

Monroe County, Florida 2016 Federal Legislative Agenda



Prepared by Van Scoyoc Associates for the

Monroe County Commission

**Mayor Heather Carruthers
Mayor Pro Tem George Neugent
Commissioner Danny Kolhage
Commissioner David Rice
Commissioner Sylvia Murphy**

Roman Gastesi, County Administrator

Lisa Tennyson, Legislative Affairs and Grants Acquisition Director

Questions regarding the information in this book may be directed to:

**Greg Burns
(202) 737-8162**

**Lisa Tennyson
(305) 292-4444**

January 2016

Table of Contents

Federal Legislative Agenda Summary	Page	1
<u>Primary Issues</u>		
1. National Flood Insurance Program	Page	4
2. Water Quality	Page	8
3. Land Acquisition	Page	10
4. Payments In Lieu of Taxes	Page	14
5. Everglades Restoration and the Health of Florida Bay	Page	16
<u>Transportation</u>		
6. Federal Aviation Administration – Authorization and Issues	Page	19
7. Transportation Authorization	Page	21
<u>Energy & Environment</u>		
1. RESTORE Act	Page	22
2. Climate Change and Sea Level Rise	Page	24
3. Waters of the United States	Page	25
4. Energy Exploration	Page	26
5. Oil Spill Protection	Page	29
6. Property Assessed Clean Energy Legislation	Page	31
<u>Social Services</u>		
7. Continuum of Care Program – Federal Homeless Assistance	Page	32
8. Older Americans Act Programs	Page	34
9. Social Services Block Grant Program	Page	35
10. Mental Health Care	Page	36
<u>Public Safety</u>		
11. Public Safety Programs	Page	38

General Government Issues

12. Tourist Development Taxes

Page 40

13. Remote Sales-Tax Legislation

Page 42

14. Tax-Exempt Bonds

Page 44



Monroe County 2016 Federal Legislative Agenda

Primary Issues

National Flood Insurance Program

Support efforts to improve the National Flood Insurance Program for the benefit of all participants, including H.R. 2918 and other positive legislative efforts. **Oppose** H.R. 2901 due to its allowance that surplus lines insurance companies can write private flood insurance given that they are not subject to the same oversight as admitted insurance carriers. **Monitor** FEMA's implementation of the Homeowner Flood Insurance Affordability Act. **Support** the creation of a National Catastrophe Fund. **Support** increased funding for the Hazard Mitigation Assistance grant programs, including the Flood Mitigation Assistance Grant Program and the Pre-Disaster Mitigation Grant Program, as well as increased funding for the Disaster Relief Fund.

Water Quality

Support full funding of the Florida Keys Water Quality Improvements Program via the FY 2016 Army Corps of Engineers Work Plan. **Support** continued additional funding for Army Corps of Engineers environmental infrastructure projects in FY 2017 and future fiscal years. **Support** Monroe County's efforts and activities related to canal restoration.

Land Acquisition

Support efforts by federal agencies to acquire appropriate properties to mitigate environmental resource or military encroachment concerns in Monroe County. **Support** a \$900 million annual appropriation from the Land and Water Conservation Fund. **Support** future mandatory funding for the Land and Water Conservation Fund. **Support** increased funding of the Department of Defense's Readiness and Environmental Protection Integration program.

Payments In Lieu of Taxes

Support full, long-term mandatory funding of the Payments In Lieu of Taxes (PILT) program, which enables local governments to rely upon PILT funds when budgeting.

Everglades Restoration and the Health of Florida Bay

Support efforts to improve the health of Florida Bay by restoring adequate fresh water flows through the Everglades. **Support** full completion of the C-111 Canal suite of projects. **Support** completion of the Modified Waters Delivery suite of projects and improved operational plan, including further modification to Tamiami Trail. **Support** authorization of the Central Everglades Planning Project via the next Water Resources Development Act.

Transportation

Federal Aviation Administration - Authorization and Issues

Monitor passage of a long-term FAA reauthorization bill in 2016. **Support** \$3.35 billion in annual appropriations for the Airport Improvement Program. **Support** Monroe County's grant proposals for funding through the FAA Airport Improvement Program. **Support** an increase in the passenger facilities charge cap from \$4.50 to \$8.50. **Support** the removal or relocation of the non-directional beacon at Higgs Beach. **Support** continued efforts to establish a joint-use airport at Naval Air Station Key West. **Support** federal funding for sound attenuation activities around military air facilities.



Transportation Authorization

Monitor proposed changes to federal highway programs. *Monitor* efforts to enhance federal transportation revenue streams. *Support* the continuation of dedicated bridge funding through the Surface Transportation Program or other avenues. *Support* opportunities to secure funding for Monroe County's priorities via federal highway legislation or other means.

Energy & Environment

RESTORE Act

Monitor federal implementation of the RESTORE Act to ensure continued benefit to Monroe County. *Support* efforts to secure funding for Monroe County.

Climate Change and Sea Level Rise

Monitor federal climate change legislation and executive actions. *Support* federal efforts to address climate change and mitigate sea level rise. *Support* the federal legislative priorities of the Southeast Florida Regional Climate Change Compact.

Waters of the United States

Monitor activity related to the implementation of the EPA's rule on Waters of the U.S.

Energy Exploration

Monitor the potential expansion of offshore energy exploration in Florida's federal waters. *Monitor* federal discussion regarding hydraulic fracturing for impacts to future Florida oil and gas extraction.

Oil Spill Protection

Support revisions to the Oil Pollution Act of 1990 and other associated laws to ensure that local governments may act as first responders in an effort to protect local communities, and be reimbursed for their actions undertaken to protect their resources and restore damaged areas during oil spill events, and the Oil Spill Liability Trust Fund is capable of addressing Spills of National Significance where there is no financially viable or legally responsible party.

Property Assessed Clean Energy Legislation

Support legislation and guidelines that would allow for the creation of residential and commercial PACE programs in Monroe County to finance a number of home and commercial property improvement projects including energy efficiency, flood mitigation, or hurricane protection.

Social Services

Continuum of Care Program – Federal Homeless Assistance

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

Older Americans Act Programs

Support continued adequate annual funding for Older Americans Act programs that support critical social service programs serving elderly persons in Monroe County.

Social Services Block Grant

Support continued adequate funding for the Social Services Block Grant program.



Mental Health Care

Support legislation that responsibly expands treatment options and support for the mentally ill.

Public Safety

Public Safety Programs

Support continued funding for the wide variety of DOJ and DHS grants, i.e., Community Oriented Policing Services, Byrne Justice Assistance Grants, Emergency Management Preparedness Grants, Assistance to Firefighters Grants, Staffing for Adequate Fire and Emergency Response Grants, Urban Areas Security Initiative grants, and other security-specific grants. **Support** any Monroe County applications for these funds. **Support** federal funding for the construction of Emergency Operations Centers.

General Government Issues

Tourist Development Taxes

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

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.

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.



FEDERAL ISSUE: National Flood Insurance Program

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: 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, the most recent being Hurricane Sandy.

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 County'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.

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 significant 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 such as second homes and businesses.

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.

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 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. 141 that 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 seeks to 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.

There are positive provisions in H.R. 2901, such as reinforcing the need for lenders to verify and ensure that homeowners maintain flood insurance for the duration of a mortgage loan, and allowing for continuous coverage with no penalties if a person purchases private flood insurance and then chooses to again purchase from the NFIP. However, there are concerns that the legislation allows the surplus lines market to write private flood insurance policies, which are not subject to the same oversight as admitted insurance carriers. A U.S.-based surplus lines insurance company is only an admitted insurer in at least one state. Monroe County only supports admitted insurance companies writing private flood insurance policies. The House Financial Services Committee reported the bill out of Committee in early March by a vote of 53-0.

National Catastrophe Fund

One option that could be used in place of traditional flood insurance would be the creation of some sort of a national catastrophe fund. This idea, versions of which have been introduced as legislation for many years by many different members of Congress, was introduced in the 114th Congress in the House by Rep. Frederica Wilson (D-FL) as H.R. 1351, the Homeowners’ Defense Act of 2015. This legislation would establish a National Catastrophe Risk Consortium as a nonprofit, nonfederal entity to: (1) maintain an inventory of catastrophe risk obligations held by state reinsurance funds and state residual insurance market entities; (2) issue, on a conduit basis, securities and other financial instruments linked to catastrophe risks insured or reinsured through Consortium members; (3) coordinate reinsurance contracts; (4) act as a centralized repository of state risk information accessible by certain private-market participants; and (5) use a database to perform research and analysis that encourages standardization of the risk-linked securities market.

