



City of Clearwater, Florida 2016 Federal Legislative Agenda



CLEARWATER
BRIGHT AND BEAUTIFUL • BAY TO BEACH



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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 proposed 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 local governments.

Federal Flood Risk Management Standard

Monitor the implementation of Executive Order 13690 and the Federal Flood Risk Management Standard for potential impacts to the City of Clearwater. **Monitor** Congressional activity related to the updating of the Federal Flood Risk Management Standard.

Water Conservation Financing

Monitor implementation of the Water Infrastructure Finance and Innovation Act (WIFIA). **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.

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.

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.

Excise Tax on High-Cost Health Insurance Plans

Support efforts to repeal the excise tax on high-cost health insurance plans (a.k.a. the Cadillac tax) within the Affordable Care Act.



Transportation

Transportation Authorization

Monitor changes to federal highway and transit programs. **Support** efforts to enhance federal transportation revenue streams. **Support** adequate funding of transportation alternatives programs. **Oppose** efforts that would allow heavier trucks on Interstates. **Support** any and all opportunities to secure funding for the City of Clearwater's priorities via the FAST Act or other means.

Alternative Fuels Tax Incentives

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

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. **Support** the resumption of the Department of Justice's Asset Forfeiture Program, including equitable sharing.

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 the City'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 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 a \$900 million annual appropriation from the Land and Water Conservation Fund, including at least \$100 million for the state grant program. **Support** legislation reauthorizing the Land and Water Conservation Fund.



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 in roughly \$23 billion in debt due to a number of large storms, the most recent being Hurricane Sandy.

In mid-2012, Congress passed, and the President signed, the Biggert-Waters Flood Insurance Act of 2012 (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 impact the City'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, which was 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.

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.

In late 2014, FEMA announced the opening of the Interim Office of the Flood Insurance Advocate and the appointment of an Interim Flood Insurance Advocate. The Acting Advocate and staff will focus on assisting the public as they navigate through these new NFIP processes by leveraging FEMA resources to address specific public inquiries or concerns. They will also develop a long-term regional mapping



outreach and education strategy. FEMA noted that additional funding would be needed in order to fully install the permanent Office of the Flood Insurance Advocate and expand its role, but until then, it would operate the office with existing resources.

Meanwhile, effective April 1, 2016, the first wave of NFIP rate increases resulting from HFIAA will be 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, 2016.

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 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.

Interestingly, with regard to grandfathered policies, the study indicates "HFIAA 2014's reinstatement of grandfathering, which will perpetuate cross subsidies in the NFIP, will result in the program increasingly violating actuarial pricing principles if flood risks increase in the future."

Other Flood Insurance Legislation

Two bills have been introduced in the 114th Congress to try to improve upon HFIAA, particularly dealing with rate increases for certain properties. For example, H.R. 2918, the Flood Insurance Fairness Act, which was introduced by Rep. Carlos Curbelo (R-FL), would extend the level of rate increases offered to primary homeowners under HFIAA to all property owners, particularly addressing concerns with second homeowners and business owners who may otherwise face exorbitant flood insurance rate increases. The legislation is cosponsored by seven members of Congress.



Also, Rep. David Jolly (R-FL) introduced H.R. 14, which would further amend BW12 by extending the rate relief provided in HFIAA to businesses and “owner-occupied” second homes. The difference between this bill and the bill offered by Rep. Curbelo is the distinction made between so-called “owner-occupied” second homes. H.R. 141 is cosponsored by six members of Congress.

Meanwhile, Reps. Dennis Ross (R-FL) and Patrick Murphy (D-FL) introduced H.R. 2901, the Flood Insurance Market Parity and Modernization Act. This bill would clarify provisions in BW12 that private flood insurance products would be regulated by individual states instead of the federal government, which is perceived to be better for insurers and is expected to create more opportunity for private insurance to proliferate. The House Financial Services Committee held a hearing on January 8, 2016 to discuss H.R. 2901, which has nineteen cosponsors.

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) that regulate “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., 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) over the past several years developed guidance first, and now a final rule, to redefine waters of the U.S. There is concern that this effort significantly expands 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 are likely to be subject to new requirements, and some waters currently covered by a permit could be subject to additional monitoring and regulation when those permits are renewed.

