



January 5, 2022

“Build Back Better Act” Stalls In Senate – Congress in Recess

As previously reported, in late November the House passed the \$1.9T Build Back Better (BBB) bill in partisan fashion. It was not acted on in the Senate by the end of the year and Congress is now in recess.

On Dec. 16, the Senate Environment and Public Works Committee released its title to the Senate’s version (whatever that becomes) of the BBB. In addition to the authorized funding from the Bipartisan Infrastructure Framework (BIF), this measure includes \$9B for SDWSRF-funded lead remediation projects, \$225M for rural and low-income water assistance grants, \$125M for Alternative Water Source Program grants, and \$500M for sewer overflow and storm water reuse municipal grants.

Highlights of the Senate Finance proposed tax title are enclosed in the attached report from Key Advocates. Although not “infrastructure” in nature, these proposed tax provisions may be of interest to your members from a corporate perspective.

Bipartisan Infrastructure Framework: Summary of 2022 Environmental Protection Agency State Revolving Funds (SRFs) by States, Tribes, and Territories

We reported last month that EPA Administrator Regan issued notice ([here](#)) to all states laying the groundwork for next steps with BIF funding for specific programs. National program guidance from the EPA’s Office of Water to state primacy agencies for the use of water infrastructure funding through the BIF is pending. We await this guidance and will report once available.

Included in this letter are estimated 2022 state allotments of BIF funds through the SRFs – significant resources that we know will go a long way toward achieving our shared goals. The enclosure summarizes the first-year allotment of nearly \$44 billion in total SRF funding that will be provided to states, tribes, and territories over the next five years through the BIF.

We recommend you review these estimates and begin engaging your partners in state government NOW to ensure that this funding is distributed in an efficient manner on behalf of your organizations. Capacity challenges to get this money spent are to be expected and can be mitigated with proactive engagement.

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NEW CWCC CONTRIBUTION STRUCTURE

The new CWCC contribution structure is now in effect. We appreciate everyone’s attention and review as we seek to fairly distribute the financial burden of this initiative and formalize the contribution structure for future sustainability and growth.

<u>2022 # of Members</u>	<u>Contribution Amount</u>
Up to 50 Members	\$1,500.00
50 - 100 Members	\$3,000.00
100 - 150 Members	\$5,000.00
150 - 200 Members	\$7,000.00
200 Members and Above	\$8,000.00

100% of this contribution goes to Key Advocates (Sante and Brian Esposito) to support the contract we have with them. We have already resolved some niche issues related to this new structure and will continue to work with any member who has nuanced issues that need to be resolved. We will ask you to affirm your members numbers so we can invoice you appropriately in the coming weeks.

KEY ADVOCATES REPORT

Included with this notice is Key Advocates recent report which is current to December 30, 2021.



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January 2022 Insights

BBB- Senate Consideration

As you are aware from all the press reports, Congress is in recess, having adjourned without Senate action on the BBB. The reasons – Senator Manchin is opposed to the bill because of its impact on the deficit and inflation and because of the inclusion of various programs such as paid family and sick leave, child care credit, climate control, energy incentives and various tax increases, all included in the House-passed bill; Senator Sinema is opposed but has not revealed her specific concerns (except, she says, to the President); and Senator Sanders wants more for various social services programs. The support of all three is critical as the Democrats need 50 votes for passage (with no Republicans indicating support). Notwithstanding the reports that the bill is dead, the President still believes a deal can be struck and discussions/negotiations are ongoing.

On Dec. 16, the Senate Environment and Public Works Committee released its title to the Senate's version (whatever that becomes) of the BBB. Included are \$9B for SDWSRF-funded lead remediation projects, \$225M for rural and low-income water assistance grants, \$125M for Alternative Water Source Program grants, and \$500M for sewer overflow and storm water reuse municipal grants.

