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Project Selection Is at Issue in Water Bill Talks

By Nathan Hurst, CQ Roll Call

Conference negotiations on a water resources authorization bill have snagged over differences between the House and Senate on the process for selecting Army Corps of Engineers projects, as well as a senator's insistence that a home-state flood control project be included in the deal.

In a conference call last week with representatives of shipping, ports and manufacturing industry groups, Senate Environment and Public Works Chairwoman Barbara Boxer, D-Calif., and the panel's ranking Republican, David Vitter of Louisiana, expressed concern that the prospects for an agreement will wither if conferees cannot wrap up their work by early 2014, according to lobbyists familiar with the discussion.

Two lobbyists familiar with the negotiations said the impasse centers on whether to use the House or Senate plan for authorizing Army Corps of Engineers navigation, flood control and wetland restoration projects.

Both bills would avoid direct lawmakers' earmarks. The Senate bill (S 601) would establish criteria that the corps would be required to follow in selecting projects.

House Transportation and Infrastructure Chairman Bill Shuster, R-Pa., objected that the Senate plan cedes too much legislative power to the executive branch. The House bill (HR 3080) would allow states and localities to recommend projects to the corps, which would then evaluate them and select the projects to be funded. Once the corps signs off with a chief's report, lawmakers would have the authority to approve or reject the recommendations.

Boxer, the conference chairwoman, has said she is not wedded to the Senate plan for project selection. But her flexibility to compromise with the House is limited by Vitter's insistence that the bill fund the 98-mile-long, Morganza-to-the-Gulf flood control project in Louisiana.

As currently written, the Senate bill would allow funding for the Morganza project, while the House bill would not. The Office of Management and Budget signed off last week on the chief's report for the Morganza project, and Vitter called the timing "great" to "help us with producing a final version" of the water bill.

Accommodating Vitter, though, creates problems for Shuster, who is trying to keep the cost of a final conference agreement down so he can avoid alienating fiscal conservatives in his conference. The Senate bill would cost an estimated \$5.7 billion through 2018, while the House version would authorize 23 projects, at a cost of \$3.1 billion.

Authorizing Morganza would not only boost the direct cost of the water bill but also open the door to other lawmaker demands to authorize expensive projects in their states. For instance, Rep. Corrine Brown, D-Fla., has been fighting to authorize projects in her state that were left out of the House bill.

Industry groups are eager to secure authorization for the port and inland waterways projects — especially with the scheduled 2015 opening of a wider Panama Canal. The canal will accommodate larger ships that will be too big for many East Coast ports unless their channels are dredged.

The National Association of Manufacturers last week wrote conferees asking them to finish their work in early January, and encouraged them to support language in the Senate’s bill that would federalize all remaining costs of the Olmsted Lock and Dam project on the Ohio River.

Currently, funding for that project — like for other locks and dams —is split between general treasury funds and the Inland Waterways Trust Fund. About 300 barge operators support the trust fund through user fees they pay on diesel purchases.

The Olmsted project is far over budget, and its costs are eating up most of the trust fund annually. Aides and lobbyists said negotiators had been looking at compromising on cost-sharing breakdown of 85 percent federal to 15 percent trust fund, though nothing has been finalized.

Also unresolved is a plan for increasing the percentage of revenue generated annually for the Harbor Maintenance Trust Fund, which is dedicated to port projects. Currently only about half the user fees collected for the trust fund are spent on harbor projects.

The House bill would gradually step up spending each year until 80 percent of the funds collected would be spent on projects in 2020. The House bill would spend \$100 million more annually through 2020, when all the funds collected in user fees would be spent on port maintenance.

Ports lobbyists want to see a hybrid plan that includes the quicker infusion of funds on the front end that the House bill would authorize, while enshrining the Senate bill’s commitment to dedicate 100 percent of the funds to harbor projects by 2020.

In the end, lobbyists see the Senate version as easier to pass because it already has the blessing of Senate Appropriations Chairwoman Barbara A. Mikulski, D-Md.

Another contentious issue that conferees have yet to resolve is language that would expedite environmental and regulatory reviews by requiring agencies to conduct the evaluations concurrently. Environmental groups have complained that the provision could undermine their rights to intervene under the National Environmental Policy Act (PL 91-190).

The White House has questioned the Senate’s tougher provision, which would financially penalize agencies that don’t adhere to deadlines. Jo-Ellen Darcy, the assistant secretary of the Army for civil works, wrote to conference committee leaders last week and said such penalties were “particularly troubling in the context of declining federal resources including recent budgetary cuts and staff furloughs due to sequestration.”