Despite a significant amount of opposition to the rule, Congress has thus far been unsuccessful in its attempts to block or alter implementation of it. The House passed H.R. 1732 in May 2015, which would withdraw the rule and call for a new rulemaking process that engages state and local governments. The Senate failed to pass a similar bill, but did pass a resolution of disapproval against the rule. The House also passed this resolution, but it was vetoed by the President.

Meanwhile, efforts to include a “policy rider” on the FY 2016 omnibus appropriations bill that would ban the use of federal funds to implement WOTUS during the fiscal year were unsuccessful. Omission of this was part of the tradeoff between supporters of lifting the export ban on crude oil and environmentalists.

Ultimately, the Courts are likely to decide the fate of WOTUS. In August of 2015, a federal judge in North Dakota found that 13 states suing to block implementation of the rule met the conditions for a preliminary injunction, halting implementation of the rule in those states. Florida was not one of them. Then, in October of 2015, the Sixth Circuit Court in Cincinnati issued a nationwide stay on WOTUS to allow for a more deliberative determination of whether the rule is “proper under the dictates of law.” This means all implementation of the rule is currently halted. It may take years for this to be fully resolved.

POSITION: **Monitor** activity related to the implementation of the EPA’s proposed 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 local governments.



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.

It is important to note that Congress has not funded WIFIA beyond \$2.2 million in both the FY 2015 and FY 2016 omnibus appropriations bills for implementation of the program.

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: Federal Flood Risk Management Standard

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: In January 2015, the Administration issued Executive Order (EO) 13690 to update the Federal Flood Risk Management Standard (FFRMS), which helps define rules and regulations for federal activities in a floodplain. This new FFRMS will require federal agencies to update their flood-risk reduction strategies for certain federal actions that occur in the floodplain. Shortly after issuing the Executive Order (EO) and the new standard, the Federal Emergency Management Agency (FEMA) issued proposed guidelines for individual federal agencies to follow when implementing the EO and standard.

This new EO and the accompanying FFRMS redefine the floodplain and provide new direction for federal agencies to avoid or manage actions in the floodplain. Consistent with the President's Climate Action Plan, the new EO and FFRMS seek to improve the nation's preparedness and resilience against flooding.

Federal regulations define the floodplain as the area subject to a one percent or greater chance of flooding in any given year – the 100-year floodplain. FEMA identifies the floodplain on community maps where federal flood insurance is required and building restrictions are imposed to minimize flood losses. All levels of government rely on the maps to inform decisions about emergency response, land use, and construction in the floodplain.

There were several concerns with the draft implementing guidelines (IG), mostly related to a lack of clarity and apprehension that the FFRMS could have had much more significant impacts to local governments than FEMA envisioned. When the final IG was released in October 2015, however, the scope had been scaled down.

Most importantly, the final IG clearly differentiates between "actions" and "federally funded projects," the latter of which will only be subject to the new FFRMS. Federally funded projects are defined as "actions where federal funds are used for new construction, substantial improvement, or to address substantial damage to structures and facilities." One of the most significant concerns with the FFRMS as originally drafted was that it would apply to all federal actions. Federal actions in the 100-year floodplain will continue to face floodplain reviews as they have in the past, but will not be subject to new FFRMS standards.

In addition, the new IG clearly indicates that the FFRMS "is a resilience standard," not an "elevation standard," the latter of which initially triggered concerns related to floodplain regulations, the National Flood Insurance Program, and residual risk issues. However, the new IG still defines the "FFRMS floodplain" as a typically larger area than the 100-year floodplain that will be measured in one of three ways and be used when federal investments are made. Those three measurements are:

- 1) Climate-informed Science Approach (preferred by the IG);
- 2) Freeboard Value Approach, which adds two or three vertical feet (depending on the level of criticality of the federal investment) to the base flood elevation and developing a corresponding horizontal expansion of the floodplain; or
- 3) 500-year flood elevation.



Some concerns related to the new FFRMS remain, however. For instance, the degree of federal investment is not addressed in the final IG, and it is unclear whether a de minimis federal investment in a project could trigger the new FFRMS. Ideally, FEMA would have placed limits on the amount of investment needed to trigger review under the FFRMS. It makes sense to ensure that wholly federally-funded projects, particularly after a major disaster, are constructed to levels of higher resilience. However, that's not exactly what the updated IG does. The new IG also does not address grandfathering, so its impact on ongoing projects remains unknown.

Finally, concerns remain that each federal agency (potentially as many as 55) is now tasked with updating their own procedures to implement the new FFRMS. There is no direction as to how, or when, they should update their regulations and procedures, nor is there any central clearinghouse or other information source on the status of each agency's effort.