Senator Bill Nelson (D-FL) introduced S. 1461, the Homeowners’ Defense Act of 2013 during the 113th Congress, which was nearly identical to H.R. 1351, but he has not yet reintroduced a Senate version in the 114th Congress. Meanwhile, Rep. Jolly has stated his intention to introduce national natural disaster catastrophic reinsurance fund bill in 2016.

Mitigation Grant Programs

Separate from the NFIP, there are several federal assistance programs from which the County may benefit that provide funding to states and local governments for mitigation activities. Specifically, the Hazard Mitigation Assistance (HMA) grant programs offer the following opportunities:

- The Hazard Mitigation Grant Program (HMGP) provides grants to implement long-term hazard mitigation measures after a major disaster declaration by the President. HMGP funding is based on each disaster and is provided through FEMA’s Disaster Relief Fund (DRF). The DRF was funded at \$7 million in FY 2015. Meanwhile, the Administration requested an increase to \$7.37



billion for the DRF in FY 2016, which Congress ultimately provided in the final FY 2016 omnibus appropriations bill.

- The Flood Mitigation Assistance Grant Program (FMA) assists states and local governments in their efforts to reduce or eliminate the risk of repetitive flood damage to buildings and structures insurable under the NFIP. Both planning and implementation grants are available. The FMA program was provided \$150 million in FY 2015. For FY 2016, the Administration requested an increase for FMA to \$175 million, which Congress provided in the FY 2016 omnibus.
- The Pre-Disaster Mitigation Grant Program (PDM) provides resources to assist state and local governments reduce overall risk to life and property from future disasters. The Administration requested \$200 million for the PDM program in its FY 2016 budget. Congress, however, funded the program at \$100 million, which is still a significant increase from the FY 2015 funding level of \$25 million.

Local Activity

Mayor Carruthers has been nominated to serve as Florida's representative on the National Association of Counties' (NACO) NFIP Working Group tasked with developing policy recommendations for NACO to help address the NFIP. Meanwhile, the Florida Association of Counties has tasked the Mayor with helping to lead a statewide response to NFIP reauthorization.

RECOMMENDED POSITION: *Support* efforts to improve the National Flood Insurance Program for the benefit of all participants, including H.R. 2918 and other positive legislative efforts. *Oppose* H.R. 2901 due to its allowance that surplus lines insurance companies can write private flood insurance given that they are not subject to the same oversight as admitted insurance carriers. *Support* increased transparency to FEMA's rate-setting practices for the National Flood Insurance Program. *Monitor* FEMA's implementation of the Homeowner Flood Insurance Affordability Act. *Support* the creation of a National Catastrophe Fund. *Support* increased funding for the Hazard Mitigation Assistance grant programs, including the Flood Mitigation Assistance Grant Program and the Pre-Disaster Mitigation Grant Program, as well as increased funding for the Disaster Relief Fund.



FEDERAL ISSUE: Water Quality

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: As population and tourism have increased in the Florida Keys, wastewater and stormwater practices have not kept pace until recently. Research suggests that this has led to the degradation of water quality in canals and nearshore waters surrounding the Keys. Nutrients commonly found in wastewater and stormwater are one of the major contributors to the decline in water quality in the Florida Keys National Marine Sanctuary (FKNMS).

Florida Keys Water Quality Improvements Program

For these reasons, Congress directed the U.S. Army Corps of Engineers to assist with implementation of infrastructure improvements in the Florida Keys to improve nearshore water quality within the Sanctuary. In 2001, Public Law 106-554 authorized the Florida Keys Water Quality Improvements Program (FKWQIP), whereby the Corps may provide up to \$100 million in technical and financial assistance to carry out projects for the planning, design, and construction of treatment works to improve water quality in the Sanctuary. The primary purpose of this effort is to improve water quality in the Florida Keys through implementation of several wastewater and stormwater master plans previously prepared for Monroe County and various municipalities within Monroe County. The South Florida Water Management District is the non-federal Sponsor for FKWQIP. In September 2006, the Corps completed a Project Management Plan to guide the activities of FKWQIP.

To fund environmental infrastructure projects that are not budgeted for by the Administration, such as FKWQIP, Congress has provided additional funding for what Congress terms “Additional Funding for Ongoing Work.” Among these accounts, Congress has for the past several years provided money for Environmental Infrastructure projects such as FKWQIP. Most recently, the Corps provided \$3 million in additional funding for FKWQIP through their FY 2016 Work Plan. The County will continue to work to ensure that FKWQIP receives funding in future Work Plans. To date, approximately \$50 million has been provided to the FKWQIP program via earmarks, the stimulus legislation, or Corps of Engineers work plans.

Canal Restoration

Canals within the Florida Keys have received considerable attention from regulatory agencies due to poor water quality. 300 of the 500 canals do not meet the State’s minimum water quality criteria and are a potential source of nutrients and other contaminants to nearshore waters designated as Outstanding Florida Waters. As a result, a comprehensive Canal Management Master Plan (CMMP) was commissioned by Monroe County with financial assistance from the Environmental Protection Agency and with approval from the FKNMS Water Quality Protection Program (WQPP).

One of the main objectives of the CMMP was to prioritize the residential canals within Monroe County related to the need for water quality improvements. A process was developed that classified canals by water quality characteristics into “Good”, “Fair”, and “Poor” categories. Canals receiving a “Poor” classification were considered as potential candidates for certain restoration technologies. Restoration technologies reviewed in the CMMP include removal of accumulated organics, incorporation of weed gates or similar weed barrier structures, addition of culverts, construction of pumping systems, and backfilling. The ultimate goal of this work is to restore the environmental health of Monroe County’s canals, and subsequently its nearshore waters.



The County Commission previously approved moving forward with a series of six canal restoration demonstration projects. Those projects will be complete by June 2016. The preliminary results have indicated immediate improvement to the water quality of the restored canals. The results will be used to further define restoration costs and for information in future grant applications to state and federal sources.

In order to be eligible for federal funding, canal restoration efforts would require a new authorization through Congress. Under the Water Resources Reform and Development Act (WRRDA) of 2014, the Army Corps of Engineers is required to seek proposals for water resources studies and project modifications on an annual basis. From the proposals submitted by local sponsors, the Corps identifies those that meet certain criteria and recommend them to Congress for authorization within an Annual Report. The Report will also include an Appendix listing those proposals that are not recommended for authorization and the reasons for the lack of recommendation. Congress will then have the opportunity to authorize the recommended studies and project modifications through a yes or no vote, rather than a traditional Water Resources Development Act (WRDA). This process provides an opportunity to seek future assistance from the Corps for canal restoration activities.

RECOMMENDED POSITION: *Support* full funding of the Florida Keys Water Quality Improvements Program via the FY 2016 Army Corps of Engineers Work Plan. *Support* continued additional funding for Army Corps of Engineers environmental infrastructure projects in FY 2017 and future fiscal years. *Support* Monroe County's efforts and activities related to canal water quality restoration.



FEDERAL ISSUE: Land Acquisition

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: The federal nexus for Monroe County's land acquisition challenges are generally based upon two basic principles: a) rigorous preservation of the Florida Keys' unique environmental resources, which are protected under a variety of federal laws including the Endangered Species Act, and b) the need to protect from development encroachment the nation's investment in Naval Air Station Key West, one of the military's premier air combat training facilities.

The Florida Keys and Monroe County contain a number of unique environmental resources of national significance. In recognition of the value of these resources and features, the federal government has created four national wildlife refuges (Crocodile Lake, Great White Heron, Key Deer, and Key West), three national parks (Everglades, Biscayne, and Dry Tortugas), as well as a National Marine Sanctuary (Florida Keys) and a National Preserve (Big Cypress), all of which are located in whole or in part in Monroe County. World renowned for our coral reef, the Florida Keys is also home to over 30 listed species protected under the Endangered Species Act (ESA).

In order to protect these scarce yet vital natural resources, development on private property in Monroe County is heavily controlled by federal, state, and local regulations. To see the significant impact of federal regulations on the County's ability to regulate local development, one need to look no further than the Florida Key Deer v. the Federal Emergency Management Agency (FEMA) & US Fish & Wildlife Service (USFWS) suit settled in 2012 after more than 20 years of litigation. In that case, the USFWS and FEMA negotiated a settlement agreement with environmental advocates that forced the County to adopt regulations and procedures to assist the USFWS with performing its obligations under the ESA or face expulsion from the National Flood Insurance Program (NFIP). Given the draconian alternative of expulsion from the NFIP and the resulting collapse of the local real estate market due to the inability of potential home buyers to obtain federally-guaranteed mortgages, the County Commission had little choice but to implement procedures that essentially shifted the burden of implementation of the ESA from the USFWS to Monroe County.

