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WaterLog is providing commentary on the WRDA 2024 Section by Section Analysis produced by Warwick Group Consultants, which can be found [here](#). As noted in the introductory paragraph, we believe the brevity offered in the published section by section is misleading and hides key points contained in each provision. WaterLog strives to provide clarity on federal legislation affecting the coast, and we hope our analysis here benefits you and your organization.

Note that the use of the term Secretary refers to the Secretary of the USACE, Civil Works.

For further inquiries about specific provision, please contact us.

Sec. 1101. Outreach and access

This section designates a point of contact at each Corps district and division to disseminate information to potential non-federal project sponsors that informs them of operations, maintenance, repair, replacement, and rehabilitation responsibilities associated with partnering in a federal water resources project.

Sec. 1103. Vertical integration and acceleration of studies

This section modifies the Corps' 3x3x3 process as stated in WRDA 2014 to 5x4x3, increasing the total cost limit of studies to \$5,000,000 from \$3,000,000 and increasing the allotted completion time from 3 years to 4 years. *While we recognize that labor and study costs have increased, the reason for requiring additional time is unclear. Since 2014, 3 years has been the benchmark, and districts had to apply for exceptions to exceed 3 years.*

Sec. 1104. Minimum real estate interest

This section directs the Secretary to identify and utilize the minimum real estate interest required for authorized water resources development projects and report back to Congress when the Secretary requires the use of fee simple title, where the non-Federal interest requested the use of something less than fee simple title. This is the first of two sections in this legislation seeking to deal with situations where property owners are unwilling to give up the type of easement the Corps normally requires. See also Sec. 1145 below.

Sec. 1107. Continuing authority programs

This section authorizes a pilot program for up to 25 projects to allow a non-Federal interest to carry out a Continuing Authorities Project (CAP) using an "alternative delivery method" which is defined

as a method that is not the traditional design-bid-build method. The cost share for such a project remains the same as the applicable CAP program, except that the non-Federal interest can contribute more than its required share and that additional amount will be considered as a return on Federal investment and used to calculate an alternative benefit-cost analysis. The project can also combine study and construction phases. This section also includes provisions for reimbursement for projects carried out under the pilot program if the non-Federal interest contributes all or a portion of the Federal share in advance. *This section also increases the per project and total authorized amounts for the following several CAP programs including Section 103, Small Shoreline Projects; Section 111, Shore Damage Prevention or Mitigation; and Section 204, Regional Sediment Management.*

Sec. 1109 and 1110. Study and Construction of water resources development projects by non-Federal interests

These sections amend Section 203 and 204 of WRDA 1986 to make it easier for a non-Federal interest to study and construct water resources projects. They also enables a non-Federal interest to propose carrying out modifications to a project that has been previously constructed. They include a provision that requires the Corps to provide guidance to the non-Federal interest on obtaining Corps assistance for elements of a feasibility study that “may be considered inherently governmental and required to be done by a Federal agency.”

Sec. 1111. Annual report to Congress

This section requires the Secretary of the Army for Civil Works to notify non-Federal interests if their submission was not included in the Secretary’s annual 7001 report to Congress and to notify relevant Congressional delegations of the requests that were included in that report or its appendix.

Sec. 1130. Maximization of beneficial use

Amends the beneficial use pilot program authorized by Section 1122 of the Water Resources Development Act of 2022 to codify, to the greatest extent practicable, that the Secretary ensures not less than 70 percent by tonnage of suitable USACE dredged material is reused beneficially. Also expands the Section 204 CAP program to include within its purposes “rehabilitation of projects, including projects for the beneficial use of dredged materials described in section 1122 of WRDA 2016.

Sec. 1139. Ability to pay

Section 103 of WRDA86 requires all cost-sharing agreements to be subject to the non-federal interest’s ability to pay. This section of WRDA24 clarifies that a non-Federal interest’s ability to pay shall be assessed by factors such as per capita income, the financial capabilities of the non-Federal interest, per capita construction cost, the extent to which the non-Federal interest is economically disadvantaged, and other appropriate criteria that bear upon the non-Federal interest’s ability to carry out its cost-sharing responsibilities.

