

Charlotte County, Florida 2023 Federal Legislative Agenda





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Water Resources and Environment

Hurricane Recovery

5

Support recovery efforts from Hurricane Ian, including FEMA reimbursements, funding for Community Development Block Grants-Disaster Recovery and Mitigation Programs (CDBG-DR and CDBG-MIT), Hazard Mitigation Grant Program, Army Corps of Engineers, the Natural Resource Conservation Service Emergency Watershed Protection program, and other programs of importance to Charlotte County. **Support** the expedited processing of FEMA reimbursements to local governments. **Support** the timely release of federal funding.

Fiscal Year 2024 Appropriations: William R. Gaines Jr. Veterans Memorial Park

7

Support \$1.5 million from the Fiscal Year 2023 Transportation, Housing and Urban Development Appropriations bill, Economic Development Initiative Account to construct phase 3 of the William R. Gaines Jr. Veterans Memorial Park in Port Charlotte.

Fiscal Year 2024 Appropriations: Charlotte County, FL Shoreline and Inlet Management

8

Support \$500,000 in Investigations funding via the FY 2024 Energy & Water Appropriations bill or an Army Corps of Engineers Work Plan for the Charlotte County, Manasota Key beach nourishment project to continue a federal feasibility study. **Support** hurricane supplemental funding to fully fund at federal expense the Charlotte County beach nourishment study.

Fiscal Year 2024 Appropriations: Charlotte Harbor Conservation; Central Sewers

9

Support federal funding via the FY 2024 Energy & Water Appropriations bill or an Army Corps of Engineers Work Plan for the Charlotte County sewer system expansion.

National Flood Insurance Program

10

Support efforts to improve the National Flood Insurance Program for the benefit of all participants. **Monitor** FEMA's implementation of the Risk Rating 2.0 program. **Monitor** FEMA's next steps regarding changes to the NFIP Floodplain Management Standards.

Everglades Restoration

12

Support adequate funding for Everglades restoration. **Support** continuing implementation of all facets of Everglades restoration, including: funding continued work on the Central Everglades Planning Project, construction of the Everglades Agricultural Area reservoir to send more water south and reduce the need for discharges from Lake Okeechobee during wet periods. **Monitor** the effort of the Army Corps of Engineers to update the Lake Okeechobee System Operating Manual.

Water Quality and Red Tide

13

Support research and monitoring programs to address red tide. **Support** efforts to improve water quality for all water entering the Gulf of Mexico, including from the coast of Florida and other tributaries, such as the Mississippi River.

Waters of the United States and Regulatory Relief

14

Monitor activity related to the Waters of the U.S. rule. **Oppose** aspects of the rule that would negatively affect Charlotte County.



Energy Exploration	15
<i>Oppose</i> the potential expansion of fossil fuel energy exploration in Florida.	
<u>Local Government Issues</u>	
Medicaid Inmate Exclusion Policy	16
<i>Support</i> legislation to restore pretrial detainee access to federal benefits.	
Opioid Addiction	17
<i>Support</i> federal funding to address local opioid addiction and treatment issues. <i>Support</i> attempts by entities within Charlotte County to secure funding to fight opioid addiction.	
Affordable Housing	18
<i>Support</i> legislation to improve the Low-Income Housing Tax Credit.	
Assessment of Fair Housing Rule	19
<i>Monitor</i> implementation of the Department of Housing and Urban Development’s Assessment of Fair Housing Rule.	
Federal Funding for Mitigation and Resilience	20
<i>Monitor</i> the Federal Emergency Management Agency’s Building Resilient Infrastructure and Communities program and the Housing and Urban Development’s Community Development Block Grant Mitigation program. <i>Support</i> Charlotte County’s efforts to secure funding from each program. <i>Monitor</i> the Federal Emergency Management Agency’s proposed rule “Cost of Assistance Estimates in the Disaster Declaration Process for the Public Assistance Program.”	



FEDERAL ISSUE: Hurricane Recovery

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: In September 2022, Hurricane Ian made landfall as a large and destructive Category 4 Atlantic hurricane that was the deadliest to strike Florida since 1935 while causing more than an estimate \$50 billion in damage. In response, Congress provided \$38.175 billion to help recover from Ian (as well as Nicole, Fiona, and other natural disasters nationwide) in the Fiscal Year 2023 omnibus appropriations bill. Among the programs that might be of most importance to Charlotte County include the following:

- \$1.4 billion for the Army Corps of Engineers, with \$5 million specifically set aside for studies like the Charlotte County shore protection study
- \$5 billion is provided for the FEMA Disaster Relief Fund for major disaster declaration expenses
- \$3 billion for Community Development Block Grant Disaster Recovery Grants for 2022 disasters
- \$925 million is provided for the Emergency Watershed Protection Program (EWP) for watershed recovery

With the storm landing in southwest Florida, Charlotte County has a litany of needs for recovery assistance. These include ongoing debris removal, rebuilding of affordable housing, repair of public infrastructure, and economic recovery, to name a few. The federal government provides assistance through a variety of different programs; this fragmented system means the County must deal with a myriad of federal agencies as well as coordinate with state and local partners.

