



# Information Alert

*State-Federal Relations Division*

## **Congress Passes 2020 Water Resources Development Act**

Dec. 21, 2020

As part of the fiscal year 2021 [omnibus appropriations bill](#), Congress passed the Water Resources Development Act of 2020 (WRDA), 359-53 in the House and 92-6 in the Senate. The bipartisan bill is a compromise measure negotiated between [House](#) and [Senate](#) lawmakers based on each chambers' own version. WRDA, a biennially authorized bill, plays a key role in protecting, maintaining, and further developing our nation's water infrastructure systems including, ports, waterways and historically clean and safe drinking water. Its passage provides states with added stability and certainty to meet certain water transportation infrastructure needs while also supporting the safety, environmental protection, and economic development of communities across the nation. Unfortunately, WRDA 2020 did not include provisions authorizing funding and financing opportunities to undertake clean and safe drinking water infrastructure projects.

### **Infrastructure Provisions**

Overall, WRDA authorizes \$9.9 billion in federal funds for 27 feasibility studies for potential infrastructure projects, and the construction of 46 U.S. Army Corps of Engineers projects related to navigation, flood, hurricane and storm damage reduction, coastal protection, and ecosystem restoration. The bill also deauthorizes roughly \$10 billion in other Corps projects that are no longer viable for construction, while requiring the Corps to review the economic and environmental impacts of previously authorized projects before they may be carried out. The bill would also allow for the Corps to calculate the cost and benefits of sea-level rise on projects and requires the consideration, when requested, whether the need for the project is based upon or exacerbated by circumstances related to rising sea-levels.

The bill also authorizes additional port and harbor infrastructure spending using the Harbor Maintenance Trust Fund's (HMTF) balance by \$500 million next year and increasing thereafter over the next decade for such projects to give the Corps adequate time to draw down the trust fund balance. The balance had built up to more than \$9 billion after years of revenues exceeding its expenditures on port and harbor projects. This change is in addition to a provision contained in [the CARES Act](#), which partially unlocked HMTF annual expenditure allotments by exempting the fund's annual revenues, [approximately](#) \$1.6 billion in FY 2019, from the discretionary

spending caps established via the [Budget Control Act](#). NCSL has long advocated for full use of the HMTF's accumulated harbor tax receipts for its intended use. Federal resources for inland waterways projects are increased as the bill will lower the funding cost share for the Inland Waterways Trust Fund from 50% to 35%, and increase the costs from general federal revenue for those projects from 50% to 65%; such a shift in cost share will boost the number of projects that can be funded annually. The Corps is directed to undertake several projects to address repeated flooding events, and to address environmental justice-related issues. Specifically related to environmental justice, the bill not only directs the Corps to define "economically-disadvantaged community," but also directs them to complete a review on its consultation processes with minority and tribal communities, and also gives the Corps additional flexibility to address the water resources needs of economically disadvantaged communities, communities of color and rural communities.

### **Invasive Species**

In addition to the provisions concerning water transportation infrastructure, the bill also directs the Corps to manage invasive species. The Corps is required to update its Invasive Species Guidance based on the most recent National Invasive Species Council Management Plan. The bill expands a program to slow the spread of the Asian Carp beyond the Upper Mississippi and Ohio River Basins, and tributaries to all sub-basins of the Mississippi River while also establishing a new pilot program to manage and prevent the spread of Asian carp in the Cumberland and Tennessee Rivers. The U.S. Fish and Wildlife Service is also authorized to provide additional assistance to states to implement measures to eradicate the species. At the 2019 Legislative Summit, NCSL passed a [policy resolution](#) aimed at addressing the issue of Asian carp in the Mississippi River Basin and its tributaries, and [advocated](#) for the inclusion of such language.

WRDA omits drinking water and clean water provisions that have historically been a component of authorizations – NCSL will continue to work with Congress to ensure vital drinking water and clean water programs such as the Clean Water and Drinking Water State Revolving Funds, are addressed in the 117th Congress.

NCSL's advocacy included letters to both the House and Senate—the [first](#) with other state and local government stakeholders, and the [second](#) with NCSL-specific issues. For more information on the bill, please read the [section-by-section analysis](#) or contact NCSL staff [Kristen Hildreth](#) or [Ben Husch](#).