Meanwhile, Congress remains wary of the new FFRMS. Both the House and Senate included language in their respective Fiscal Year 2016 appropriations bills to halt implementation of it, but the final language included in the FY 2016 omnibus was significantly weakened. Rather than banning the use of FY 2016 funds for implementation of the new FFRMS, the omnibus included a provision that clarified what programs will be affected by it, specifically as it relates to the Army Corps' section 404 and 10 permits, as well as the National Flood Insurance Program.

RECOMMENDED POSITION: *Monitor* the implementation of Executive Order 13690 and the Federal Flood Risk Management Standard for potential impacts to the City of Clearwater. *Monitor* Congressional activity related to the updating of the Federal Flood Risk Management Standard.



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: 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 recent 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 increasing 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 of 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 2 percent higher than if the bonds were tax-exempt, the additional cost to taxpayers over the 30 years could be roughly \$30 million. Should the City make significant investments in future municipal facilities or infrastructure, a change to the tax exemption on municipal bonds could add significant costs over the life of the project.

Following Paul Ryan's promotion to Speaker of the House, Rep. Kevin Brady (R-TX) has assumed the chairmanship of the House Ways and Means Committee. It is currently unclear what Chairman Brady's position is on bonds; but if his beliefs on the issue match those of his predecessor, the tax exemption on municipal bonds may be at risk in the future.

In the Senate, Ron Wyden (D-OR) sponsored legislation with Dan Coats (R-IN) during the 112th Congress that proposed replacing tax-exempt bonds with taxable bonds and a tax credit. Although Senator Wyden did not reintroduce the same legislation during the 113th Congress, he continued to discuss the need for comprehensive tax reform when he became the Chair of the Senate Finance Committee in 2014. Republicans now control the Senate in the 114th Congress, however, which means Senator Wyden has become the Ranking Member and Senator Orrin Hatch (R-UT) has assumed the chairmanship. Like Senator Wyden, Senator Hatch has voiced his support for comprehensive tax reform. However, his position on the tax exemption for municipal bonds is unclear.

As in previous years, the Administration proposed a 28 percent limit on all itemized deductions for high-income individuals in its Fiscal Year (FY) 2016 budget. It is likely that this provision will also be included in the Administration's 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 cost nearly \$500 billion over the same time period.

Congress has not undertaken any recent efforts to alter the tax-exempt status of municipal bonds. In March 2015, over 100 members of the House of Representatives signed a letter to congressional leadership asking that the current tax exemption for municipal bonds remain in place.



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 only 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 and Home Depot. This lost revenue is also a drain on local government resources. In 2014, uncollected sales tax was estimated to have cost local governments \$23 billion nationwide. Legislation to correct this inequity has the support of local, state, and national business groups, such as the National Governors Association, the National Conference of State Legislators, the Council of State Governments, the National Association of Counties, the U.S. Chamber of Commerce, the Florida Chamber of Commerce, Associated Industries of Florida, Florida TaxWatch, Florida Retail Federation, and Amazon.com, among others.

To create a level playing field, Congress introduced the Marketplace Fairness Act (MFA) in both the House and Senate in 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, which would have simplified state and local sales and use tax laws. Twenty-four states have already signed this agreement. 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 also exempted sellers who make less than \$1,000,000 in total remote sales from the requirement to collect the tax.

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, Crenshaw, Ross, Wilson, and Diaz-Balart.

The issue reemerged in the 114th Congress. House Judiciary Chairman Bob Goodlatte (R-VA) and Rep. Anna Eshoo (D-CA) circulated a discussion draft of remote sales tax legislation as an alternative to the Marketplace Fairness Act. Under the draft, only states that join a multi-state clearinghouse would have the authority to collect sales tax revenue on out-of-state purchases, and retailers would charge sales tax based on their own state and local rules. The clearinghouse would then divide the sales tax revenue among member states. The draft, however, did not gain much traction.