Sec. 1145. Easements for hurricane and storm damage reduction projects

This section authorizes something less than a perpetual easement for hurricane and storm damage reduction projects under certain conditions including a warning to those who provide a less than perpetual easement that when the term of such easement expires the Corps will not be able to renourish or use emergency funds to repair the project with FCCE funds. It also directs more transparency in Corps documents that new projects will require a perpetual easement and states

that, to the maximum extent practicable, the Secretary shall request, identify and accept “the minimum real estate interests necessary to carry out the project” for hurricane and storm damage reduction. See Section 1104 above for further definition of such a minimum interest. Furthermore, it states that “It is the sense of Congress that...the minimum estate necessary for easements may not exceed the life of the project nor be less than 50 years.” This section also provides two years for certain authorized hurricane and storm damage reduction projects to come into compliance with the Corps’ real estate requirements. Those projects eligible for this grace period are all in Florida.

Sec. 1156. Sense of Congress relating to comprehensive benefits

This section includes a Sense of Congress that the Secretary should follow specific Corps’ guidance and policy directives to evaluate comprehensive benefits when developing feasibility studies. The 2021 guidance referred to in this section is limited and does not provide a tried-and-true methodology for comprehensively evaluating benefits.

Sec. 1201. Authorization of proposed feasibility studies

This section authorizes the Secretary to carry out more than 200 new feasibility studies including ones for storm risk management in San Diego and Orange Counties, California; Connecticut Shoreline, Connecticut; Hartford, Connecticut; Tybee Island, Georgia; Kaua’i, Hawaii; Maui, Hawaii; Maryland Beaches (Vicinity of Route 1), Maryland; Oak Bluffs, Massachusetts; Quincy, Massachusetts; Tisbury, Massachusetts; Sandwich (Town Neck Beach), Massachusetts; Ludington, Michigan; Marysville, Michigan; Brookhaven, New York; Oyster Bay, New York; Geneva-on-the-Lake, Ohio; Chickahominy River, James City, Virginia; and York River, York County, Virginia.

Sec. 1210. Oceanside, California

This section directs the Secretary to expedite completion of the Oceanside, California shoreline study and produce a recommended plan.

Sec. 1217. New Jersey hot spot erosion mitigation

This section directs the Corps to study erosion ‘hot spots’, or areas of concentrated erosion along coastal storm risk management projects in New Jersey, assess how these erosion hot spots affect the effectiveness of the projects, and provide recommendations to mitigate their impacts.

Sec. 1218. New Jersey Shore protection, New Jersey

This section modifies an existing study authority to include recommendations for ecosystem restoration.

Sec. 1237. Examination of reduction of microplastics

This section directs the Corps’ Engineer Research and Development Center, in consultation with other Federal agencies, to carry out research and development activities on efforts to reduce the release of microplastics into the environment during the construction of Corps projects by activities such as sandblasting or hydro-blasting by vessels owned or operated by the Corps.

Sec. 1241. Public-private partnership user’s guide

This section directs the Secretary to develop a public private partnership user’s guide, including a description of applicable authorities, lessons learned, and best practices. *This will be helpful guidance to private industry while also giving internal direction to the Corps on how to approach P3’s.*

Sec. 1244. GAO studies

This section directs the Comptroller General of the United States to initiate and complete 18 studies including reports on the accuracy of Corps project cost estimates, clauses in Project Partnership Agreements that have caused congressional concern including indemnification and responsibility for operation and maintenance; an analysis of the lifespan of different types of Corps projects; and ways to reduce the review time involved with Section 408 permits.

Sec. 1304. Environmental infrastructure

This section authorizes 192 new environmental infrastructure projects and modifies existing environmental infrastructure authorities.