That settlement agreement was predicated upon the USFWS's revised Biological Opinion (BO) on the NFIP in Monroe County. The BO contained reasonable and prudent alternatives (RPA) that required the Florida Keys communities to revise their Flood Damage Prevention programs to include the review of floodplain development applications for potential impacts to nine endangered species – a review the ESA requires FEMA and USFWS to undertake, not local governments.

According to the data contained in the BO, there are 63,411 acres of suitable habitat for listed species in unincorporated Monroe County. Approximately 7,193 privately owned vacant parcels, having an approximate combined value of \$240,088,014 within USFWS designated potentially suitable habitat. While the BO only addresses protections for nine species, twenty-two federally-listed species live in the Florida Keys and critical habitat has been designated for eleven of these species. In addition, the USFWS currently proposes to list (and subsequently designate critical habitat for) an additional five (5) species in the Florida Keys in the near future.

The limitations upon development imposed by the ESA and other federal, state, and local regulations impose severe restrictions on private property owners who desire to develop their properties. The U.S.



and Florida Constitutions require government to compensate private property owners when those regulations result in a taking. Currently, the County is defending takings suits involving potentially over 1,000 parcels of land. These claims are based in part upon regulations that were adopted to effectuate the ESA and other state and federal acts.

The County realizes the importance of preserving and sharing the benefits of our unique natural resources, and has conducted the reviews for FEMA and FWS, including restricting development based on this process, but federal support is required to maintain the protection of our significant environment. The County supports and encourages the federal government to target the acquisition of lands containing suitable habitat for and known populations of federally-designated wildlife species.

In addition to the land acquisition challenges resulting from environmental protection regulations, the County faces challenges in the area surrounding Naval Air Station (NAS) Key West, one of the military's premier air combat training facilities. The airfield is located just outside of Key West in the most densely populated area of the County. Noise from flight operations impacts the quality of life for residents living near the airfield. The impacts of encroachment from development, both past and future, in the vicinity of NAS Key West further exacerbates the land acquisition challenges for Monroe County. While the County wants to foster the continued use of the airfield, it must also be mindful of encroachment challenges due to property owners in the adjacent community. Acquisition of nearby properties can help solve that challenge.

In order to proactively address these land acquisition challenges, the County has engaged in land acquisition efforts primarily through the Monroe County Land Authority. The Land Authority has two dedicated revenue sources through which it funds land acquisition (half of the one cent tourist impact tax, and a State park surcharge). Unfortunately, these sources are insufficient, as they generate only about \$900,000 annually. However, in Fiscal Year 2015, the County Commission budgeted \$10 million in local funds to serve as a match for federal and state land acquisition projects. Even with that additional funding, the County lacks the financial resources to meet all of the land acquisition needs that result from federal and state environmental protection regulations as well as encroachment issues arising near NAS Key West. Solving the County's land acquisition challenge can only be done through a combination of federal, state, and local efforts.

The Land and Water Conservation Fund

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, as well as establish their own priorities and criteria.



The LWCF is authorized at \$900 million annually. However, 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 and reaching nearly \$1 billion. In FY 2002, Congress provided the most LWCF funding of the past twenty years for the state grant program at \$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.

The LWCF remains a volatile issue with vastly different perspectives on the program often depending on geographic location and amounts of federal ownership of lands, particularly in the west. Representative Bishop, for instance, has worked for years to try to facilitate a massive-land swap in Utah to open vast new areas to oil and gas drilling and fracking. Given the recent stand-off in Oregon relating to federal ownership of land, this issue is likely to remain controversial, thereby making efforts to expand the LWCF difficult.

DoD Readiness and Environmental Protection Integration Program

The Department of Defense's (DoD) Readiness and Environmental Protection Integration Program (REPI), which was authorized by Congress in 2002, funds cost-sharing partnerships for the military with state and local governments in order to address incompatible development and loss of habitat around DoD installations. These partnerships obtain easements or other interests from willing sellers that preserve critical buffer areas around DoD facilities in order to protect the military's ability to accomplish its training, testing, and operational missions by helping to remove or avoid land-use conflicts, as well as addressing regulatory restrictions that inhibit military activities. Through FY 2014 (the most recent numbers available), REPI buffer partnerships have protected almost 362,501 acres of buffer land in 80



locations and 28 states. The REPI program may provide an opportunity for land acquisition for those parcels located near DoD facilities within Monroe County.

Since the program's inception, Congress has increased REPI's original funding from \$12.5 million to over \$70 million annually. In its FY 2016 budget request, the Administration recommended \$60.3 million for REPI. Congress, meanwhile, funded REPI at \$75 million in its FY 2016 omnibus appropriations bill.

Although congressional appropriations are consistently above the budget request, total service requests average \$140 million annually, which greatly exceeds available REPI funding. To make up some of the difference, federal REPI funding is augmented by cost-shares from partner contributions, including other federal grants, state and local grants or cost-share programs, private capital, donations, and in-kind services, among others.

RECOMMENDED POSITION: *Support* efforts by federal agencies to acquire appropriate properties to mitigate environmental resource or military encroachment concerns in Monroe County. *Support* a \$900 million annual appropriation from the Land and Water Conservation Fund. *Support* future mandatory funding for the Land and Water Conservation Fund. *Support* increased funding of the Department of Defense's Readiness and Environmental Protection Integration program.



FEDERAL ISSUE: Payments In Lieu of Taxes

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: Under law, federally-owned lands within a local government's boundary cannot be taxed, but these lands still create a demand for services, including firefighting and police protection, construction of roads, and search-and-rescue operations. Congress has created several programs in an attempt to compensate local governments, particularly counties, for these losses to their tax base. One of these programs from which Monroe County benefits is the Payments in Lieu of Taxes program (PILT).

Congress passed the Payments In Lieu of Taxes Act in 1976 (Public Law 94-565) to help offset the impact from these losses to local governments' tax bases through annual compensation. The PILT program is administered by the Department of Interior.

Payments are made annually for tax-exempt federal lands administered by the Bureau of Land Management, the National Park Service, the U.S. Fish and Wildlife Service, the U.S. Forest Service, and for federal water projects and some military installations. The authorized level of PILT payments is calculated under a complex formula that includes five factors affecting Monroe County's compensation: the number of acres eligible for PILT payments, the County's population, payments in prior years from other specified federal land payment programs, state laws directing payments to a particular government purpose, and the Consumer Price Index. The following are Monroe County's PILT payments for the last five fiscal years: \$1,099,616 in 2011; \$1,122,390 in 2012; \$1,095,408 in 2013, \$1,172,487 in 2014, and \$1,158,900 in 2015. A total of 454,861 acres, which is roughly 19 percent of the County's land, is eligible for compensation.

In 2008, Congress reauthorized PILT and changed it from a discretionary to a mandatory program through FY 2012. As a mandatory program, authorized eligible local governments are able to automatically receive their full PILT payments. As a discretionary program, however, PILT is subject to the annual, and often arbitrary, appropriations process.

PILT was reauthorized at mandatory levels for FY 2013 through the MAP-21 transportation reauthorization. Although funding for PILT was not included in the FY 2014 omnibus appropriations bill, the program was fully funded for FY 2014 through the five-year farm bill (PL 113-79) signed into law in February 2014. Then, in FY 2015, the omnibus spending bill included \$372 million in PILT funding. This, combined with the \$70 million included within the 2014 National Defense Authorization Act, brought the total amount of PILT funding for FY 2015 to \$442 million, fully funding the program. Most recently, PILT was fully funded at \$452 million for FY 2016.

As of now there is no concrete long-term nor short-term solution for providing additional PILT funding in future years. There has been some discussion of tying mandatory funding for the program to receipts from the Land and Water Conservation Fund (LWCF). The LWCF is currently a discretionary program that is routinely funded well below its authorized amount. Because of this, many believe the LWCF should also be moved to the mandatory side of the budget in order to provide as much funding as possible for the program without crowding out discretionary funding for other high-priority needs. Tying PILT, the LWCF, and other programs together as mandatory funding provides an opportunity for many programs to receive full funding on a regular basis, providing stability for local governments, as well as conservation opportunities. Because both programs tend to have support from a bipartisan coalition of



lawmakers, the largest challenge for this proposal is how to pay for it. As discussed earlier in this agenda, legislation has been introduced in the form of the PARC Act that would tie together the LWCF and PILT, among other programs. However, given the bill's other controversial provisions, it is unlikely this will be achieved through that piece of legislation.

RECOMMENDED POSITION: *Support* full, long-term mandatory funding of the Payments In Lieu of Taxes (PILT) program, which enables local governments to rely upon PILT funds when budgeting.