Meanwhile, House Oversight and Government Reform Committee Chairman Jason Chaffetz (R-UT) introduced legislation in June 2015 – the Remote Transactions Parity Act (RTPA) (H.R. 2775) - that attempts to bridge the gap between the two sides of the issue by addressing lingering concerns raised by those who believe instituting a remote sales tax would be an increase in taxes. Under the Chaffetz proposal, and similar to the MFA, the RTPA would create two options for states to collect remote sales tax. The first would be for member states of the SSUTA, and the second would allow non-members to



require collection if they implement certain tax law simplification requirements that are similar to those contained in the MFA. The largest difference between the RTPA and the MFA, however, is the definition of a remote seller. Both define a remote seller as one that does not have a physical presence in the state, but the RTPA goes further to include a definition of physical presence. In addition, the RTPA includes a phase-out for the small seller exception. Rather than permanently exempting sellers with sales less than \$1 million annually, the RTPA would exempt sellers with less than \$10 million in annual revenue the first year, less than \$5 million the second year, and less than \$1 million the third year, with the small seller exception completely eliminated after that. The RTPA currently has 55 bipartisan cosponsors, but has not yet seen any action.

In the Senate, there has been some discussion of attaching a remote sales tax amendment to the House-passed Permanent Internet Tax Freedom Act (PITFA). Similar efforts were attempted last year, but were unsuccessful. PITFA, which is considered a non-controversial measure, would permanently extend the ban on state and local taxation of the Internet, and was passed by the House in June 2015. Those plans generally have bipartisan support, but some powerful members of the Senate, such as Senator Ron Wyden (D-OR), the Ranking Member of the Senate Finance Committee, have expressed concerns about attaching the two issues, arguing they are contradictory. If PITFA is to be used as a vehicle for remote sales tax legislation, an agreement must be reached prior to December 2016 when the current ban on internet taxes expires. To further complicate this strategy, PITFA has been included in the customs bill, which has already been passed by the House. The Senate is expected to vote on the bill in late January of 2016, but the inclusion of PITFA remains a sticking point.

Meanwhile, the rise of Alibaba, the online Chinese retailer that has been compared to a combination of Amazon, eBay, and PayPal, could perhaps sway opinions of those opposed to such legislation. In 2014, Alibaba accounted for \$420 billion in online sales and has emerged as a serious competitor to American online retailers, with none of their revenue remaining in the U.S., nor taxed.

RECOMMENDED POSITION: *Support* legislation that requires companies making catalog and internet sales to collect and remit the associated taxes.



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 instead of \$10 (using a 10 percent bed tax for illustrative purposes).

In late 2009, seventeen Florida counties, including Pinellas, 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 2015, Pinellas County collected a record \$39 million in transient occupancy taxes, a 12.8 percent increase over the previous year. These taxes are used to support the tourism industry in the region. In



addition, Pinellas County is now the first county in Florida to reach an agreement with Airbnb to collect and remit taxes on rentals. Meanwhile, officials with the Clearwater Marine Aquarium have suggested using a portion of the transient occupancy tax that currently goes toward paying the debt on Tropicana Field to rebuild and expand the aquarium's current facility, once it sunsets in 2016. This "stadium tax" alone generates nearly \$5.5 million per year in revenue. The importance of this project to the City of Clearwater, as well as this level of funding, 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: Excise Tax on High-Cost Health Insurance Plans

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: The Patient Protection and Affordable Care Act (PPACA), often referred to simply as the Affordable Care Act (ACA) or “Obamacare,” was passed by Congress and signed into law in 2010. The primary goal of the ACA is to increase the quality and affordability of health insurance, as well as lower the uninsured rate by expanding public and private insurance coverage. The law includes a number of mechanisms, including individual and employer mandates, insurance exchanges, minimum standards of care, and new taxes/fees to accomplish these goals and reduce the cost of health care.

One such mechanism is the excise tax on high-cost health insurance plans, often referred to as the “Cadillac tax.” Under the ACA, a Cadillac health plan is defined as a plan with annual premiums exceeding \$10,200 for individuals or \$27,500 for families. Beginning in 2020, a 40 percent excise tax will be assessed on any dollar amount paid in premiums exceeding the aforementioned values, which, after 2020, will adjust to inflation annually. For example, a \$12,000 individual plan in 2020 would pay an excise tax of \$720 per covered employee ($12,000 - 10,200 = 1,800 \times 40\% = 720$). However, the rate of growth in healthcare costs often outpaces the rate of inflation, meaning employers are likely to pay significantly more each year. The tax, which is estimated to generate nearly \$90 billion over the first ten years, is an offset to pay for the ACA.

Cadillac plans were targeted for taxation due to the idea that these benefit-rich plans (i.e. low, if any, deductible, little cost-sharing by patients, wider provider networks, greater available health services, etc.) often insulate workers from the high cost of their health care, thereby encouraging the overuse of care. Excessive, and sometimes unnecessary, tests and hospital visits have been shown to raise the cost of U.S. health care overall. Therefore, the tax was designed to discourage employers from choosing these types of plans.