Sec. 1310. San Francisco Bay, California

This section modifies the authorization for the San Francisco Bay project and adds the shorelines of Contra Costa and Solano counties to the boundaries of the project. It also directs the Secretary to evaluate measures to increase shoreline resiliency of the project as well as to consider the needs of economically disadvantaged communities within the study area.

Sec. 1336. Delaware Coastal System Program

This section modifies certain coastal storm risk management and hurricane and storm risk reduction projects in Delaware and designates those projects as the Delaware Coastal System Program. This provision enables several Delaware coastal projects for navigation and storm damage reduction to be managed as one project. *This should be the standard for all projects located in the same region.*

Sec. 1337. Delaware Inland Bays and Delaware Bay Coast Coastal Storm Risk Management Study

This section modifies the authority for the Delaware Inland Bays and Delaware Bay Coast Coastal Storm Risk Management study to allow the non-federal interest to have its cost share reduced to 10 percent given the fact that portions of these two projects are economically disadvantaged.

Sec. 1342. New York emergency shore restoration

This section authorizes emergency shore restoration assistance for certain projects in New York City where a storm has caused the project to cease being able to function for the purposes for which it was authorized.

Sec. 1362. Hopper dredge McFarland replacement

This section requires that any replacement vessel for the aging Federal hopper dredge McFarland be placed in the same ready reserve status as the McFarland.

Sec. 1401. Project authorizations

This section authorizes 21 projects for construction that have completed technical review by the Corps and are recommended by the Chief of Engineers. Included among these projects are the following projects for hurricane and storm damage reduction: District of Columbia, Washington, DC; Ponte Vedra, St. John County, Florida; Miami-Dade Back Bay, Dade County, Florida; South Shore Staten Island (Ft. Wadsworth to Oakwood Beach), Richmond, New York; Puerto Rico Storm Risk Management; and Rhode Island Coastline Coastal Storm Risk Management.

In addition to WRDA, the House passed the following coastal-related bills that we've been tracking—

- [H.R. 2672](#) – “To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for the authority to reimburse local governments or electric cooperatives for interest expenses”
- [H.R. 2892](#) – “To direct the Comptroller General of the United States to conduct a study on the effectiveness of local alerting systems”
- [H.R. 5863](#) – “To exclude from gross income, for income tax purposes, any amount received by an individual as a qualified wildfire relief payment” (Presented to the President)
- [H.R. 7671](#) – “To amend section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to incentivize States, Indian Tribes, and Territories to close disaster recovery projects by authorizing the use of excess funds for management costs for other disaster recovery projects”
- [H.R. 9541](#) – “To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize Federal agencies to provide certain essential assistance for hazard mitigation for electric utilities”
- [S. 310](#) – “To establish an advisory group to encourage and foster collaborative efforts among individuals and entities engaged in disaster recovery relating to debris removal, and for other purposes”

Of the 290 coastal-related bills we are tracking, 15 are still awaiting action on the House floor before the session ends on January 3rd and 20 more are awaiting Senate floor action. Just a small proportion of these have a chance of moving forward since the number of days when Congress will be in session limits how many of them will actually pass both chambers and be signed into law by the President. Next month's WaterLog will provide an update on other bills that are passed by both the House and Senate before they adjourned for the last time. A new Congress starts on January 3rd. In addition, a full list of the bills we track will be posted on the WaterLog website by the end of this year.

Disaster Relief

Proving how slow Congress can be in giving the Corps and other federal agencies the funds they need to respond to disasters, congressional leaders have been unable to come up with an agreement on the amount of money needed for relief of hurricanes Helene and Milton as well as the Maui fires, the collapse of the Francis Scott Key Bridge in Baltimore, as well as flooding and fires in other parts of the country. FEMA and the Small Business Administration are running out of money and the Corps has no money to respond to the disasters. The Biden administration requested \$98 billion but that figure seems too high. Whatever the agreed upon figure, it has to be attached to a temporary funding agreement to keep the federal government open until at least some as-yet-undecided date next year, probably in March. Stay tuned. We will post updates on the WaterLog LinkedIn site as they occur.

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