Highlights of the Senate Finance proposed tax title are:

State and Local Deductions

One thing that is **not** in the Senate version is any change in the current (through 2025) cap on itemized deductions of state and local taxes under Sec. 164(b). The House version would increase the current \$10,000 limit to \$80,000 (\$40,000 for married taxpayers filing separately and trusts and estates).

Corporate minimum tax

Like the House version, the Senate text includes a 15% minimum tax on profits of large corporations. Corporations (other than S corporations, regulated investment companies, or real estate investment trusts) with more than \$1 billion in average annual adjusted financial statement income for the three-tax-year period ending with the tax year would be liable for a tax of 15% of adjusted financial statement income for the tax year (over the corporate adjusted minimum tax foreign tax credit for the tax year).

Child tax credit

Also like the House version, the Senate text extends the 2021 expansion of the child tax credit through 2022 and also extends advance payments of the credit monthly through 2022. It also would extend the greater refundability of the credit beyond 2022.

Earned income tax credit

The Senate text, like the House bill, includes an extension of the 2021 changes to the earned income tax credit through 2022. The increase in the earned income and phase-out amounts would be indexed for inflation in 2022.

High-income taxpayers

Like the House version, the Senate bill would impose an income threshold that curtails some tax benefits and imposes new tax liabilities on income above those amounts.

Small business stock: The legislation also would modify Sec. 1202, which provides a gain exclusion for stock of qualified small businesses if held for more than five years, by disallowing 75% and 100% exclusions for taxpayers with adjusted gross income (AGI) over \$400,000 or for trusts or estates.

Net investment income tax: The bill would expand the reach of the Sec. 1411 net investment income subject to a surtax of 3.8% of certain high-income taxpayers (taxable income over \$400,000 for single filers and \$500,000 for married couples filing jointly) to include income derived in the ordinary course of a trade or business.

Surcharge on high-income individuals, estates, and trusts: A new Code Sec. 1A would impose a tax on modified AGI over \$10M of 5% for individuals (\$5 million for married taxpayers filing separately) and \$200,000 for an estate or trust, plus 3% of modified AGI over \$25 million for individuals (\$12.5 million for married taxpayers filing separately) and \$500,000 for an estate or trust.

International tax provisions

Several provisions would affect international business transactions and entity structures. They include modifications to Sec. 245A regarding the deduction for foreign-source portions of dividends, a limitation under Sec. 954(d) on foreign base company sales and services income, and a range of provisions concerning inbound transactions, such as modifications to the Sec. 59A base-erosion and anti-abuse (BEAT) tax.

Green energy incentives

As part of its incentives for renewable and cleaner energy and fuel sources and transportation and to reduce carbon emissions, the bill would provide a wide variety of new or extended production and investment credits and depreciation allowances.

BBB – House-Passed “Build Back Better Act”

On November 19, the House passed the \$1.9T BBB bill by a vote of 220-213 with all Republicans and one Democrat voting against sending the bill to the Senate. Issues of interest:

- \$30B for Safe Drinking Water SRF lead service line replacement projects;
- \$100M for state public water systems;
- \$700M to reduce lead in school drinking water;
- \$100M for large scale water recycling projects;
- \$1.15B for emergency drought relief;
- \$125M for Alternative Water Source Program grants;
- \$2B for sewer overflow and storm water reuse grants.
- \$4B for reduction of carbon in the surface transportation sector;
- \$4B for affordable and safe transportation access; and;
- \$6B for local surface transportation projects.

These are the same programs and the same funding amounts that were in the original BBB bill. No funding for the Clean Water SRF is included (there is in BIF). It does include new taxes.