FEDERAL ISSUE: Everglades Restoration and the Health of the Florida Bay

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: Florida Bay is a large shallow lagoon bordered to the north by the Florida peninsula and to the south and east by the Florida Keys. A portion of the bay is located within Everglades National Park and is protected by the National Park Service (NPS), with the remainder lying within the Florida Keys National Marine Sanctuary, which falls under the jurisdiction of the National Oceanic and Atmospheric Association (NOAA). The Bay provides unique and critical habitat for many plants and animals, including several endangered species such as the Florida Manatee.

The NPS began long-term monitoring of Florida Bay in 1988 in order to collect and analyze hydrologic and salinity data from the Bay. At this same time, the Bay was suffering from tremendous (approximately 23,000 acres) of sea grass die off from hyper saline conditions with resulting algal blooms. Salinity levels are considered the primary driver of ecological conditions within the bay. Salinity levels are also the driver to maintain the state-established Minimum Flow and Level (MFL) for Florida Bay, an ecosystem-based protective standard established under Florida law.

The construction of water control structures and facilities within the Everglades throughout the 20th century has altered the natural hydrologic patterns of water in the region. Overtime, this has reduced the flow of freshwater into Florida Bay and changed the ecosystem of the Bay and other connected coastal regions. Managing these water flows to reduce the severity and frequency of hypersalinity events and algal blooms are among the goals of the Comprehensive Everglades Restoration Plan (CERP).

There are a number of projects and studies under various stages of development that are expected to, in the long run, improve the health of Florida Bay. These include modifications to the C-111 Canal General Reevaluation Report, Modified Water Deliveries, including the bridging of portions of Tamiami Trail, C-111 Spreader Canal, and the Central Everglades Planning Project.

- The C-111 Canal is the southernmost canal of the Central and Southern Florida Project and is located in south Miami-Dade County. The C-111 Canal courses through extensive marsh wetland prairie and coastal mangrove marsh before it empties into Manatee Bay. The canal serves a basin of approximately 100 square miles and is the final segment of the South Dade Conveyance System. It functions primarily to provide flood protection and drainage for the agricultural areas to the west and south of Homestead, Florida. The canal has had unintended effects on groundwater levels in Taylor Slough, and has contributed to the reduced discharge to northeastern Florida Bay and increased unseasonable discharges to Manatee Bay and Barnes Sound. Taylor Slough is a natural drainage feature of the Everglades that flows southwest into numerous tributaries that eventually empty into Florida Bay.
- The C-111 Project General Reevaluation Report (GRR) with integrated Environmental Impact Statement (EIS) was approved in 1994 and it authorized modifications to the original project as authorized by the Flood Control Acts of 1962 and 1968. The C-111 project is moving forward, and construction on the remaining project components was scheduled to begin in Fiscal Year 2015. Construction efforts were divided into 9 contracts. Contracts 1-7 are complete and under Operation, Maintenance, Repair, Rehabilitation, and Replacement (OMRR&R) by the non-Federal Sponsor. The completed contracts built the following features of the 1994 GRR recommended plan: Pump Stations 332B, 332C, 332D, the retention/detention area, C-111 Spoil



Mound Removal, Taylor Slough Bridge, and the S-331 Command and Control Facility. The remaining features to be constructed include the North Detention Area, which will connect this project with the Modified Water Delivers 8.5 Square Mile Area Detention Area (MWD 8.5 SMA STA). Plugging of the L-31W Canal. Plans and specifications (P&S) are complete for the North Detention Area, and the contract was scheduled for award in FY2015.

- The C-111 Spreader Canal Western Project focuses on the restoration of flows to Florida Bay via Taylor Slough as well as the restoration of the Southern Glades and Model Lands and coastal zone of Florida Bay. The bulk of the construction for the project was completed by the South Florida Water Management District in 2012. The effect of the C-111 Spreader Canal Western Project on adjacent park wetlands and on Florida Bay is being monitored and its effects will be evaluated after 3 years of monitoring and thus far, initial signals are positive. Rainfall-driven operational controls have not yet been implemented, but will be incorporated into future water control plans. The remaining phases of the C-111 Spreader Canal project are anticipated for completion in the 2019-2021 timeframe according to the latest CERP Integrated Delivery Schedule (IDS).
- The overall purpose of the Modified Waters Delivery (MWD) to Everglades National Park (ENP) project is to restore the natural hydrologic conditions in ENP, which was altered by the construction of roads, levees, and canals. There are four major components of MWD: 8.5 Square Mile Area Flood mitigation, Tamiami Trail Modifications, Conveyance and Seepage Control Features, and Combined Operation Plan. All four components are necessary to provide substantial flow increases to ENP.
 - The most well-known portion of this project is the bridging of the Tamiami Trail. A one mile bridge has been completed to date. In early 2015, the Department of Interior released a preferred alternative to bridge an additional 5.5 miles of the Trail called the Tamiami Trail: Next Steps project. The additional bridging will provide unconstrained flows of water to Northeast Shark River Slough (NESRS) in ENP. The resulting increased water volumes and improved flow distribution are expected to promote conditions conducive to the survival of myriad species of fish and wildlife. A contract award for 2.6 of the 5.5 miles yet to be completed is expected by January 2016 and a construction groundbreaking is anticipated in April 2016.
 - Flood mitigation work to protect a residential area near the project (the 8.5 Square Mile Area) will be complete in 2016.
 - Meanwhile, a set of significant changes to the operation of the local water management infrastructure that controls the flow of water to NESRS in ENP, known as Increment 1, began in 2015. The structural features of the MWD project finally allow this incremental increase in water flow. Planning and development of this field-test phase of the MWD project has been a complex, multi-year, interagency undertaking. Water flow into NESRS through the S-333 structure along the L-29 Canal will increase and water that seeps out of the park to the east will be returned to the park by use of the S-356 pump, also located along the L-29 Canal. Increment 1 is expected to continue for up to two years and is expected to produce small but important hydrologic benefits based on the additional water flow and seepage return. Water quality will be maintained because seepage water has low levels of total phosphorus and is of very good quality overall. Increased water flow and water quality are expected to improve habitat function and species composition and abundance, while promoting the build-up of soil and inhibiting soil loss. Increment 2 is expected to provide additional hydrologic and ecological benefits to NESRS, and data collected during the first two increments will be used in Increment 3 to design a new operational plan for the system.



- The C-111 North Detention area (a component of MWD and referenced above in the C-111 GRR) is still not complete and scheduled for completion in 2017.
- Finally, the Central Everglades Planning Project (CEPP) received its Corps of Engineers Chief's Report in 2015, thereby allowing for future Congressional authorization via the next Water Resources Development Act so the project may move to construction. CEPP intends to address criticism that a good portion of Everglades restoration to date has focused on the periphery of the remnant Everglades. CEPP seeks to respond to this concern by removing barriers to flow in the central Everglades in an effort to put the "river" back into the "River of Grass." CEPP, once fully constructed, is estimated to bring an average of 200,000 acre-feet of additional water from Lake Okeechobee into the Central Everglades each year. This is expected to reduce damaging discharges to the east and west coast estuaries while returning more flow to the Everglades. The new water will eventually flow into Everglades National Park under the 2.6-mile bridge scheduled for completion in 2019.

RECOMMENDED POSITION: *Support* efforts to improve the health of Florida Bay by restoring adequate fresh water flows through the Everglades. *Support* full completion of the C-111 Canal suite of projects. *Support* completion of the Modified Waters Delivery suite of projects and improved operational plan, including further modification to Tamiami Trail. *Support* authorization of the Central Everglades Planning Project via the next Water Resources Development Act.



FEDERAL ISSUE: Federal Aviation Administration - Authorization and Issues

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: Congress passed an authorization of the Federal Aviation Administration (FAA) in February 2012, which extended the program through the end of Fiscal Year (FY) 2015. Congress then passed a short-term extension through March 31, 2016. Congress will now need to pass a new or extended FAA authorization prior to that date. A new FAA measure may include reforms such as updated software systems and a discussion of increases in taxes and fees.

Airport Improvement Program

Among other things, the FY 2012 legislation authorizes \$3.35 billion annually for the Airport Improvement Program (AIP). AIP is a federal grant program that provides funds to public airports to improve safety and efficiency. The program is funded through taxes on airplane tickets and aviation fuel. This funding stream is critical to improvements at Key West International and Florida Keys Marathon Airports and is subject to annual appropriations by Congress. Between 2009 and 2013, Key West International experienced over 74 percent increase in passenger traffic. With this tremendous growth, it is critical to ensure that these airports can compete for sufficient federal funding as necessary to continue this trend.