FEMA Public Assistance Reimbursements

The Federal Emergency Management Agency (FEMA) assists local governments, through the state, after disasters with funding for debris removal and recovery projects. This funding follows a specific process where counties seek reimbursement through the State Division of Emergency Management and FEMA for projects. It is essential that these reimbursements are processed in a timely manner to ensure the fiscal stability of the County. Charlotte County will submit millions of dollars in project worksheets and will need the timely engagement of FEMA and the Florida Department of Emergency Management to recover.

NRCS EWP

The Department of Agriculture Natural Resources Conservation Service (NRCS) administers the Emergency Watershed Protection (EWP) program that is used to remove marine debris after natural disasters. While the NRCS EWP program may prove to be a critical resource for Charlotte County, it may only partially solve canal debris and sediment challenges of the County and greater region. Applicants typically go through an arduous and expensive process to secure funding for even a partial cleanup of marine debris. Further, the process for NRCS to approve or reject individual canals often takes too long given that the intent is to protect an area from future storm damage and flooding. Ultimately, the EWP program may only approve canals for cleanup if hydrologic conditions are impacted by debris, thereby ignoring the environmental degradation of any debris remaining in nearshore waters.

Despite the federal government's clear recognition that marine debris after a storm is a serious problem that deserves federal support, programs in existence do not appropriately deal with debris under water. For example:

- Funding to Coast Guard programs is meant to respond to derelict vessels.



- FEMA's funding can remove marine debris, but their criteria is limited only to navigational hazards, meaning that they will only address limited depths and will not remove all debris present.
- NOAA funding can address marine debris, but they have limited funding and focus on environmental hazards.

FEMA will pay to remove all land-based debris that sits above the water line. Yet, in coastal communities throughout the country, whose waterways are as important as roads or other public infrastructure, there is not a similar program that is all-encompassing and as thorough for marine debris. This inequity may need to be by Congress, either by appropriately refocusing and adjusting the NRCS EWP program or by developing a new program to comprehensively address marine debris.

Community Development Block Grant Disaster Recovery program

The Community Development Block Grant Disaster Recovery (CDBG-DR) program is among the most flexible funding available through the federal government to help communities recover from disasters. Once Congress has appropriated funding after a disaster, the Department of Housing and Urban Development (HUD) will use a formula to determine allocations between jurisdictions that have been impacted by the disasters covered in that particular appropriation, which are then published in the Federal Register. The funds allocated to any jurisdiction in Florida are administered by the Department of Economic Opportunity (DEO).

Community Development Block Grant Mitigation program

Congress created the CDBG-MIT program after disasters of 2016 and 2017, leaving much of the implementation up to HUD and individual states to ultimately disburse. After Hurricane Ian and Congressional appropriations, HUD will notify Florida that it will receive CDBG-MIT money for disaster events that occurred during a specific time period. Then, HUD will release a Federal Register notice to formally disburse the funds to eligible states, once states submit individual State Action Plans. Once HUD approves a State Action Plan, Florida will be able to access and spend the funding.

POSITION: *Support* recovery efforts from Hurricane Ian, including FEMA reimbursements, funding for Community Development Block Grants-Disaster Recovery and Mitigation Programs (CDBG-DR and CDBG-MIT), Hazard Mitigation Grant Program, Army Corps of Engineers, the Natural Resource Conservation Service Emergency Watershed Protection program, and other programs of importance to Charlotte County. *Support* the expedited processing of FEMA reimbursements to local governments. *Support* the timely release of federal funding.



FEDERAL ISSUE: Fiscal Year 2024 Appropriations: William R. Gaines Jr. Veterans Memorial Park

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: Gaines Park is a magnificent public-private partnership to develop a 40-acre park as a destination where multiple generations can be outdoors together. The park, purchased by Charlotte County in 2000 and first opened in 2008, already has a variety of public amenities, including restrooms, nature trails, tennis courts, kayak/canoe launches, a fishing pier, pavilion, and other open space.

