO residences, as well as providing rental assistance for the residents that occupy those units.

Under the HEARTH Act, HUD also added 12 new eligible activities for funding under the single CoC program, which include the following: housing search mediation or outreach to property owners; credit repair; provision of security or utility deposits; rental assistance for a final month at a location; assistance with moving costs; and/or other activities that help homeless individuals move immediately into housing or would benefit individuals who have moved into permanent housing in the last 6 months. In addition, the HEARTH Act requires established CoC's to rank their projects for funding into two categories: Tier I new or renewal projects, which are most likely to receive funding; and Tier II new or renewal projects, whose funding is dependent on the resources still available and the strength of the CoC's application.

The Homeless Leadership Board (HLB) is the CoC for Pinellas County and is responsible for the annual HUD CoC Program Combined Application on behalf of its member agencies.



The CoC competitive grants are funded through the Homeless Assistance Grants account for HUD. Congress provided \$2.135 billion in the omnibus appropriations bill for Homeless Assistance Grants in FY 15 and \$2.25 billion in the FY 2016 omnibus appropriations bill. For FY 17, the Administration proposed an increase in funding to \$2.664 billion. The Senate recommends \$2.33 billion and the House recommends \$2.487 billion in their respective versions of the FY 17 Transportation, Housing and Urban Development Appropriations bill.

RECOMMENDED POSITION: *Support* continued adequate annual funding for Department of Housing and Urban Development Homeless Assistance Grants, particularly for the Continuum of Care Program.



FEDERAL ISSUE: Economic Development Administration

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: The Economic Development Administration (EDA) is primarily a granting agency that funds economic development projects throughout the country. Local governments or non-profits, such as the City of Clearwater, are local sponsors of the projects.

Funding from the EDA is used to support private investment and generally funds projects such as road and water infrastructure improvements that can help reinvigorate areas and lead to additional reinvestment in homes and businesses. Successful projects usually leverage roughly 200 new jobs and \$24 million in private investment for every \$1 million of EDA investment.

The City of Clearwater has identified information technology and software as one of its industry clusters with the highest growth potential. The City has been working to develop a coordinated approach to meet the needs of pre-venture, start up, and small-to-medium sized business enterprises. Using the resources and capabilities of local and regional partners, including public, private and non-profit organizations, the initiative envisions the delivery of programs, services, and facilities to help foster and grow this promising industry in Clearwater. Should this prove to be a successful endeavor, it may be possible for the City to work with the EDA to fund a co-location space, and transition the City's program to a "bricks and mortar" center that allows all partners the opportunity to meet with clients in a centralized location.

Congressional initiatives and a 2016 Heritage Foundation report have proposed the elimination of the EDA, as its mission is seen as duplicative by some. In June 2012, the Senate failed to pass the "Economic Development Revitalization Act," which would have reauthorized the Economic Development Administration (EDA) through 2015. EDA's authorization expired in September 2008, but funding via the appropriations process has kept it functioning without an authorization.

The FY 2016 omnibus appropriations bill provided a slight boost in funding from the prior fiscal year to \$261 million. In the FY 2017 budget request, the President proposed to slightly reduce funding for the EDA to \$258 million. In their respective FY 2017 appropriations bills, the House has proposed \$264.5 million in funding while the Senate has suggested \$254 million for the EDA.

The budget proposal release by the Trump administration for FY 2018 eliminates funding for the EDA.

RECOMMENDED POSITION: *Support* continued funding of the Economic Development Administration. *Support* City of Clearwater grant applications through EDA programs.



FEDERAL ISSUE: Offshore Energy Exploration

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: Active energy drilling currently occurs in both the western and central Gulf of Mexico, while nearly the entire eastern Gulf is protected from drilling until 2022 by the Gulf of Mexico Energy Security Act of 2006 (GOMESA). Drilling does not currently occur off of the Atlantic coast of Florida.

Efforts are frequently made in Congress to open up new areas of the Outer Continental Shelf (OCS) for additional offshore energy exploration. The Senate Energy and Natural Resources Committee approved a bill titled the Offshore Production and Energizing National Security (OPENS) Act that would allow new energy production on the OCS in the eastern Gulf of Mexico, the South Atlantic, and in the waters off of Alaska. The OPENS Act would also expand offshore revenue sharing to Florida in 2017 for leases in the eastern Gulf of Mexico. Currently, only Texas, Louisiana, Mississippi, and Alabama receive revenue from offshore drilling activities in the Gulf of Mexico. The bill would also direct the Interior Department to hold lease sales in the eastern Gulf in 2018, 2019, 2020, and after 2022.

In response to the Committee's approval of the OPENS Act, Senator Bill Nelson sent a letter to Majority Leader Mitch McConnell (R-KY) and Minority Leader Harry Reid (D-NV) saying he would use "all available procedural options to block it." Full consideration of the bill on the Senate floor remains uncertain. In the House, meanwhile, members approved an amendment from (former) Rep. David Jolly (R-FL, Pinellas County) to the Fiscal Year (FY) 2016 Interior and Environment Appropriations bill that would prohibit spending FY 2016 dollars on researching, investigating, or studying drilling in the eastern Gulf of Mexico. This amendment, however, was not included in the final FY 2016 omnibus.

