



City of Phoenix

To: Mayor and Council
Executive Team

Date: October 2, 2008

From: Karen Peters
Government Relations Director

Subject: FEDERAL UPDATE: SEPTEMBER 26 – OCTOBER 2, 2008

This memorandum provides an update of the past week's federal activities – Congressional action, lobbying and national meetings. Please let me or Tom Remes know if you have any questions or need further information on specific legislation or issues.

SEPTEMBER 26 – OCTOBER 2, 2008

Budget/Continuing Resolution

Late Tuesday evening, President Bush signed into law H.R. 2638, the *Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009*. This continuing resolution (CR) will fund operations of many government agencies through March 6, 2009. With the exception of programs and agencies in the Defense, Homeland Security, and Military Construction/Veteran Affairs appropriation bills, the agencies were funded at fiscal 2008 rate of spending.

Many of the spending decisions on individual programs, projects and activities will be made by agencies in consultation with the White House Office of Management and Budget; thus, the details on spending between now and March 6 are uncertain for a while. It is also uncertain at this point whether Congress will take up the nine appropriation bills not finalized in the CR next year. That decision awaits the outcome of the November elections. Congress could return for a lame duck session or wait until March to work on final bills.

LIHEAP Funding in the Continuing Resolution

As reported last week, the CR includes \$5.1 billion in Low Income Home Energy Assistance Program (LIHEAP) funds. According to a news release from the Department of Health and Human Services (HHS), of the \$5.1 billion, \$4.509 billion will be released to states as regular block grants, of which \$3.67 billion will be released under the "hold harmless" or Tier I formula and approximately \$840 million will be released under a new formula that allocates relatively more funds to warm weather states. According to HHS preliminary estimates Arizona will receive \$28 million in LIHEAP funding or three times the amount the State received in FY 2008.

Additionally, \$590 million will be available in emergency contingency funds that must by law be obligated within 30 days. Staff is analyzing the new emergency funding criteria to determine Arizona/Phoenix eligibility.

Census Funding in the Continuing Resolution

The CR includes extra funds for the Census Bureau to conduct the 2010 Census. The vote came after the Census Bureau informed lawmakers that efforts to launch the 2010 Census would be set back significantly if Congress opted to simply extend current budget levels into 2009. Civil rights advocates also testified that delays in passing an adequate budget could hamper the Census Bureau's ability to hire enough workers, especially bilingual and minority employees necessary to build trust in historically undercounted groups. Officials emphasized the need to build trust within diverse communities to both ensure accurate counts and conserve resources, as for every one percent of the population that does not respond to the census, the Census Bureau will have to spend between \$80 and \$90 million to go door-to-door to complete the count.

Emergency Economic Stabilization Act of 2008 (EESA)

In a 74-25 vote late Wednesday night, the Senate passed the EESA, which authorizes the Treasury Secretary to buy, hold and resell up to \$700 billion in distressed securities owned by financial institutions. Treasury also would set up an insurance program under which financial institutions could hold distressed securities but buy protection against future losses. The bill also establishes a Troubled Asset Relief Program (TARP) to buy troubled assets from financial institutions. The bill stipulates that mortgages or mortgage backed securities acquired through the TARP program, "the Secretary must implement a plan to mitigate foreclosures and to encourage servicers of mortgages to modify loans through "Hope for Homeowners and other programs". The bill authorizes a temporary increase in deposit and share insurance by raising the Federal Deposit Investment Corp. and National Credit Union Share Insurance Fund deposit insurance limits from \$100,000 per account to \$250,000 until December 31, 2009. Companies taking part in the TARP program must limit executive compensation and eliminate "golden parachute" payments.

The Senate version of the bill also includes new safeguards and provisions such as a number of tax "extenders," including solar tax credits, a one-year alternative minimum tax (AMT) patch, and a one-year reauthorization of the New Market Tax Credit program. The House of Representatives is expected to hear the issue on Friday.

Community Development Block Grant (CDBG)

Last Friday, the Department of Housing and Urban Development (HUD) announced its allocation of the \$3.9 billion Neighborhood Stabilization Program (NSP) that was authorized by the Housing and Economic Recovery Act (HERA) of 2008. Phoenix's \$39 million allocation is the third largest of all city government recipients of NSP funding. Government Relations staff and the City's federal lobbyists worked with the Mayor and Council and Neighborhood Services staff to provide the Arizona delegation, especially Congressman Pastor, with information necessary to make the case on behalf of Phoenix for a fair distribution of funding. Congressman Pastor worked closely with Congressman Barney Frank (D-MA), Chairman of the House Financial Services Committee, and HUD to ensure that the formula was fair and targeted funding to areas with the greatest need.

The City can use the funding to acquire land and property; to demolish or rehabilitate abandoned properties; and/or to offer down-payment and closing cost assistance to low- to moderate-income homebuyers (household incomes not exceeding 120 percent of area median income). In addition, grantees can create "land banks" to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property.