The Cadillac tax, however, is often hitting public sector employers and workers the hardest. Those who work in the public sector have long-understood that strong health-care benefits are often granted in lieu of higher pay. However, many employers must now choose whether to cut employees’ health plans so they fall below the Cadillac threshold, pass the tax onto the workers, or pay the tax themselves and make difficult budget cuts elsewhere. Many large employers, both public and private, have already begun laying the groundwork to avoid the 40 percent surcharge by passing more costs down to employees. Originally envisioned as a tool to reduce healthcare costs, the tax in practice looks increasingly like an increase in out-of-pocket costs for workers.

The excise tax was originally slated to begin in 2013. However, due to strong concerns expressed by labor groups and others, the ACA was amended by Congress to delay the tax until 2018. Most recently, a provision was included in the FY 2016 omnibus appropriations bill that will delay the Cadillac tax for two additional years, meaning implementation is now set to occur in 2020. The delay is expected to cost \$35 million over two years.

The omnibus also requires the Comptroller General to complete a study within 18 months on making age and gender adjustments to the Cadillac tax. This is one of the largest complaints about the tax, in that the caps are hard limits and do not take issues such as age, gender, or location into account. Location was



notably omitted from the omnibus, but this provision implies that changes could be made in the future to the tax.

Despite this, there are still calls for completely repealing the tax. Thus far in the 114th Congress, Reps. Joe Courtney (D-CT) and Frank Guinta (R-NH) have both introduced legislation to repeal the Cadillac Tax - H.R. 2050, the Middle Class Health Benefits Tax Repeal Act and H.R. 879, the Ax the Tax on Middle Class Americans' Health Plans Act, respectively. H.R. 2050 has 122 bipartisan cosponsors and H.R. 879 has 71 Republican cosponsors. In addition, a group of pharmaceutical companies, insurance plans, and unions – unlikely partners on most other issues - registered in early 2015 to lobby as a coalition to fight the Cadillac tax.

Given the strong, bipartisan opposition to the Cadillac tax, it is likely that the tax will again be addressed sometime before 2020, through either a full repeal or significant changes to the way it is currently structured.

RECOMMENDED POSITION: *Support* efforts to repeal the excise tax on high-cost health insurance plans (a.k.a. the Cadillac tax) within the Affordable Care Act.



FEDERAL ISSUE: Transportation Authorization

BACKGROUND; HOW IT MAY AFFECT THE CITY OF CLEARWATER: After the passage of several short-term authorizations following the expiration of MAP-21 in 2014, Congress finally passed, and the President signed, a five-year surface transportation authorization called the Fixing America's Surface Transportation (FAST) Act. The FAST Act generally maintains many of MAP-21's reforms, but makes a few changes to existing surface transportation programs, as well as slightly increases funding for those programs.

One of the most significant changes within the FAST Act is the conversion of the Surface Transportation Program from its current form to a new Surface Transportation Block Grant (STBG) Program, which will allow states greater flexibility in utilizing the funds. In addition, the bill increases the amount suballocated to localities and MPOs by population by one percent annually, increasing from the current 50 percent to 55 percent by 2020. This means the Pinellas County MPO, and ultimately the City of Clearwater, can expect to see an increase in formula highway funding beginning in FY 2016.

However, the FAST Act also includes a provision that rolls the Transportation Alternatives Program (TAP) into the newly created STBG Program. TAP projects include a variety of bicycle, pedestrian, and environmental activities, but this change to the program could allow up to 50 percent of TAP funds to be diverted to more traditional STBG-eligible projects, mainly highway initiatives. The FAST Act also caps annual funding for TAP at \$850 million and does not allow it to grow with inflation like most other programs in the bill. The City Council recently adopted a citywide policy regarding brick streets in an effort to both beautify the community and calm traffic. Funding for this initiative could come from TAP, but there are concerns that this change to the program will result in a decrease in funding for alternative transportation initiatives.

Positively, the FAST Act does not include language to increase weight or length limits for trucks traveling on the National Highway System.