More recently, Gaines Park was renamed in honor of William R. Gaines Jr., a Charlotte County native and U.S. Marine who was one of 241 Marines killed when their barracks in Beirut, Lebanon were bombed in October 1983. The park now also includes the recently constructed Military Services Memorial and First Responders Memorial, making it a unique facility that honors all who serve. Due to recent funding from the state of Florida and the Gaines Memorial Foundation, the park will also offer the Beirut Peacekeepers Memorial Tower, soon to be under construction as a place to honor those who lost their lives during the 1983 Beirut bombing. Charlotte County is home to roughly 29,000 veterans and aims to honor their service whenever possible. Investments to purchase and develop the amenities equal \$11,255,860, primarily from Charlotte County, the state of Florida, and private funding.

Unfortunately, phase 3 of the park development, which will complete construction activity, remains underfunded. Phase 3 will include an inclusive splash pad, a fully accessible and inclusive restroom/pump room, a small pavilion, and a community building. With a total cost of \$3.5 million, to be partially funded by the County's \$1.5 million request, the nearly \$15 million park will be complete and be a shining example of an active park combined with a series of reflective memorials to bring all ages together.

POSITION: *Support* \$1.5 million from the Fiscal Year 2024 Transportation, Housing and Urban Development Appropriations bill, Economic Development Initiative Account to construct phase 3 of the William R. Gaines Jr. Veterans Memorial Park in Port Charlotte.



FEDERAL ISSUE: Fiscal Year 2024 Appropriations: Charlotte County, FL Shoreline and Inlet Management

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: Over the past several years, Charlotte County’s beaches on Manasota Key have eroded to the point where the County has declared numerous emergencies to help with permitting and other homeowner challenges.

In 2016, upon seeking to engage the Corps of Engineers in a long-term solution to erosion issues, the County learned that the Corps completed a Chief of Engineers report on 29 June 1981 in response to a House Public Works Committee Resolution adopted 2 December 1971. Unfortunately, in the spring of 1981, the Charlotte County Board of County Commissioners withdrew support for the project, thereby effectively ending substantive work on the project.

Given the County’s recent challenges and the work completed by the Corps in the past, the County requests that the Corps initiate a new study of the shoreline, focusing primarily on those areas recommended for a project in 1981. These include beach erosion control improvements along 3.9 miles beginning at Stump Pass and extending northward to the Sarasota County Line (along Manasota Key), including the Port Charlotte Beach State Recreational Area. At the time, the project had a benefit-cost ratio of 4.2, with initial placement of approximately 335,000 cubic yards (CY) and five-year nourishment intervals of approximately 68,000 CY each. Finally, a 1,250-foot long terminal groin was recommended to be constructed at the south end of the beach fill along Stump Pass. Sand was proposed to have come from an offshore borrow area.

The Jacksonville District of the Corps indicates the Charlotte County study remains authorized via Statute 69-132, Chapter 140, Public Law 84-71 - June 15, 1955.

In its final Fiscal Year 2023 Omnibus Appropriations bill, Congress provided \$500,000 to the Army Corps of Engineers – and most importantly, a “new start” – for the Corps to initiate a study of the Charlotte County shoreline. Study activities should begin early in 2023. Beyond that, it may be possible for the County to benefit from emergency supplemental funding from Congress to the Corps of Engineers to help that agency respond to recent storms, including Hurricane Ian, and to either secure full federal funding for the study or to provide advanced funds to complete the study more quickly.

POSITION: *Support* \$500,000 in Investigations funding via the FY 2024 Energy & Water Appropriations bill or an Army Corps of Engineers Work Plan for the Charlotte County, Manasota Key beach nourishment project to continue a federal feasibility study. *Support* hurricane supplemental funding to fully fund at federal expense the Charlotte County beach nourishment study.



FEDERAL ISSUE: Fiscal Year 2024 Appropriations: Charlotte Harbor Conservation; Central Sewers

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: The health of Charlotte Harbor is critical to the future of Charlotte County. A significant issue that threatens the Harbor is the need to transition residents from older, often failing septic systems to central sewers.

The Environmental Protection Agency estimates that over the next 20 years, the nation must collectively invest \$390 billion to update or replace existing wastewater systems and build new ones to meet increasing demand. This is an issue that affects the whole country, but in Charlotte County, fewer than 60,000 residents are on central sewer.

Many of the County's homes are within 150 feet of waterways that flow into Charlotte Harbor, necessitating that residents will ultimately need to be on central sewer. The County is currently completing the fourth phase of this project. In addition to taking advantage of State Revolving Funds and tax assessments, the County is pursuing funding for additional phases of this environmentally significant project.