Federal Communications Commission (FCC) Petition

On July 11, 2008, CTIA – The Wireless Association petitioned the FCC requesting that it issue a Declaratory Ruling clarifying provisions of the Communications Act of 1934 regarding state and local review of wireless facility siting applications. Specifically, CTIA asked the FCC to “resolve open questions regarding the time frames in which zoning authorities must act on siting requests, the importance of competitive entry by multiple providers in each market, and the impropriety of unduly burdensome requirements imposed on wireless providers but not on other entities.”

Councilman Simplot serves on the Federal Communications Commission (FCC) Intergovernmental Advisory Committee (IAC), which provides input on various issues coming before the FCC. Mr. Simplot took the lead on this issue and crafted a letter from the IAC to the FCC Chairman that was sent this week, urging denial of the petition to preempt local zoning authority for the siting of cellular towers and withdraw the related FCC proposal. The letter explains that FCC’s proposed action based on the CTIA petition is counter to the Telecommunications Act of 1996 that preserved local zoning authority for cell towers. The IAC further stated that zoning is uniquely a local concern and the FCC should not become the local zoning authority for cell towers nationwide.

Internal Revenue Service (IRS) Pension Reform Rule

There was good news this week regarding an IRS rule that might adversely impact employees planning to retire under the City’s retirement plan. In May 2007, the IRS published a final regulation on distributions from a pension plan upon attainment of “normal retirement age.” For government plans, the changes take effect in plan years starting on or after January 1, 2009. The regulations do not allow for the fact that state and local governments have legislative or constitutional processes with varying timelines to change the rules for government retirement plans.

Established pension plans in Arizona typically utilize an “age plus years of service” approach to determine an employee’s normal retirement age. The IRS rule is vague but could impact existing plans, as the proposed minimum normal retirement age range is 55-62. It does not clarify whether this rule would apply to existing employees, new employees in existing plans or only newly-established plans after the rule takes effect.

The Government Relations and City of Phoenix Employee Retirement System staff and our federal lobbyists have been actively engaged to bring attention to this issue. We have joined with national partners such as the National Association of State Retirement Administrators and the National League of Cities to engage Congress and IRS.

The latest action on this issue was on September 19, when the House Ways and Means Committee convened officials from state and local government, IRS, and the Treasury Department to have a roundtable discussion on a federal tax compliance structure for state and local government employee pension plans. Representative Earl Pomeroy (D-

ND), a long-time supporter of public plans and member of the Ways and Means Committee, chaired the roundtable. While federal officials did not definitively answer suggestions that they replace the current approach with a more collaborative and inclusive process, they did provide very good news on two regulatory issues with pending effective dates. Treasury gave assurances that the normal retirement age regulations would shortly be postponed for further review. IRS also stated that it would consider delaying its determination letter deadline for government plans or move them to a different cycle all together. We hope to get "official" news in these important regulatory areas soon.

Indian Water Settlement Issues – White Mountain Apache Tribe

Congress unanimously approved legislation authorizing a federal loan to the White Mountain Apache Tribe (WMAT) for planning and engineering of the Miner Flat Project - a dam and reservoir to provide clean drinking water for the tribe. The legislation, S. 3128, the *White Mountain Apache Tribe Rural Water System Loan Authorization Act*, was introduced by Sen. Jon Kyl (R-AZ) in June and passed unanimously by the Senate on Thursday.

The Miner Flat Project is a long-term solution to ensure an adequate drinking water supply, as well as a vital step in the process for the comprehensive settlement of WMAT's water rights claims. Sen. Kyl's bill authorizes the Secretary of Interior to provide a \$9.8 million federal loan to WMAT for planning, engineering, and design of the Miner Flat Project. The loan is repayable over a term of 25 years.

Congressman Ed Pastor (D-AZ) introduced a companion bill in the House of Representatives in July. The bill will now be sent to President Bush for his signature. Mayor Gordon expressed the City's support for the legislation late last month in a letter to both the Chair and Ranking Member of the House Committee on Natural Resources Subcommittee on Water and Power.

Aviation

Last week, Assistant Aviation Director Carl Newman and our federal lobbyists visited with Congressman Pastor's office to discuss U.S. Customs and Border Protection (CBP) staffing issues. Specifically, Phoenix had been unable to get adequate staffing to meet commercial and private international traffic. Sky Harbor has worked on this issue at the local and regional levels to no avail. Congressman Pastor's staff was supportive and willing to elevate the City's issues. Meetings were also held with personnel at CBP Headquarters.

Mr. Newman and the team also sat down with Transportation Security Administration (TSA) to discuss In-Line Explosive Detection System (EDS) baggage screening Systems reimbursement. It was a very productive meeting with multiple TSA staff present. The TSA is working through a process that would lead to reimbursement if they tell us we are eligible. If reimbursed, it would not likely happen until late next year.

United States Conference of Mayors

This weekend, the US Conference of Mayors Leadership Meeting is taking place in Florida. As the Chair of the USCM's Comprehensive Immigration Reform Task Force, Mayor Gordon will attend to offer a concrete action plan for Congress and the new Administration to take up early next year.