In developing the FAST Act, Congress did not address the need for a long-term, sustainable plan to finance our nation's transportation infrastructure. Fuel taxes, which provide most of the money for surface transportation, do not provide a solid long-term foundation for generally desired transportation funding growth, even if Congress were to raise them modestly. Instead, the FAST Act relies on various budget gimmicks to fund surface transportation programs over the next five years, such as surplus money from the Federal Reserve, reducing the amount of interest the Fed pays to banks, and selling off part of the Strategic Petroleum Reserve.

Without the creation of a long-term, sustainable funding source, the Highway Trust Fund's deficit will continue to grow over the next five years, making future authorizations increasingly difficult. The choice then becomes finding new sources of income for an expanded program, or alternately, to settle for a smaller program that might look very different than the one currently in place. Less federal funding via a future transportation reauthorization bill would mean significantly less funding available to FDOT, the Pinellas MPO, and ultimately the City of Clearwater, to support both surface transportation and transit projects and programs.



RECOMMENDED POSITION: *Monitor* changes to federal highway and transit programs. *Support* efforts to enhance federal transportation revenue streams. *Support* adequate funding of transportation alternatives programs. *Oppose* efforts that would allow heavier trucks on Interstates. *Support* any and all opportunities to secure funding for the City of Clearwater’s priorities via the FAST Act or other means.



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. It will now expire on December 31, 2016.

It is important to note that some of the other tax provisions within the “tax extenders” package were made permanent or extended for longer than two years. This may present a challenge to the alternative fuel tax in the future.

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



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, the Administration proposed increases for the COPS hiring program to \$249.5 million and the JAG program to \$388 million. As in recent budget requests, the Administration recommended lumping several DHS grant programs into one "National Preparedness Grant Program." These programs included AFG, SAFER, and UASI. This is the first year the Administration included AFG and SAFER in this bundle. For FY 2016, the Administration suggested funding the National Preparedness Grant Program at \$2.2 billion.

Congress, however, rejected this proposal and funded each program separately, providing \$345 million each for AFG and SAFER, and \$600 million for UASI. COPS and JAG, meanwhile, were provided with \$187 million and \$476 million, respectively.

Department of Justice Asset Forfeiture Program

Meanwhile, the Department of Justice (DOJ) in December 2015 suspended their Asset Forfeiture Program, including equitable sharing, ostensibly due to Congressional rescissions of funding in FY 2016. In practice, this means DOJ will defer all equitable sharing payments to our state, local, and tribal partners and transfers of any items for official use. However, DOJ has maintained that they preserve their ability to resume equitable sharing payments at a later date should the budget picture improve. In other words, if additional receipts in cases without identifiable victims are deposited later in FY 2016, DOJ can resume its sharing on some or all of the deferred payments if there are sufficient funds in the budget.



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. *Support* the resumption of the Department of Justice’s Asset Forfeiture Program, including equitable sharing.



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. The FY 2015 omnibus appropriations bill provided \$3 billion for the CDBG program, which was a slight decrease from FY 2014 funding. HOME, meanwhile, received a small decrease from \$1 billion to \$900 million. In FY 2015, Clearwater received \$681,257 in CDBG funds and \$265,110 in HOME funding.

For FY 2016, the Administration proposed in its budget a reduction for CDBG to \$2.8 billion, but an increase for the HOME program to \$1 billion. In the end, Congress provided \$3 billion for CDBG and \$950 million for HOME in the FY 2016 omnibus.

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.

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.

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 in the Homeless Assistance Grants account for HUD, and in Fiscal Year (FY) 2015, the program received \$2.135 billion. Then, the Administration proposed an increase to \$2.480 billion for these grants in its FY 2016 budget request. Congress ultimately provided \$2.25 billion in the FY 2016 omnibus 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.

The President's Deficit Commission, as well as more recent Congressional proposals, 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. In addition to reauthorizing EDA, the Senate legislation proposed to increase the authorized funding for the program from \$300 to \$500 million annually. Despite the failure to pass the legislation, the EDA will continue to operate through the annual appropriations process if provided sufficient funding by Congress.

The FY 2015 omnibus appropriations bill provided a modest increase in funding for the EDA from \$247 million in FY 2014 to \$250 million. The Administration then proposed an additional increase in funding for the EDA in its FY 2016 budget request to \$273 million. Congress, however, provided \$261 million in the final FY 2016 omnibus.

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. However, nearly the entire eastern Gulf is protected from drilling until 2022 by the Gulf of Mexico Energy Security Act of 2006 (GOMESA). State waters in the Gulf of Mexico extend 10.5 miles from shore. The federal government controls waters beyond that point.