BIF – “Infrastructure Investment and Jobs Act”

On November 15, the President signed into law (P.L. 117-58) the BIF, the core infrastructure bill totaling \$1.2T, of which \$550B is new spending and the balance from program offsets and user fees. It does not include any new taxes. The focus now is implementation of the new law. The following programs will be monitored: EPA’s Clean Water SRF (state allocations have already been announced), the Safe Drinking Water SRF, and the State and Tribal Assistance grants, and USBR’s Title XVI grant programs. Issues in the new law of interest to the Coalition:

For FY22-26 \$12.838B for the Clean Water State SRF, starting at \$2.127B in FY22 and going up to \$2.828B in FY26;

\$35.713B over five years for the Safe Drinking Water SRF, starting at \$6.702B in FY22 and going up to \$7.403B in FY26;

No appropriations are included for the Alternative Water Source Projects program (an authorization of \$125M over 5 fiscal years is included);

\$8.3B for the USBR for FY22-26 with an annual cap of \$1.66B per year including a number of programs under USBR’s jurisdiction with specific appropriated amounts but without specifying annual funding amounts for each program;

For water recycling, the bill appropriates \$1B over 5 FY’s, broken down to \$550M for Title XVI and WIIN Act grants and \$450M for “large scale” projects (those with project costs >\$500M);

\$400M over 5 FY’s for WaterSMART;

\$1.2B for water storage and groundwater;

\$25M for desalination; and,

S. 914, as passed by the Senate, which authorizes \$14.65B over five fiscal years for the Clean Water SRF and the Safe Drinking Water SRF, and \$125M for the AWSP and which includes the Feinstein-Padilla amendment which limits the prohibition against applying for Alternative Water Source Program (AWSP) grants to USBR projects that received construction funds; and,

Other core infrastructure -

- \$65B for Broadband
- \$17B for Ports
- \$25B for Airports
- \$7.5B for Zero and Low-Emission Buses and Ferries
- \$7.5B for Plug-In Electric Vehicle Chargers
- \$65B to Rebuild the Electric Grid
- \$21B for Superfund and Brownfield sites

Highway Bill (FAST Act reauthorization)

The Senate FAST Act reauthorization bill is included in the enacted BIF. It authorizes \$287B in highway spending, 90- percent of which would be distributed to the states by formula. It also authorizes \$10.8B for various programs addressing resiliency and \$2.5B for electric, hydrogen, and natural gas vehicle charging and fueling stations. It provides billions for curbing emissions, reducing congestion and truck idling. It also streamlines infrastructure permitting and sets a two-

year target for environmental reviews. Lastly, the bill authorizes \$12.5M per year to fund state and regional pilot testing of user-based alternative revenue mechanisms to the gas tax.

Bills of Interest

Note: all of the following bills have some policy issues which were not addressed in the bipartisan infrastructure law and the House-passed BBB. Primary program issues of interest addressed in some of the bills below (H.R. 1015, H.R. 3404, STREAM Act) include raising the Federal share project cap from \$20 to \$30 M, removing the congressional approval process requirement, and providing opportunities for unauthorized projects to compete for both traditional Title XVI and Title XVI WIIN grants. Will continue to advocate for action on these separate and apart from the BIF and BBB efforts.

H.R. 1015, “Water Recycling Investment and Improvement Act” and STREAM Act (“Support to Rehydrate the Environment, Agriculture and Municipalities Act”)

One of the main purposes of Congresswoman Napolitano’s H.R. 1015 is to authorize \$500M for WIIN Act grants. As the BIF appropriates \$550M for Title XVI and WIIN, not sure Napolitano will pursue her bill if that is the outcome of the infrastructure bill. Likewise, for the STREAM Act which provides a \$250M authorization. To review, on February 11, Congresswoman Napolitano introduced H.R.1015, the same bill she introduced last Congress. It increases the WIIN Act authorization to \$500M, strikes certain requirements, and increases the Federal share from \$20M to \$30M.

The STREAM Act draft by Senator Feinstein authorizes the WIIN grant program at \$250M over 5 fiscal years, increases the Federal share to \$30M, eliminates the requirement that Congress must approve funding awards for specific projects by designating them in an enacted appropriations bill, establishes a new Reclamation Infrastructure Finance Program, expedites congressional approval for water shortage projects of \$750 million, and authorizes \$100 million for desalination projects.