In its FY 2016 budget, the Administration proposed a reduction in funding for AIP from \$3.35 billion in FY 2015 to \$2.9 billion by eliminating guaranteed funding for large and medium hub airports. The purpose of the proposal was to focus federal grant support on smaller commercial and general aviation airports that are less likely to have access to additional revenue or other outside sources of capital. The Key West International Airport is a small-hub airport.

At the same time, the budget would have allowed larger airports to increase non-federal passenger facility charges (PFC), thereby giving them greater flexibility to generate their own revenue. However, in the final FY 2016 omnibus appropriations bill, this was rejected by Congress, and the AIP program received its fully authorized limit at \$3.35 billion.

Authorized by Congress in 1992, the PFC allows commercial airports controlled by public agencies to charge \$3.00 per passenger through airline tickets. The PFC cap was raised in 2001 to \$4.50, yet has not been increased since. Several airport groups, including the American Association of Airport Executives, advocate for local authority to raise the cap to \$8.50 per enplanement in order to meet current needs and prepare for future demand. Given the need for investments in its airports, this is something Monroe County supports.

Fish Hook Non-Directional Beacon at Higgs Beach

The County would like the FAA to remove or relocate the Fish Hook non-directional beacon (NDB) currently located at Higgs Beach in Key West. The circa World War II radio tower and surrounding fencing occupies nearly an acre of a 16.5 acre County beach park in Key West. The park is in the midst of a major revitalization and Master Redevelopment Plan which calls for green space where the tower now stands. The park is at the southern terminus of the Florida Keys Overseas Heritage Trail bicycle pedestrian path and is a major tourist attraction and community amenity. In September 2009, FAA Technical Support Staff conducted a cursory review of the County's request and determined the NDB facility building and older antenna may be eliminated or the fenced area significantly reduced if replaced



by a smaller and more modern antenna. However, in December 2012, FAA regional staff conducted a site survey to determine the scope of work and availability of suitable sites for potential relocation of the NDB. Less than a month later, the FAA released its report and concluded the following:

- The existing NDB shelter and tower are not suitable for relocation and would need to be replaced.
- No suitable location for the NDB was found (Two alternate locations were found to be unsuitable).
- Due to the heavy density and nature of the island, land acquisition of private property would be timely and costly.

The County met with the FAA in 2013, at which time they were told the NDB is needed for redundancy purposes and could not be removed or relocated. The FAA argued that should all other technologies fail, the NDB is needed because it would still function during an emergency. Then, in April 2015, Rep. Curbelo sent a letter to the FAA requesting the agency consider relocating the beacon, to which the FAA again indicated that no suitable location is available.

Joint-Use of Naval Air Station Key West

Naval Air Station (NAS) Key West is located on Boca Chica Key near Key West. NAS Key West's national security mission provides operational and readiness support for the Department of Defense, Department of Homeland Security, Air National Guard, Army National Guard, and allied military forces.

The County has expressed an interest in utilizing NAS Key West as a joint-use facility due to limited runway length at Key West International Airport. At 4,801 feet, the runway is currently the shortest commercial runway in the country, which has deterred carriers from servicing the airport, thereby driving up ticket costs. Since the 1990's, the County has discussed joint-use of NAS Key West with the Navy. In 1995, however, the Navy issued a report disapproving joint-use at NAS Key West on the grounds that it would interfere with operational readiness. Since then, conversations between the County and the Navy regarding joint-use have occurred sporadically.

Sound Attenuation

Due to jet noise, activities at NAS Key West often negatively affect residents who live in the area. The FAA provides funding for sound attenuation activities at civilian airports. However, this funding is not available for military facilities. Monroe County would like to see changes to this policy in order to reduce the impacts of noise pollution from military aircraft on its residents.

RECOMMENDED POSITION: *Monitor* passage of a long-term FAA reauthorization bill in 2016.

Support \$3.35 billion in annual appropriations for the Airport Improvement Program. *Support* Monroe County's grant proposals for funding through the FAA Airport Improvement Program. *Support* an increase in the passenger facilities charge cap from \$4.50 to \$8.50. *Support* the removal or relocation of the non-directional beacon at Higgs Beach. *Support* continued efforts to establish a joint-use airport at Naval Air Station Key West. *Support* federal funding for sound attenuation activities around military air facilities.



FEDERAL ISSUE: Transportation Authorization

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: 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.

In developing the FAST Act, however, 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 transportation funding growth and investment, even if Congress were to authorize a modest increase. 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, and ultimately Monroe County, to support both surface transportation and transit projects and programs.

Card Sound Bridge

Card Sound Bridge connects southern Miami-Dade County to Monroe County via toll. Monroe County is primarily responsible for operating and maintaining the bridge. It is one of only two roads that connect the Keys with mainland Florida. The bridge is roughly 50 years old and currently undergoing a ten-year update. However, it will likely need to be fully replaced after that time.

MAP-21 eliminated the Highway Bridge Program in 2012. Instead, bridges located on the Interstate or the National Highway System were eligible to receive funding through the National Highway Performance Program (NHPP). Bridges that were not located on this federal-aid system, such as Card Sound Bridge, as well as many others in Monroe County, were provided a separate set-aside in the Surface Transportation Program (STP). This resulted in a nearly 30 percent decrease in funding for on- and off-system bridges. The FAST Act, however, attempted to correct this by expanding the NHPP to allow funding for on-system bridges. This more than repairs the cut to on-system bridges under MAP-21. Meanwhile, the bill maintains the STP set-aside for off-system bridges.

RECOMMENDED POSITION: *Monitor* proposed changes to federal highway programs. *Monitor* efforts to enhance federal transportation revenue streams. *Support* the continuation of dedicated bridge funding through the Surface Transportation Program or other avenues. *Support* opportunities to secure funding for Monroe County's priorities via federal highway legislation or other means.



FEDERAL ISSUE: RESTORE ACT

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: In April 2010, an explosion at the BP-operated Deepwater Horizon oil rig caused the worst oil spill in U.S. history, with almost 5 million barrels of oil spilling into the Gulf of Mexico.

In the summer of 2012, Congress passed the RESTORE Act, which established the Gulf Coast Restoration Trust Fund and mandated that 80 percent of Clean Water Act (CWA) civil damages from the spill be allocated directly to the five impacted states, including Florida. The legislation also contained additional, Florida-specific language as to how the state's allocation should be spent by the Gulf Consortium and the individual counties along the Gulf.

Since the spill, BP settled with the federal government for \$4.5 billion to resolve criminal charges against it. This funding is allocated by the National Fish and Wildlife Foundation as well as directed to other trust funds. BP also agreed to provide an interim payment of \$1 billion to repair natural resources via the Natural Resource Damage Assessment (NRDA) process. Based on the law, this last payment is tax-deductible for the company.

A civil trial between BP and the Department of Justice (DOJ) began in 2013, and in 2014, a U.S. District Court judge ruled that BP was "grossly negligent" in the Deepwater Horizon spill, citing the company's extreme measures to cut costs despite safety risks. In January 2015, the same judge ruled that BP dumped 3.2 million barrels of oil into the Gulf during the disaster.

Meanwhile, in 2013, DOJ settled with Transocean for their role in the Deepwater Horizon spill. As a result of the agreement, Transocean will pay \$1 billion in CWA fines, resulting in the first allocation of funding to be distributed via the RESTORE Act. From this initial settlement, Monroe County will receive a direct allocation of \$1,163,546.

In July 2015, BP and DOJ reached a settlement for all federal and state claims in which BP will pay \$5.5 billion over 15 years in CWA fines. BP will also pay \$4.9 billion in economic claims to the Gulf states, including \$2 billion to Florida; \$7.1 billion (not including the \$1 billion already committed by BP) in NRDA claims, including \$680 million for Florida and \$350 million for region-wide claims; and approximately \$600 million to resolve the economic loss claims of local governments. That settlement is subject to be finalized Spring 2016.

These CWA fines will flow to the Gulf States via the RESTORE Act. The Department of the Treasury and the Gulf Coast Ecosystem Restoration Council are tasked with implementing the RESTORE legislation. Treasury published a final rule for the RESTORE Act on December 14, 2015, with an effective date of February 12, 2016. From within the Treasury-administered Trust Fund, Monroe County is receiving \$1,184,925 in Direct Component funding as a first distribution, as well as \$12,434,783 from the Spill Impact Component, which was split evenly among the Gulf counties in Florida. Further distributions of Direct Component funds will result from finalizing the settlement referenced above.