In early January 2017, Senator Bill Nelson re-introduced his Marine Oil Spill Prevention Act (S. 74). The purpose of the bill is to protect Florida from the threat of offshore drilling until at least 2027. The legislation amends the Gulf of Mexico Energy Security Act of 2006 to extend the moratorium on oil and gas leasing in certain areas in the Gulf of Mexico until June 30, 2027. It sets forth provisions concerning Coast Guard responsibilities, including designating areas that are at heightened risk of oil spills and implementing measures to ameliorate that risk. This bill also amends the Oil Pollution Act of 1990 to establish a Gulf Coast Regional Citizens' Advisory Council to advise on facilities and tank vessels, among other things.

President Trump, however, has stated that he intends to open additional onshore and offshore leasing on federal lands and in federal waters, particularly in the Atlantic and the Arctic. It is unclear if he intends to open leases in other areas - and doing so could take up to two years - but the 115th Congress will likely be supportive of attempts to open additional lands and waters to energy exploration and harvesting.

RECOMMENDED POSITION: *Monitor* the potential expansion of offshore energy exploration in Florida's federal waters.



FEDERAL ISSUE: Land and Water Conservation Fund

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: The Land and Water Conservation Fund (LWCF) Act of 1965 was enacted to help preserve, develop, and ensure access to outdoor recreation facilities for our nation. The law created the Land and Water Conservation Fund (LWCF) in the U.S. Treasury as a funding source to implement outdoor recreation goals. Revenues for the fund are derived primarily from oil and gas leasing proceeds in the Outer Continental Shelf.

The LWCF has been the principal source of monies for land acquisition for outdoor recreation by four federal agencies—the National Park Service, Bureau of Land Management, Fish and Wildlife Service, and Forest Service. The LWCF also funds a matching grant program via the National Park Service to assist states (and local governments as sub-recipients) in acquiring recreational lands and developing outdoor recreational facilities. A portion of the appropriation is divided equally among the states, with the remainder apportioned based on need, as determined by the Secretary of the Interior. The states award their grant money through a competitive selection process based on statewide recreation plans and establish their own priorities and criteria. Finally, beginning in Fiscal Year (FY) 1998, LWCF has been used to fund other federal programs with related purposes.

The LWCF is authorized at \$900 million annually. However, Congress determines the level of appropriations each year, and yearly appropriations have fluctuated widely since the origin of the program. Of the total revenues that have accrued throughout the history of the program (\$33.5 billion), less than half have been appropriated (\$15.8 billion). FY 2001 marked the highest funding ever, with appropriations exceeding the authorized level by reaching nearly \$1 billion. In FY 2002, Congress provided the most LWCF funding of the past twenty years for the state grant program: \$144 million. For FY 2016, Congress provided a huge boost to the state programs, funding them at \$110 million. The Administration then requested level funding in its FY 2017 budget, which the Senate also included in its version of the FY 2017 Interior and Environment Appropriations bill. The House, however, has included \$71.8 million in its version of the bill. The federal government is currently operating under a Continuing Resolution through April 28, 2017, and the FY 2017 appropriations process is not expected to be completed until that time.

In addition to yearly funding challenges, the current authorization for the LWCF is set to expire at the end of 2018. While this is still roughly two years away, the previous authorization was allowed to lapse for over two months when Congress failed to reauthorize the program after its expiration on October 1, 2015. A three-year reauthorization was finally included in the FY 2016 omnibus.

There have been legislative attempts over the past few years to reauthorize the LWCF, on both a permanent and temporary basis. These attempts have often included provisions to reform the program, such as requirements related to how the money is allocated. For example, the Senate version of an energy reform bill Congress worked on for much of 2016 would have permanently reauthorized the program. That bill was not passed prior to the end of session, however, due to timing conflicts, as well as disagreements over a number of provisions, including the language related to the LWCF.

Looking ahead, the Chairman of the House Natural Resources Committee, Rob Bishop (R-UT), unveiled draft legislation called the Protecting America's Recreation and Conservation (PARC) Act in November 2015, which would reauthorize the LWCF for seven years at \$900 million annually, but would also significantly reform the LWCF. The legislation would provide 45 percent of LWCF funds to the State Assistance Grant Program, 15 percent to fully fund the Payments in Lieu of Taxes program, 20 percent to



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fund offshore energy exploration, and 3.5 percent on federal land acquisition. The bill would also require a certain amount of that 3.5 percent to be focused east of the 100th meridian (a north-south line running through the Dakotas and into Texas) in order to prevent the purchase of much more land in the west.

As a starting point for the future of the LWCF, it could drastically reshape the program in the future and funnel significantly more money to the state and local programs which could improve the City's chances of seeing funding for community priorities.

RECOMMENDED POSITION: *Support* an annual appropriation of at least \$110 million for the state conservation grant program of the Land and Water Conservation Fund. *Support* legislation reauthorizing the Land and Water Conservation Fund, including an increased authorization for the state conservation grant program, both of which would better position the City of Clearwater for parks and recreation development projects.