In the Fiscal Year 2022 (FY22) appropriations process, Congress provided the Ackerman septic to sewer project with \$3.2 million in funding.

In a related effort, to potentially provide the County with additional federal assistance for its efforts, Congress via the Water Resources Development Act of 2022 amended the County's exiting Army Corps of Engineers "environmental infrastructure" authorization that had yet to be utilized to support the ongoing septic to sewer conversion project. The bill language is as follows:

CHARLOTTE COUNTY, FLORIDA.—Section 219(f)(121) of the Water Resources Development Act of 1992 (106 Stat. 4835; 113 Stat. 336; 121 Stat. 1261) is amended by striking "\$3,000,000 for" and inserting "\$33,000,000 for wastewater and".

Given this language, the County can now seek federal funding via the Corps of Engineers to implement this provision via the annual Energy & Water appropriations bill.

By providing a long-term solution to significantly reduce non-point source pollutants into the receiving waters of Charlotte Harbor, the ability to support economic activities dependent on water quality will improve with the reduction/elimination of beach closures, sanitary health hazard complaints, and related impacts of nutrient and sediment loading. Removal of septic systems will increase the amount of developable land for businesses and provide for a larger variety of uses. Improving water quality will retain and increase tourism. Lastly, a continuation of the cooperative effort between public, private, and nonprofit organizations will continue the enforcement of water quality regulations and Best Management Practices.

POSITION: **Support** federal funding via the FY 2024 Energy & Water Appropriations bill or an Army Corps of Engineers Work Plan for the Charlotte County sewer system expansion.



FEDERAL ISSUE: National Flood Insurance Program

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: In 1968, Congress established the National Flood Insurance Program (NFIP) to address the nation's flood exposure and challenges inherent in financing and managing flood risks in the private sector. Private insurance companies at the time claimed that the flood peril was uninsurable and, therefore, could not be underwritten in the private insurance market. A three-prong floodplain management and insurance program was created to identify areas across the nation most at risk of flooding, minimize the economic impact of flooding events through floodplain management ordinances, and provide flood insurance to individuals and businesses.

In mid-2012, Congress passed, and the President signed, the Biggert-Waters Flood Insurance Act (BW12), a 5-year reauthorization of the NFIP that attempted to restore the program to firmer financial footing by making changes to the program that impacted the Island's residents. Then, in early 2014, the Homeowner Flood Insurance Affordability Act (HFIAA), was enacted to address some of the so-called unintended consequences of BW12. While HFIAA delayed many of the premium increases implemented by BW12, the only real difference between rate increases envisioned by the two bills is that HFIAA reinstated grandfathering. This provision, originally ended by BW12, allows property owners to pay flood insurance rates based on original risk, not that which is determined by new community flood maps.

Authorization of the NFIP expires on March 11, 2022. In Charlotte County, there are roughly 35,000 NFIP policies for both homes and commercial properties.

Risk Rating 2.0

The Federal Emergency Management Agency (FEMA) continues to implement the [Risk Rating 2.0](#) (RR2) pricing methodology for the NFIP. FEMA has estimated that roughly 3.8 million policyholders will pay higher premiums, while 1.2 million policyholders will see rate decreases. New NFIP policies were subject to new RR2 pricing beginning on Oct. 1, 2021, while existing policyholders faced new pricing beginning on April 1, 2022 if their price increases. If existing policyholders' price decreased under RR2, they benefited when their policy renewal occurred after Oct. 1, 2021.

Several members of Congress and members of the Senate continue to advocate that the implementation of RR2 should be delayed and have written [letters](#), proposed [various legislation](#), and [called](#) on the Administration to carry out the delay. In the 117th Congress, House Financial Services Chair Maxine Waters (D-CA) proposed legislation that, among other things, would limit annual flood insurance rate increases to 9 percent, down from 18 percent allowed under current law. Based on statements to the media, FEMA seemed supportive of this annual rate increase cap. However, with a new Congress taking shape for the 118th, it remains to be seen where the NFIP debate regarding RR2 will go.

For Charlotte County, the data relating to the implementation of RR2 indicates the following expected price changes per year for participants in the NFIP: about 5% of County NFIP participants will see a decrease in their flood insurance rates while about 80% will see an increase of less than \$20 per year. The remaining will face more significant increases.



NFIP Floodplain Management Standards for Land Management and Use

In late 2021, FEMA released a Request for Information (RFI) primarily to seek feedback on updating the NFIP's floodplain management standards for land management and use regulations for communities that participate in the flood insurance program. The standards have not been substantially updated since 1976.