The RESTORE Act also established the Gulf Coast Ecosystem Restoration Council (the Council), which is responsible for administering 60 percent of the total funding allocated to the Trust Fund. Thirty percent of the Trust Fund is to be used by the Council to develop and fund a Comprehensive Plan for the



restoration of the entire Gulf Coast ecosystem, and the remaining thirty percent is to be distributed under the Spill Impact Component. The Council includes the Secretaries of the Interior, Commerce, Agriculture, the Administrator of the Environmental Protection Agency, Secretary of the Army for Civil Works, the head of the Coast Guard, and the Governors of each state. Project and program requests for initial funding from the Transocean settlement under the Council's Comprehensive Plan were due in late 2014.

In August 2015, the Council released their draft Funded Priorities List (FPL). This draft FPL proposed to fund approximately \$139.6 million in restoration activities with a focus on 10 watersheds in the Gulf. It also included Category I and Category II projects, with Category I projects to receive funding once the FPL is finalized and Category 2 projects to be considered for funding in the future. The draft FPL, however, did not include any watersheds south of Tampa Bay. The list was open for public comment until September 2015.

Then, in September 2015, the Council released a proposed regulation to implement the Spill Impact Component of the RESTORE Act. It includes a formula based on three criteria to determine how much funding each state will receive. There are some concerns regarding one of the criteria, which is based on population, because it calculate the average population for each coastal county bordering the Gulf of Mexico within a state. Therefore, using this calculation, the Council finds that Alabama, which only has 2 coastal counties, has the largest average population, and Florida, which has 20+ coastal counties, comes in second.

Meanwhile, the County supports efforts to allow bonding of future anticipated receipts to allow for quicker restoration progress and also to minimize likely administrative costs of the 15-year RESTORE program.

Monroe County's Projects

The National Marine Sanctuary's Water Quality Protection Program (WQPP), mandated by Congress and developed jointly with the EPA, NOAA, the state of Florida and Monroe County, is a comprehensive suite of scientifically-based projects centered on critical ecosystem components. Under the federal requirements of the WQPP, Monroe County is required to halt degradation and improve water quality by implementing corrective actions related to wastewater treatment, stormwater runoff, and canal water degradation. The County submitted a suite of projects under WQPP to the Florida Department of Environmental Protection (FDEP) for their consideration as one of Florida's five initial projects for inclusion in the Council's Comprehensive Plan. Unfortunately, FDEP did not include any of these projects in their recommendation to the Council, which will fund projects using Transocean money.

Related to WQPP, the County advocated for inclusion of FKWQIP as one of the Corps' five recommendations to the Council, which was also supported by Senator Bill Nelson. The Corps submitted their recommendations to the Council, but did not seek funding for FKWQIP as one of their initial project suggestions. However, there will likely be additional opportunities for the County to seek funding for WQPP and FKWQIP as additional funding is provided via the RESTORE Act.

RECOMMENDED POSITION: *Monitor* federal implementation of the RESTORE Act to ensure continued benefit to Monroe County. *Support* efforts to secure funding for Monroe County's water quality and environmental priorities.



FEDERAL ISSUE: Climate Change and Sea Level Rise

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: The Florida Keys is on the front lines of climate change, facing such potential impacts as sea level rise and increased hurricane intensity. Given the County's unique vulnerabilities to sea-level rise, as well as its international presence as a premier tourist destination, Monroe County has an opportunity to demonstrate leadership on this issue through the implementation of key policies, practices and investments that will prepare the County for the impacts of climate change. As a result, the County is acting now to enact local policies to combat the future effects of climate change.

In 2016, Monroe County completed a comprehensive study on the effects of local sea level rise and climate change mitigation strategies called GreenKeys. The study utilizes a planning scenario for sea level rise of 9 to 24 inches in the next fifty years. The data also shows that even using a conservative estimate of sea level rise, several streets and portions of the County can expect to see significant flooding on a regular basis.

In 2013, the County developed the Monroe County Community Climate Action Plan (MCAP), which outlines a course of action for the County to minimize climate change impacts and increase the sustainability of the Florida Keys. MCAP includes initiatives to reduce energy use and waste, create local jobs, improve air quality, and preserve Monroe's local landscape and history.

Other communities in Florida also recognize the risk climate change poses to their citizens, infrastructure, and economies. Monroe County partnered with Miami-Dade, Broward, and Palm Beach Counties in 2010 to form the Southeast Florida Regional Climate Change Compact as a way to coordinate climate mitigation and adaptation activities across county lines. The Compact represents a new form of regional climate collaboration designed to allow localities to plan for adaptation while providing an efficient means for state and federal agencies to engage with technical assistance and support. Monroe County hosted the 7th Annual Florida Regional Climate Leadership Summit in December 2015, which focused on facilitating climate-related collaboration and knowledge sharing.

Given the makeup of the current Congress, passage of climate change legislation is unlikely in the near future. However, climate change is perceived to be a hallmark issue of the Obama Administration and his executive efforts, including recently proposed environmental regulations and climate change agreements with China and other nations, will keep the issue at the forefront of policymaker's minds in Washington. Therefore, it is even more imperative to keep the focus on this issue through advocacy and discussions with members of Congress about the current and future effects of climate change on coastal communities such as Monroe County.

RECOMMENDED POSITION: *Monitor* federal climate change legislation and executive actions. *Support* federal efforts to address climate change and mitigate sea level rise. *Support* the federal legislative priorities of the Southeast Florida Regional Climate Change Compact.



FEDERAL ISSUE: Waters of the United States

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: 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) over the past several years developed guidance first, and now a final rule, to redefine WOTUS. There is concern that this effort may expand 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 of 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, however, but did pass a resolution of disapproval against the rule. This will be vetoed by the President if it is also passed by the House.

Meanwhile, efforts to include a “policy rider” on the FY 2016 omnibus that would ban the use of federal funds to implement WOTUS during the fiscal year were unsuccessful. Omission of this was likely 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.

RECOMMENDED POSITION: *Monitor* activity related to the implementation of the EPA’s rule on Waters of the U.S.



FEDERAL ISSUE: Energy Exploration

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: 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).

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.

In February 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 industry groups to conduct 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. 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.

Meanwhile, the eastern Gulf of Mexico is protected from drilling until 2022 by GOMESA, but the law does not prohibit 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 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.

Onshore Energy Development (Hydraulic Fracturing)

The rapid expansion of oil and gas extraction using hydraulic fracturing — both in rural and more densely populated areas — has raised concerns about its potential environmental and health impacts. These concerns have focused primarily on impacts to groundwater and surface water quality, public and private water supplies, and air quality.

In Florida, the Burnett Oil Company submitted a proposal to the National Park Service (NPS) to conduct a seismic survey of 110 square miles within Big Cypress Preserve. Similar to offshore seismic testing, a seismic survey is a preliminary research technique used to determine the presence of oil and gas below the surface of the ground, which may lead to future harvesting in those areas found to be rich with resources. Senator Nelson sent a letter to the DOI on July 31, 2015 in strong opposition to seismic testing within the Preserve. The NPS completed an Environmental Assessment (EA) for the proposal and took public comments on the EA until January 4.

In terms of non-federal land, states broadly regulate oil and gas exploration. In Florida, oil and gas extraction activities are managed by the Department of Environmental Protection. State laws and regulations governing unconventional oil and natural gas development have evolved in response to changes in production practices, largely due to the use of high-volume hydraulic fracturing in combination with directional drilling. However, state regulations vary considerably, leading to calls for more federal regulation of unconventional oil and natural gas extraction activities.

In March of 2015, DOI finalized regulations for hydraulic fracturing on public lands, which will allow government workers to inspect and validate the safety and integrity of barriers lining the fracking wells, require companies to publically disclose the chemicals used in fracturing, and set safety standards for how companies can store and dispose of used fracking chemicals. The rule only applies to federal lands, and states still retain control of hydraulic fracturing on state and private lands.

In response to the rule, proponents of hydraulic fracturing introduced legislation to weaken the rule. Sen. James Inhofe (R-OK) introduced the Fracturing Regulations are Effective in State Hands Act (S. 828), which would give states sole authority over hydraulic fracturing on any land within their boundary and require that hydraulic fracturing on federal land comply with the laws and regulations of the state in which the land is located. The bill currently has 28 cosponsors.

Meanwhile, supporters of increasing federal regulations for hydraulic fracturing have also introduced legislation. Rep. Matt Cartwright (D-PA) introduced the Closing Loopholes and Ending Arbitrary and Needles Evasion of Regulations (CLEANER) Act of 2015, which would close a loophole that allows oil and gas producing companies to avoid hazardous waste disposal requirements. The bill has 100 cosponsors.