S. 914, “Drinking and Wastewater Infrastructure Act” and H.R. 1915, “Water Quality Protection and Job Creation Act of 2021”

S. 914, as passed by the Senate, authorizes \$14.65B over five fiscal years for the Clean Water SRF and the Safe Drinking Water SRF, and \$125M for the AWSP and includes the Feinstein-Padilla amendment which limits the prohibition against applying for Alternative Water Source Program (AWSP) grants to USBR projects that received construction funds.

On July 1, the House passed H.R. 3684, the “INVEST in America Act” - the House version of the highway bill. Included is H.R. 1915 which authorizes \$40B over five fiscal years for the Clean Water SRF, \$52.94B over ten years for the Safe Drinking Water SRF, and \$1B for the AWSP. It also includes the same prohibition language as S. 941 regarding eligibility for recycled water projects in the AWSP.

H.R. 3404, “FUTURE Western Water Infrastructure and Drought Resiliency Act”

Again, one of the main purposes of Congressman Huffman’s H.R 3404 is to authorize \$500M for the WIIN Act grant program. Per above, that has been addressed in BIF. To review, H.R. 3404, introduced on May 21, also increases the Federal share to \$30M and authorizes a new \$300M water trust fund with \$100M earmarked for recycled water projects.

H.R. 4099, the “Large Scale Water Recycling Project Investment Act”

The BIF appropriates \$450M for large water recycling projects. To review, on June 24, Reps. Napolitano, Grijalva, Huffman and Lee introduced H.R. 4099 which authorizes \$750M for FY23-27 for a competitive grant program within the Department of the Interior for large-scale water recycling projects that have a total estimated cost of at least \$500M. Federal share is 25% but there is provision for increasing that. Projects must be within one of the USBR 17 western states.

On July 14, the Senate Energy and Natural Resources Committee marked up its title to the infrastructure bill that authorizes \$1B for water recycling and reuse projects, of which \$550M is for projects authorized by Congress or selected for funding under the Title XVI WIIN grant program, and \$450M is for large-scale recycling and reuse projects (total estimated cost of \$500M or more, 25 percent Federal cost share, no total dollar cap); \$400M for WaterSMART grants; \$1.15B for water storage, groundwater storage and conveyance projects; \$3.2B for aging water infrastructure; \$1B for rural water projects; \$250M for water desalination projects; \$500M for dam safety programs; \$300M for implementing the Colorado River Basin Drought Plan; \$100M for watershed management projects; \$250M for aquatic ecosystems; \$100M for multi-benefit projects; and, \$50M for endangered species programs.

FY22 Appropriations/Earmarks Generally

A Continuing Resolution is funding the government at current levels until February 18, thereby avoiding a government shutdown on October 1 and allowing time for completion of individual FY22 appropriations bills. All bills are currently in conference.

FY22 “Water” Appropriations Bills

The House passed its FY22 Interior and Energy and Water Appropriations Bills which provide \$1.871B for the Clean Water SRF, \$1.358B for the Safe Drinking Water SRF, \$63.617M for Title XVI grants, of which \$10M is for Title XVI WIIN grants and \$75M for WaterSMART grants.

Included in the Senate announced Interior and Energy and Water bills is \$1.689B for the CWSRF, \$1.176B for the SDWSRF, \$32M for Title XVI grants, of which \$20M is for WIIN grants and \$48M for WaterSMART grants.

FY22 Transportation Appropriations Bills

The House passed its FY22 Transportation Appropriations Bill which includes \$1.2B for National Infrastructure Investment Grants, \$61.9B for state highway formula programs, \$625M for passenger rail, \$2.7B for Amtrak, and \$15.5B for transit.

Included in the Senate announced bill is \$1B for National Infrastructure Investment Grants, \$56.9B for state highway formula programs, \$552.6M for passenger rail, \$2.7B for Amtrak, and \$13.5B for transit.

Bill Tracking

Tracking bills that are marked up by committees and/or come to our attention.