It is not hard to imagine that the RFI may lead to dramatic changes in the NFIP. This could include increased elevation for new construction or substantial renovation, mandate the construction of critical facilities outside of 500-year flood zones, require mapping, regulation, and mandatory purchase of flood insurance in 500-year or 1000-year flood plains, ensure climate change impacts in new flood map modeling, and lead to additional restriction or purchase requirements in areas of so-called residual risk. These potential changes to the NFIP are all separate from the Risk Rating 2.0 effort that is increasing flood insurance rates nationwide for many.

Charlotte County responded to the public comment opportunity in January 2022.

POSITION: *Support* efforts to improve the National Flood Insurance Program for the benefit of all participants. *Monitor* FEMA's implementation of the Risk Rating 2.0 program. *Monitor* FEMA's next steps regarding changes to the NFIP Floodplain Management Standards.



FEDERAL ISSUE: Everglades Restoration

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: In 2000, Congress authorized a 30-year plan, termed the Comprehensive Everglades Restoration Plan (CERP), for the restoration of the Everglades ecosystem in southern Florida. CERP generally focuses on increasing the storage of excess water in the rainy season to provide more water during the dry season for the ecosystem and for urban and agricultural users. When originally authorized, it was estimated that CERP would cost a total of \$8.2 billion and take approximately 30 years to complete. More recent estimates indicate the plan may take 50 years to implement and could cost \$13.5 billion.

The construction of water control structures and facilities within the Everglades throughout the 20th century has altered the natural hydrologic patterns of water in the region. Over time, this has changed the ecosystem of the connected coastal regions.

There are a number of projects and studies under various stages of development that are expected to improve water quality and flow in the Everglades and surrounding areas as well as reduce harmful discharges to the east and west coasts of Florida.

\$447 million in federal funding for the Everglades program was included in Fiscal Year 2023 appropriations, providing the most significant boost in funding to the program in many years. Meanwhile, the Bipartisan Infrastructure Law includes \$1.1 billion in funding for Everglades restoration.

Lake Okeechobee System Operating Manual Update

The Army Corps of Engineers has begun the process to update the Lake Okeechobee Regulation Schedule to reflect new infrastructure that has or will come online. The regulation schedule regulates the management of lake levels. As a part of this process, the Corps hosted several public meetings in Florida and accepted written comments multiple times. The Corps anticipates having a final report completed in 2023.

POSITION: **Support** adequate funding for Everglades restoration. **Support** continuing implementation of all facets of Everglades restoration, including: funding continued work on the Central Everglades Planning Project, construction of the Everglades Agricultural Area reservoir to send more water south and reduce the need for discharges from Lake Okeechobee during wet periods. **Monitor** the effort of the Army Corps of Engineers to update the Lake Okeechobee System Operating Manual.



FEDERAL ISSUE: Water Quality and Red Tide

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: Nearly every year, Charlotte County and much of the southern Gulf Coast of Florida are impacted by significant levels of the algae *Karenia Brevis*, commonly known as red tide. Outbreaks of red tide off the Florida coast have been documented since Spanish explorers first began visiting the area in the 15th century, however, a 2007 study that was conducted by the University of Miami and funded by the National Institutes of Health found that the levels of red tide have significantly increased over the past fifty years. The study found that levels of red tide measured in the area from Tampa Bay to Sanibel Island between 1994 and 2002 is thirteen to eighteen times the levels measured between 1954 and 1963. The increase in the nutrient levels in the ecosystem was found to be a significant factor in this increase.

In reaction to the ongoing outbreaks of red tide, both the state and federal government have taken action to mitigate the impacts to the local ecosystem and economy. Members of the Florida delegation have requested emergency declarations and requested additional funding to various federal agencies and others to study, mitigate, and respond to harmful algal blooms. The Florida delegation also worked to include several other provisions in the Commerce, Justice and Science appropriations bill and the Interior and Environment appropriations bill to address harmful algal blooms.

The water quality in the Gulf of Mexico also affects the water near the shores of Charlotte County. Other sources of nutrients and pollution, such as the Mississippi River delta also contribute to the overall ecosystem in the Gulf. The Mississippi River watershed stretches north into Canada, west to Montana, Wyoming, Colorado, and New Mexico, and east to North Carolina, West Virginia, and Pennsylvania. This broad drainage basin creates challenges for determining and addressing causes of pollution that enters the Gulf of Mexico.