In addition, Rep. Diana DeGette (D-NY) introduced the Fracturing Responsibility and Awareness of Chemicals (FRAC) Act in the House (H.R. 1482) and Sen. Bob Casey (D-PA) introduced a Senate version of the bill (S. 785) in March of 2015. Those bills would define hydraulic fracturing as a federally regulated activity under the Safe Drinking Water Act, which would subject fracking activity to underground drinking water protections and require industry to disclose the chemicals used in hydraulic fracturing. The bills have 62 and 11 cosponsors, respectively.

RECOMMENDED POSITION: *Monitor* the potential expansion of offshore energy exploration in Florida's federal waters. *Monitor* federal discussion regarding hydraulic fracturing for impacts to future Florida oil and gas extraction.



FEDERAL ISSUE: Oil Spill Protection

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: The Oil Pollution Act (OPA) was passed by Congress and signed into law in August 1990 in response to rising public concern following the 1989 Exxon Valdez oil spill. The OPA expanded the authority of the federal government to prevent and respond to oil spills.

The OPA created the Oil Spill Liability Trust Fund, from which one billion dollars per spill is available for such activities as expediting payments for those involved in cleanup efforts, payment of claims for uncompensated removal costs and damages (e.g., financial losses of fishermen, hotels, and beachfront businesses), and payments to a state or local governments for increased public services and the net loss of government revenue. The Trust Fund is primarily funded by an 8-cent-per-barrel tax on oil. This rate is scheduled to increase to 9 cents per barrel in 2017, which is also scheduled as the final year of the tax.

The OPA established several new regulations related to oil transportation, and broadened the scope of damages for which an oil spiller would be liable, including:

- injury to natural resources,
- loss of personal property (and resultant economic losses),
- loss of subsistence use of natural resources,
- lost revenues resulting from destruction of property or natural resource injury,
- lost profits resulting from property loss or natural resource injury, and
- costs of providing extra public services during or after spill response.

Under OPA, holders of leases or permits for offshore facilities are liable for all cleanup costs, plus non-cleanup and containment damages up to \$75 million per spill. Although this was a significant increase from before OPA was enacted, it is important to recognize that this also capped the liability for which BP could be held responsible for the Deepwater Horizon oil spill.

In response, Senator Robert Menendez (D-NJ) and several other senators, including Senator Bill Nelson, attempted to pass the Big Oil Bailout Prevention Unlimited Liability Act, a bill to raise the \$75 million cap limit to \$10 billion, retroactive to before the spill occurred. This effort was blocked by other Senators on the grounds that it would deter small companies from deepwater drilling. The bill was reintroduced in the 113th Congress but again failed to pass.

In February 2014, the Obama Administration announced a proposed rule to raise the liability cap under a provision in OPA that provides for the limit on damages liability to be periodically adjusted by regulation to reflect significant increases in the Consumer Price Index. On December 12, 2014, the Bureau of Ocean Energy Management finalized their rule, increasing the liability cap from \$75 million to \$133.65 million, the most allowable under OPA.

Monroe County would like to see additional changes to OPA and other associated laws to ensure that the Oil Spill Liability Trust Fund is capable of addressing Spills of National Significance where there is no financially viable or legally responsible party, and that local governments may act as first responders in an effort to protect communities and be reimbursed for actions undertaken to protect resources and restore damaged areas during oil spill events.



RECOMMENDED POSITION: **Support** revisions to the Oil Pollution Act of 1990 and other associated laws to ensure that local governments may act as first responders in an effort to protect local communities, and be reimbursed for their actions undertaken to protect their resources and restore damaged areas during oil spill events, and the Oil Spill Liability Trust Fund is capable of addressing Spills of National Significance where there is no financially viable or legally responsible party.



FEDERAL ISSUE: Property Assessed Clean Energy Legislation and Guidance

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: Property Assessed Clean Energy (PACE) programs aim to support energy efficiency and clean energy, and in Florida wind resistance, investments by homeowners and commercial property owners. This eliminates the upfront cost barriers of those investments and ensures that current and future property owners fairly share the costs and benefits of the improvements.

PACE is a financing tool that allows a home or property owner to receive low-interest financing for energy efficiency, renewable energy and wind resistance improvements, thereby saving that property owner money on their utility bills. PACE financing is repaid through a voluntary long-term assessment on a homeowner's property taxes over a longer time period that matches the useful life of those improvements. If a property owner sells their property, the repayment obligation, as well as the benefits of the energy improvements, can transfer to the next property owner.

In 2010, Fannie Mae and Freddie Mac raised concerns due to the senior lien status PACE financing takes over a mortgage as a local government assessment. Because Fannie and Freddie underwrite nearly ninety percent of new mortgages, this slowed the development of PACE programs. During that time, numerous PACE programs did develop and grow and currently over \$1 Billion of PACE projects have been completed across the country. In August of 2015, the Administration announced an effort to create guidelines for PACE programs. Under new guidance, which is anticipated to be released spring of 2016, PACE financing maybe subordinated in some limited cases; and those properties with subordinated PACE financing will be able to be purchased and refinanced with a federally-backed mortgage from Fannie Mae and Freddie Mac. Other guidelines are anticipated to address consumer protection issues.

Florida's PACE statute is unique in that it includes wind resistance improvements in terms of what can be financed in a PACE program. Recently, the State of Alabama passed similar state legislation that includes flood mitigation in the types of improvements that PACE programs can undertake. Monroe County supports such an expansion of PACE in Florida.

RECOMMENDED POSITION: *Support* legislation and guidelines that would allow for the creation of residential and commercial PACE programs in Monroe County to finance a number of home and commercial property improvement projects including energy efficiency, flood mitigation, or hurricane protection.



FEDERAL ISSUE: Continuum of Care Program – Federal Homeless Assistance

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: 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. The HEARTH Act updated and expanded the definition of homelessness and made changes to existing programs under McKinney-Vento. Also under the HEARTH Act, three previously separate HUD homeless assistance programs - the Supportive Housing Program (SHP), Shelter Plus Care program (S+C), and the Single Room Occupancy (SRO) program - were grouped under the umbrella of the Continuum of Care (CoC) program.

The CoC program provides competitive grant funding to local governments and non-profits. It 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 skills 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, as well as providing rental assistance for the residents that occupy those units.

Under the HEARTH Act, HUD added 12 new eligible activities for funding under the 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 six 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 Monroe County Continuum of Care is the lead agency designated by HUD and the State of Florida for coordinating and planning homeless services in the Florida Keys. The CoC organizes the



collaboration of local agencies, including Monroe County Social Services and the Monroe County School District, to provide critical supportive services for the homeless.

The CoC competitive grants are funded through the Homeless Assistance Grants account for HUD. In Fiscal Year (FY) 2015, Congress provided \$2.135 billion in the omnibus appropriations bill for Homeless Assistance Grants. 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: Older Americans Act Programs

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: Most federal programs that exist for the delivery of social and nutritional services for the elderly in Monroe County emanate from the Older Americans Act (OAA). These include supportive services, congregate nutrition services (meals served at group sites such as senior centers, schools, churches, or senior housing complexes), home-delivered nutrition services, family caregiver support, community service employment, and services to support the health, and prevent the abuse, neglect, and exploitation, of older persons.

The majority of the funding for OAA grant programs goes through the Department of Health and Human Services' Administration for Community Living (ACL), which provides formula funds directly to state and local agencies that deliver services to the elderly. The ACL also offers some competitive opportunities. For Monroe County, most of the funds are obligated to the Alliance for Aging, Inc. from the Florida Department of Elderly Affairs.

The federal government provides some flexibility for spending allocated OAA funds in areas where there is a greater need. These services are available to all persons aged 60 and older, but are targeted to those with the greatest economic or social need, particularly low-income and minority persons and the elderly who live in rural areas.

During a time when funding for many federal domestic programs has been significantly reduced, appropriations provided for the ACL have remained relatively stable. Between Fiscal Years (FY) 2013-2015, funding for the ACL was \$1.47 billion, \$1.61 billion, and \$1.62 billion, respectively. For FY 2016, the Administration proposed a slight increase to \$2.1 billion for the ACL and its programs. Congress, however, provided \$1.96 billion for the ACL in the FY 2016 omnibus.

Though the OAA's authorization expired in FY 2011, Congress has continued to provide funding for these programs through annual appropriations. In July of 2015, Senator Lamar Alexander (R-TN), Chairman of the Senate Health, Education, Labor and Pensions Subcommittee on Primary Health and Aging, reintroduced legislation to reauthorize the OAA. The Older Americans Act Reauthorization Act of 2015 (S.192) is a bipartisan effort with Senator Bernie Sanders (I-VT) and has 25 other cosponsors. It is awaiting consideration at the committee level.