For many years, the federal government has developed five-year Outer Continental Shelf (OCS) Oil and Gas Leasing programs to guide energy exploration activities in federal waters. The most recent plan, developed for 2012-2017, did not propose to lease any areas in the Atlantic OCS for oil and gas drilling. However, the Administration's plan did indicate that it would allow seismic analyses to determine energy resource potential in areas of the Atlantic OCS from Delaware to parts of Florida (approximately north of Brevard County).

In 2014, the Department of Interior's (DOI) Bureau of Ocean Energy Management (BOEM) finalized a Programmatic Environmental Impact Statement (PEIS) on seismic air-gun testing for offshore oil and gas exploration in the Atlantic Ocean, which opens the door for the first new oil and gas surveys in three decades. Specifically, the plan allows for the deployment of high-volume air-guns in federal waters to pinpoint the depth and size of oil and gas deposits. While it is viewed by many to include stringent regulations to mitigate against the effects these air guns may have on wildlife, some argue that the testing will still have devastating impacts on the affected areas.

The PEIS was accepted in July of 2014 and seismic testing is expected to begin this year. Should the analysis of the seismic surveys be completed in time for potential inclusion in the next DOI OCS Oil and Gas Leasing Program for 2017-2022, some believe that drilling could take place in areas identified as having resource potential as early as 2020. Senator Nelson and 10 other members of the Florida delegation sent a letter to President Obama expressing their disapproval of the decision, citing the effects seismic testing could have on Florida's wildlife and fisheries. Meanwhile, BOEM is currently preparing a new OCS Oil and Gas Leasing Program for 2017-2022; and, in January of 2015, released its Draft Proposed Program. The draft recommends opening up part of the Atlantic OCS for one lease sale to perform drilling off the coast between Virginia and Georgia in 2021.

While nearly the entire eastern Gulf is protected from drilling until 2022 by GOMESA, the law does not prevent seismic testing from being included in the next five-year OCS Oil and Gas Leasing Program, nor prohibit any future Administration from allowing such testing in the eastern Gulf. In addition, Senator Bill Cassidy (R-LA) introduced S. 1276, the Offshore Energy and Jobs Act, with his colleagues Sens. Vitter (R-LA), Wicker (R-MS), Cornyn (R-TX), and Cochran (R-MS). Among other things, the bill would alter the section of GOMESA that blocks oil and gas drilling at least 125 miles from the west coast of Florida until 2022. Instead, Sen. Cassidy's legislation would allow drilling 50 miles off the west coast of Florida. In response, Bill Nelson in the Senate and David Jolly in the House of Representatives, along with Sen. Markey (D-MA) and Reps. Buchanan, Clawson, Graham, and Murphy (all Florida), introduced legislation to extend the existing ban on drilling from 2022 to 2027 (S. 1430 and H.R. 2630, respectively).

Meanwhile, the Senate Energy and Natural Resources Committee approved a bill titled the Offshore Production and Energizing National Security (OPENS) Act, which is similar to the Cassidy bill in that it



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.

Unfortunately, momentum for expanded offshore energy development continues in both Congress and the Administration. The OPENS Act, and other similar pieces of legislation, will face a considerable uphill climb in Congress, but as the Administration becomes increasingly amenable to offshore energy exploration and harvesting, we could see additional areas opened for leasing.

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 insure 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 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, the Administration requested \$53.2 million for the state formula and competitive programs. Congress, however, provided a huge boost to the state programs, funding them at \$110 million in FY 2016.

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 three 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.

Meanwhile, 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 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.

There have also been some legislative attempts to permanently reauthorize the LWCF. In March of 2015, Sen. Maria Cantwell (D-WA) introduced the Land and Water Conservation Authorization and Funding Act of 2015, which would do the following: 1) Amend the Land and Water Conservation Fund Act of 1965 to make permanent the LWCF's authorization; 2) Make revenue into the LWCF available for



expenditure to carry out the purposes of the Act without further appropriation; and 3) Require that not less than 1.5 percent of the annual authorized funding amount be made available for projects that secure recreational public access to existing federal public land for hunting, fishing, and other recreational purposes. This bill had 31 cosponsors (39D, 2R, 2I), including Senator Bill Nelson.

RECOMMENDED POSITION: *Support* a \$900 million annual appropriation from the Land and Water Conservation Fund, including at least \$100 million for the state grant program. *Support* legislation reauthorizing the Land and Water Conservation Fund.