POSITION: **Support** research and monitoring programs to address red tide. **Support** efforts to improve water quality for all water entering the Gulf of Mexico, including from the coast of Florida and other tributaries, such as the Mississippi River.



FEDERAL ISSUE: Waters of the United States

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: Congress enacted the Clean Water Act (CWA) in 1972 with the statutory objective “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” One of the Act’s principal tools in achieving that objective is a prohibition on the discharge of pollutants from a point source to “navigable waters,” which are defined in the Act as “the waters of the United States, including the territorial seas.” Thus, “waters of the United States” (WOTUS) is a threshold term establishing the geographic scope of federal jurisdiction under the CWA. The WOTUS term is not defined by the Act, but has been defined and implemented by EPA and the Army in regulations since the 1970s.

In June 2021, the Biden administration announced their intent to revise the definition of WOTUS. Upon review of the 2020 Navigable Waters Protection Rule, the agencies determined that the rule reduced clean water protections and signaled their intent to develop a new approach. The proposed Biden rule seeks to maintain the longstanding exclusions of the pre-2015 regulations as well as the exemptions and exclusions in the Clean Water Act.

EPA released its proposed rule November 2021, which formally scrapped the Trump-era WOTUS regulation and reinstated pre-2015 Clean Water Act rules that were updated to reflect Supreme Court decisions. The final iteration of the rule will have far-reaching implications for those who need to get permission to fill or dredge wetlands or waterways, depending on whether those features fall under the federal government’s purview.

The Environmental Protection Agency (EPA) is expected to update its Waters of the United States rule before the end of 2022. In the past year, the EPA received over 120,000 public comments and hosted ten regional roundtable events to gather feedback. The Supreme Court is also reviewing EPA’s jurisdiction under the Clean Water Act and many lawmakers in Congress wanted the agency to wait for the court decision.

POSITION: *Monitor* activity related to the Waters of the U.S. rule. *Oppose* aspects of the rule that would negatively affect Charlotte County.



FEDERAL ISSUE: Energy Exploration

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: Active energy drilling currently occurs in both the western and central Gulf of Mexico, while nearly the entire eastern Gulf is protected from drilling by Presidential memorandum until 2032.

In September 2020, former President Trump signed a memorandum withdrawing the eastern Gulf of Mexico and Atlantic coast of Florida from exploration, development, or production of energy through June 30, 2032. The memorandum also covers the Atlantic coast of Georgia and South Carolina and was later expanded to include the coast of North Carolina.

The federal government typically develops five-year Outer Continental Shelf (OCS) Oil and Gas Leasing programs to guide energy exploration activities in federal waters. The Biden Administration will at some point develop a new five-year exploration plan. Such a plan is unlikely to include significant new drilling for any OCS areas other than maybe in the central and western Gulf of Mexico.

POSITION: *Oppose* the potential expansion of fossil fuel energy exploration in Florida.



FEDERAL ISSUE: Medicaid Inmate Exclusion Policy

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: The Medicaid Inmate Exclusion Policy (MIEP) is a federal policy that strips federal health and veterans benefits from individuals upon admission to jail. The Social Security Act (Sec. 1905(a)(A)) prohibits the use of federal funds and services for medical care or other benefits provided to “inmates of a public institution,” including those run by counties. The MIEP does not differentiate between a convicted inmate and a person incarcerated prior to conviction and contributes to the national behavioral and mental health crisis as well as rates of recidivism in our local jails.

In the 116th Congress, there were two bills introduced in the U.S. Senate that would address the MIEP. Senators Ed Markey (D-Mass.), Merkley (D-Ore.), Brown (D-Ohio) and Durbin (D-Ill.) introduced S. 2628, the Equity in Pretrial Medicaid Coverage Act. This legislation would amend Title XIX of the Social Security Act to remove a limitation on an individual’s eligibility for medical assistance under the State Medicaid plan while the individual is in custody pending disposition of charges. Additionally, Senator Merkley (D-Ore.) introduced S. 2626, the Restoring Health Benefits for Justice-Involved Individuals Act of 2019. This bill would remove limitations on inmate eligibility for Medicare, the Children's Health Insurance Program (CHIP) and veteran's health benefits.

In the House, former Representative Alcee Hastings (D-FL) introduced H.R. 1345, the Restoring the Partnership for County Health Care Costs Act. While the bill had 28 cosponsors, all were Democrats and the bill also lacked key support from advocacy constituencies.

There have been limited legislative efforts since 2019 to address these issues.

POSITION: *Support* legislation to restore pretrial detainee access to federal benefits.