RECOMMENDED POSITION: *Support* continued adequate annual funding for Older Americans Act programs that support critical social service programs serving elderly persons in Monroe County.



FEDERAL ISSUE: Social Services Block Grant

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: The Social Services Block Grant (SSBG) is a federal program administered by the U.S. Department of Health and Human Service's Administration for Children and Families that provides funding to the states for social services for eligible populations. The program is permanently authorized under the Social Security Act.

States have broad discretion over how to utilize the funds, but SSBG is generally used to meet at least one of the following goals: 1) achieving or maintaining economic self-support; 2) achieving or maintaining personal self-sufficiency; 3) preventing or remedying neglect; 4) preventing or reducing inappropriate institutional care by providing for community-based care; and 5) securing referral or admission for institutional care when other forms of care are not appropriate. Services may include daycare, protective services, services to persons with disabilities, foster care, adoption, case management, health-related services, transportation, meal delivery, or any other services found necessary by the state that meets eligible criteria.

In Fiscal Year (FY) 2015, the state of Florida received an SSBG allocation of just over \$96 million, distributed over four quarters. Meanwhile, for the first quarter of FY 2016, the state of Florida received just over \$19 million.

The SSBG program has seen stable funding over the past several years. It was funded at \$1.7 billion in FY 2015. The Administration proposed level funding for the program in its FY 2016 budget request, which was also ultimately granted by Congress in the FY 2016 omnibus.

RECOMMENDED POSITION: *Support* continued adequate funding for the Social Services Block Grant program.



FEDERAL ISSUE: Mental Health Care

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: It is estimated that more than 50 million Americans experience some form of mental illness each year, with 11 million considered severely mentally ill. Millions of those who suffer (approximately 40 percent), however, are not able to access the treatment they need. Even when care is delivered, it is often delayed for more than two years after the illness first appears.

There has been a renewed interest in mental health care over the past several years. The Patient Protection and Affordable Care Act (ACA, also known as “Obamacare”) included significant reforms to mental health coverage. Specifically, the legislation named mental health treatment as an essential health benefit that insurance plans are required to cover. While most large-group plans previously offered some kind of mental health benefits, only 18 percent of small-group and individual plans covered mental health. Furthermore, it is estimated that the Medicaid expansion under the ACA has provided as many as 2.8 million people who suffer from a serious mental illness with coverage.

In addition to these provisions, the Administration has begun to implement the 2008 Mental Health Parity and Addiction Equity Act, which requires insurers to cover mental health at a level that is comparable to their physical health coverage.

Despite these recent efforts, more can be done to address mental health care. In Congress, Rep. Tim Murphy (R-PA) introduced the Helping Families in Mental Health Crisis Act (H.R. 2646), which would reorient the mental health system from its focus on serving the largest number of highest functioning patients towards providing treatment for the most seriously mentally ill instead. Specific initiatives within the legislation include: replacing the Substance Abuse and Mental Health Services Administration (SAMHSA) with an Assistant Secretary for Mental Health within the Department of Health and Human Services, lifting a 16-bed cap on inpatient psychiatric hospital beds under Medicaid, advancing tele-psychiatry to link primary care doctors with mental health providers in areas where patients do not have access to such services, increasing funding for brain research to better understand the underlying causes of mental illness, extending health IT so mental health providers can better coordinate with primary care physicians, and implementing criminal justice reforms so patients are treated within the healthcare system and not through the justice system, among several other provisions.

There are some concerns, however, relating to several controversial provisions within H.R. 2646, including those that would make it easier to require people with severe mental illness to seek treatment against their will, provide families members with access to the mentally ill individual’s medical records, and essentially eliminate SAMHSA. Despite these concerns, H.R. 2646 has 168 bipartisan cosponsors.

Meanwhile, Sens. Bill Cassidy (R-LA) and John Thune (R-SD) have both introduced similar bills in the Senate – the Mental Health Reform Act of 2015 (S. 1945) and the Family Health Care Accessibility Act of 2015 (S. 2151), respectively.

In January 2016, President Obama issued several executive actions related to gun control and mental health. As part of that announcement, President Obama requested \$500 million from Congress in his FY 2017 budget request to increase access to mental health services.



Lastly, as part of the effort by Congress to pass criminal justice reform, the Comprehensive Justice and Mental Health Act of 2015 (S.993/H.R. 1854) was introduced in the House and Senate. This bill would reauthorize and update the Mentally Ill Offender Treatment and Crime Reduction Act to help facilitate collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems to ensure those with mental illness receive the care they need. The Senate unanimously passed S. 993 in December 2015 and the House Judiciary Committee approved H.R. 1854 in January 2016. It has not yet been passed by the full House, but generally has bipartisan support.

RECOMMENDED POSITION: **Support** legislation that responsibly expands treatment options and support for the mentally ill.



FEDERAL ISSUE: Public Safety Programs

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: 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. Examples of these formula programs include the Emergency Management Performance Grant (EMPG) and the Byrne Justice Assistance Grant (JAG).

In other instances, funding from federal programs is made available to local governments via competitive grant solicitations. Competitive 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 certain recipients based on specific 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.

Monroe County has benefited from several of these federal programs in the past, while other programs offer competitive grant opportunities from which the County may seek funds.

In FY 2015, Congress provided 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. EMPG, meanwhile, received \$350 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, UASI, and EMPG. For FY 2016, the Administration has suggested funding the program at \$2.2 billion.

Congress, however, again rejected this proposal and provided both AFG and SAFER with \$345 million each, while EMPG was funded at \$350 million and UASI at \$600 million. Meanwhile, the COPS program received \$187 million and JAG received \$476 million.

Emergency Operations Center

Meanwhile, the Monroe County Emergency Operations Center (EOC) in Marathon is woefully inadequate for the threats that natural events pose to the Florida Keys. A new facility will cost roughly \$25 million. \$100 million in federal funding for the construction of EOC's was provided via the stimulus legislation of President Obama's first term. However, since then, Congress has not provided additional funding for the construction of EOC's and potentially applicable grant programs will not allow applications for EOC construction, making securing federal funding for the construction of an EOC difficult in the near-term.

RECOMMENDED POSITION: *Support* continued funding for the wide variety of DOJ and DHS grants, i.e., Community Oriented Policing Services, Byrne Justice Assistance Grants, Emergency Management Preparedness Grants, Assistance to Firefighters Grants, Staffing for Adequate Fire and Emergency



VAN SCOYOC
ASSOCIATES

Response Grants, Urban Areas Security Initiative grants, and other security-specific grants. **Support** any Monroe County applications for these funds. **Support** federal funding for the construction of Emergency Operations Centers.



FEDERAL ISSUE: Tourist Development Taxes

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: 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 Monroe County 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 2009, Monroe County filed an action on behalf of itself and 32 other Florida local governments against a number of online travel companies alleging that the companies have failed to collect and/or pay taxes under the respective tourist development tax ordinances. Monroe County and its partners in the lawsuit 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 cited that Florida law is not clear on the issue, while a Circuit Court Judge ruled more directly that the online travel broker only owes 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 September of 2012, the District of Columbia government won a suit where a judge ruled that online companies (OTCs) 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 February of 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.

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 seeking 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 passed the Senate without this language.

In 2014, Monroe County collected \$31 million in tourist development taxes, which are used to support the tourism industry in the region. The County saw an increase of 12.2 percent in bed tax revenues and leads the state in occupancy and average daily rates for most of the year. This level of funding underscores the importance of tourist development tax revenue 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 Monroe County the opportunity to collect appropriate tourist development taxes from visitors to the region.



FEDERAL ISSUE: Remote Sales-Tax Legislation

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: Currently, 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 are at a competitive disadvantage because they must collect sales taxes while out-of-state retailers, including many large online and catalog retailers, essentially give 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 Association of Counties. 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 significant 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.

The issue reemerged in the 114th Congress. House Judiciary Committee Chairman Bob Goodlatte (R-VA) and Rep. Anna Eshoo (D-CA) circulated a discussion draft in January 2015 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 January of 2016.

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: Tax-Exempt Bonds

BACKGROUND: HOW IT MAY AFFECT MONROE COUNTY: Although municipal bonds have been tax-exempt for almost 100 years, a number of federal proposals 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 County 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 County 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 the 30 years could be roughly \$30 million.

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. 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. 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. 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.

In March 2105, 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.

For Monroe County, concerns with these proposals center around future borrowing, as borrowing costs may increase dramatically if tax reform legislation includes provisions related to the treatment of tax exempt bonds. The County's existing loans, however, will not be directly impacted under these legislative proposals.

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.