

Lame Duck Forecast for the 117th Congress

WRDA, FY 2023 Appropriations, and Revenue Sharing Legislation

NEAL MCMILLIN, DIRECTOR OF FEDERAL AFFAIRS



GOVERNOR'S
OFFICE OF
COASTAL
ACTIVITIES

Water Resources Development Act (WRDA) 2022

On October 11, the leadership of the Senate Armed Services Committee introduced the substitute amendment to the 2022 National Defense Authorization Act (NDAA) as a procedural measure to allow for debate and subsequent passage following the November elections.

The amendment included WRDA 2022.

The NDAA amendment included the Senate-passed version of WRDA to serve as a placeholder, until the compromise conferenced version is completed.

NDAA has passed for 62 years in a row. Inclusion in NDAA basically ensures passage.

This achievement would keep WRDA on a biannual cycle for the 5th Congress in a row.



Notable Louisiana Coastal Provisions Pending in WRDA 2022

Provision	House	Senate
Authorizations of Upper Barataria Basin & South Central Coastal	Included	Included
Loan Repayment Timing and Options for HSDRRS	Sec. 348 would extend the timeline for the third HSDRRS payment from 2023 to 2032.	Sec. 306 permits Louisiana to repay the remaining balance of the non-Federal cost share for HSDRRS by through fish and wildlife mitigation projects, as well as extending the timeline to 2032.
Clarify full federal expense for MRGO Ecosystem Restoration	Nonbinding Sense of Congress at 100% full federal.	90% federal cost share.
Establish Lower MS River Comprehensive Management Study as full federal	100% full federal.	90% federal cost share.
Reaffirm Corps responsible for full federal OMRR&R for Algiers Canal Levees	Not included.	Sec. 347 directs the Corps to resume OMRR&R at full federal expense.
Addressing the Corps property rights requirement to possess fee title	Sec. 230 would authorize the ASACW to review and report to Congress on Corps requirements related to covered easements.	Not included.
Extending Sec. 1020 authority for the Corps to accept state crediting plan	Sec. 343 extends authority through 2026.	Sec. 128 makes it a permanent authority.

Notable Louisiana Coastal Provisions Pending in WRDA 2022 (Continued)

Provision	House	Senate
Rehabilitating Existing Levees	Sec. 335 would extend the authority for the Corps to address subsidence, settlement, sea level rise, and other factors to maintain the authorized level of protection for HSDRRS through 2026.	Similar language, but through 2034.
Use of Emergency Funds	Sec. 102 would allow the Corps to rebuild hurricane or shore protection projects to a stronger level of protection, if able, rather than just to the previous state.	Similar language included.
Use of Federal Funds for Cost Share	Not included.	Sec. 126 would allow the non-Federal sponsor to use funds provided by another federal agency for a cost share if the purpose is similar or complementary.
Protection and Restoration on Coastal Federal Lands	Not included.	Sec. 104 would allow the Corps to carry out projects to benefit lands under the jurisdiction of another federal agency.
Shoreline and Riverbank Protection and Restoration	Emphasizes importance of these projects and provides flexibility on cost-benefit ratio.	Emphasizes importance of these projects and provides reduced cost share for projects benefiting disadvantaged communities.

FY23 Appropriations Omnibus

The Omnibus: An omnibus appropriations bill would contain all 12 spending bills. The House passed their spending bills in a largely partisan vote this summer. Senate Democrats released a partisan version of the appropriations bills in July.

Timing: On September 30th, Congress passed a continuing resolution (CR) that funds the federal government through December 16.

Topline Number Unresolved: Key negotiators have not come to agreement on the topline budget number, thereby delaying the decision-making on funding specifics. The CR provides additional time for Congress to reach agreement on FY23 spending levels before the Christmas holiday – and after the 2022 midterm elections.

Legacy Edition Momentum: In the Senate, Chairman Leahy and Ranking Member Shelby are retiring after this year, likely encouraging resolution for passing one last legacy bill.

Election Headwinds: Depending on the results of the election, there may be interest in delaying the passage of the bills to account for new dynamics.

Potential Legislative Vehicle: There is substantial interest in attaching additional, unrelated-to-appropriations provisions to this large package – including bills like the RISEE Act.



Pending FY23 USACE Funding

Program	President's Budget	House	Senate	FY22 Enacted
USACE Topline	\$6.6 B	\$8.9 B	\$8.3 B	\$8.3 B
Construction	\$1.2 B	\$2.5 B	\$2.2 B	\$2.5 B
O&M	\$2.6 B	\$5.2 B	\$5.1 B	\$4.6 B
MR&T	\$225 M	\$350 M	\$373 M	\$370 M
Investigations	\$106 M	\$160 M	\$166 M	\$143 M

Specifically for Louisiana's Coast

Project	Amount	Budget Line	President's Budget	House	Senate	Congressional Support
Morganza to the Gulf	\$31 M	MR&T	\$0	\$31 M	\$31 M	Scalise, Graves, Cassidy
Atchafalaya Basin	\$16.5 M	MR&T	\$16.5 M	\$16.5 M	\$16.5 M	
Southwest Coastal	\$10 M	Construction	\$0	\$10 M	\$10 M	Higgins, Cassidy
Calcasieu River & Pass	\$9 M	Construction	\$0	\$9 M	\$9 M	Higgins, Cassidy
Louisiana Coastal Area Ecosystem Restoration	\$4.5 M	Construction	\$4.5 M	\$4.5 M	\$4.5 M	
Houma Navigation Canal	\$2.5 M	Investigations	\$0	\$2.5 M	\$0	Graves, Scalise
Port Fourchon Belle Pass Channel	\$1.5 M	Investigations	\$0	\$1.5 M	\$0	Scalise
Port of Iberia	\$1.2 M	Investigations	\$0	\$1.2 M	\$0	Higgins
Lower MS River Comprehensive Mgmt. Study	\$1 M	MR&T Investigations	\$1 M	\$1 M	\$1 M	
Lafitte Area Flood Risk Mgmt.	\$500,000	MR&T Investigations	\$500,000	\$500,000	\$500,000	

Revenue Sharing's Chances in a Lame Duck

September Effort: RISEE Act proponents made a concerted effort to attach the bill on the continuing resolution (CR) in September. However, with the demise of Sen. Manchin's permitting bill, the effort faltered as relatively few provisions (outside of aid to Ukraine) were included in that CR.

End of Year Target: Bill sponsors continue to push for passage of RISEE by the end of the year. The supporters are targeting inclusion in the potential FY23 omnibus appropriations bill.

House Companion & Related Bills: Momentum is stronger in the Senate for RISEE with 22 cosponsors, but there is momentum building in the House of Representatives. Rep. Lizzie Fletcher (D-TX) introduced a bipartisan RISEE Act bill in September that mirrors the version that passed the Senate Energy & Natural Resources Committee.

The BREEZE Act is also a factor, expressing support for improvements to revenue sharing.

Leadership Decision: Important for top-level Congressional leadership to clear the bill for inclusion, in addition to favorable views from the Committee leadership.



Image of the 'Big Four', Speaker Pelosi, Majority Leader Schumer, Minority Leader McConnell, and Minority Leader McCarthy. Photo credit: Ron Sachs-Pool/Getty Images.