FEDERAL ISSUE: Opioid Addiction

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: Opioids are a class of drugs made from opium, as well as synthetic or semi-synthetic drugs that resemble these opium-based drugs. Many opioids are available by prescription. Examples include oxycodone, codeine, morphine, and fentanyl. Heroin is an opioid that is illegal. These drugs are often referred to as narcotics.

107,622 drug overdose deaths occurred in the United States in 2021. Opioids — mainly synthetic opioids (other than methadone) – are currently the main driver of drug overdose deaths, particularly fentanyl. Opioids were involved in 80,816 overdose deaths in 2018 (75.1 percent of all drug overdose deaths). The rate of deaths in Florida due to drugs increased by 2.5 percent between 2020 and 2021.

Fentanyl has emerged as the leading opioid in drug overdose deaths and has been found laced in other common drugs to boost their potency. Because of this practice, fentanyl is extremely difficult to detect and it has led to an increase in accidental overdoses. The quantity of fentanyl seized at the U.S.-Mexico has skyrocketed — U.S. law enforcement agencies are on pace to confiscate more than 23,000 pounds of fentanyl powder in 2022, up from 4,000 pounds in 2018. Even with the increase in seizures, U.S. drug agents say it has been nearly impossible to stop fentanyl trafficking. Border authorities screen only a small fraction of the more than 219,000 vehicles crossing from Mexico each day. Federal agents estimate that they are seizing about 5 to 10 percent of the drugs coming from Mexico — if that much.

To help respond to the public health impacts of opioids, the state of Florida received \$101 million over two fiscal years (FY 2023 and 2024) through the State Opioid Response (SOR) grant program from the Department of Health and Human Services. Congress provided the SOR program with \$1.75 billion in the FY 2023 omnibus appropriations bill and reauthorized the program through 2027. SOR is a popular program because it can be used for the full continuum of services for substance use disorders.

POSITION: *Support* federal funding to address local opioid addiction and treatment issues. *Support* attempts by entities within Charlotte County to secure funding to fight opioid addiction.



FEDERAL ISSUE: Affordable Housing

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: The Low-Income Housing Tax Credit (LIHTC) program is considered to be the most important resource for creating affordable housing in the United States today. Created by the Tax Reform Act of 1986, the LIHTC program gives State and local LIHTC-allocating agencies the equivalent of approximately \$8 billion in annual budget authority to issue tax credits for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households. An average of almost 1,400 projects and 106,400 units were placed in service annually between 1995 to 2018. In Florida, the LIHTC-administering agency is the Florida Housing Finance Corporation.

Virtually no affordable housing is produced without using the LIHTC. Affordable housing developers rely on the credit for a variety of projects, including the production of new units and the preservation of public housing units. However, the limited availability and the popularity of the housing tax credit have made it very competitive in many states.

During the 117th Congress, the Affordable Housing Credit Improvement Act ([S. 1136/H.R. 2573](#)), bipartisan legislation to expand and strengthen the Low Income Housing Tax Credit (LIHTC), was introduced. The bill would increase the availability of the housing credit by 50 percent over five years, permanently authorize the 4 percent housing credit, and make other changes that would help make it a more effective tool. The LIHTC program is considered to be the most important resource for creating affordable housing in the United States today. Created in 1986, the program gives State and local LIHTC-allocating agencies the equivalent of approximately \$8 billion in annual budget authority to issue tax credits for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households. An average of almost 1,400 projects and 106,400 units were placed in service annually between 1995 to 2018.

The bill enjoyed support from about one-third of the members of each chamber across party lines, though it currently remains within its respective committees for further deliberation. The Build Back Better Act included additional funding for the LIHTC but would not have reformed the program as this legislation proposes to do. Those provisions were not included in what became the Inflation Reduction Act.

The Homes for Every Local Protector, Educator, and Responder (HELPER) Act of 2021 ([S. 2981/H.R. 3172](#)) is bipartisan legislation that would establish a new home loan program for first responders and teachers in the model of the VA Home Loan Program. Specifically, the HELPER Act:

- Creates a one-time use home loan program for law enforcement officers, firefighters, Emergency Medical Technicians (EMT), paramedics, and pre-K-12 teachers;
- Eliminates a down payment requirement;
- Eliminates a monthly mortgage insurance premium (MIP) requirement;
- Requires a 3.6 percent upfront mortgage insurance (UFMI) premium to ensure the solvency of the program; and
- Requires the program to be reauthorized after five years.

Similar to the Affordable Housing Credit Improvement Act, the HELPER Act had dozens of bipartisan sponsors in both chambers of Congress during the 117th session but did not get enacted.

POSITION: **Support** legislation to improve the Low-Income Housing Tax Credit. **Support** legislation to establish a new home loan program for first responders and teachers.



FEDERAL ISSUE: Assessment of Fair Housing Rule

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: In 2015, the Obama Administration published a final rule entitled Affirmatively Furthering Fair Housing (AFFH), which aimed to provide HUD program participants with new guidance to help them meet the requirements of the Fair Housing Act. This rule, however, was seen as overly prescriptive and burdensome by some stakeholders and did not do anything to assist with the overall inadequate supply of affordable housing, instead of diverting significant time and effort to data collection and compliance. Additionally, there were concerns that the rule could make local governments and housing authorities more vulnerable to third-party lawsuits. The rule required stakeholders to use an Assessment Tool, created by HUD, to conduct and submit an Assessment of Fair Housing to HUD, but these tools proved difficult to develop.

During the development of the first round of Assessments of Fair Housing, HUD found the tool to be labor-intensive for both HUD and local governments and to produce incomplete or inaccurate reports. The overall rule was to be implemented in two phases, with the first phase impacting communities that receive at least \$500,000 in CDBG funding and the second phase, following five years later, for those communities receiving less than \$500,000 in CDBG funds a year.

The Trump Administration cancelled the Obama-era rule. However, the Biden Administration has since cancelled the Trump proposed rule and reinstated the Obama-era rule. HUD's 2021 Interim Final Rule (IFR), "[Restoring Affirmatively Furthering Fair Housing Definitions and Certifications](#)," requires program participants to submit certifications that they will affirmatively further fair housing in connection with their consolidated plans, annual action plans, and PHA plans. In order to support these certifications, the IFR creates a voluntary fair housing planning process for which HUD will provide technical assistance and support.

The IFR also rescinds the 2020 Preserving Communities and Neighborhood Choice rule, which caused funding recipients to certify "compliance" with a regulatory definition that is not a reasonable construction of the Fair Housing Act's mandate to affirmatively further fair housing.

POSITION: *Monitor* implementation of the Department of Housing and Urban Development's Assessment of Fair Housing Rule.



FEDERAL ISSUE: Federal Funding for Mitigation and Resilience

BACKGROUND: HOW IT MAY AFFECT CHARLOTTE COUNTY: Apart from funding for public assistance generally provided by Congress through the Federal Emergency Management Agency (FEMA) directly after storms, Congress has developed two other common funding streams to help address long-term mitigation and resilience projects. They are FEMA’s recently developed Building Resilient Infrastructure and Communities (BRIC) and the Department of Housing and Urban Development’s (HUD) Community Development Block Grant Mitigation program (CDBG-MIT).

Building Resilient Infrastructure and Communities

The Disaster Recovery Reform Act (DRRA) from 2018 included reforms to federal disaster programs and amended many sections of the Robert T. Stafford Disaster Relief and Emergency Act including Section 203, Pre-Disaster Mitigation. Among others, Congress created BRIC which will be funded through the Disaster Relief Fund as a six percent set aside from estimated disaster grant expenditures.

BRIC expands the concepts of pre-disaster mitigation by prioritizing the building of resilient infrastructure to make communities better prepared to withstand the next disaster. It will provide incentives for states to work with local communities to identify their most pressing hazards and encourage innovative solutions for building a culture of preparedness. BRIC is expected to favor risk-based approaches and will emphasize projects that build a community’s capability and capacity to manage emergencies and buy down the impacts and risk from future disasters. BRIC is likely to favor projects that have whole community partnerships and look at the bigger picture.

FEMA estimates that the program will be funded at \$300 million to \$500 million per year, with significantly greater amounts of money in years that have a high number of catastrophic disaster obligations. The federal/nonfederal match is 75/25, with exceptions for smaller, low-income communities.

Update to FEMA Disaster Declaration Thresholds

FEMA in late 2020 published a proposed rule titled “Cost of Assistance Estimates in the Disaster Declaration Process for the Public Assistance Program.” As you know, FEMA considers several factors when determining whether to recommend that the President declare a major disaster authorizing the Public Assistance program. In the Disaster Recovery Reform Act of 2018, Congress directed FEMA to review those factors, specifically the estimated cost of the assistance factor, and to update them through rulemaking, as appropriate.

Specifically, FEMA proposed to raise the per capita indicator and the minimum threshold. Since 1986, FEMA has evaluated the estimated cost of Federal and non-Federal public assistance against the statewide population and used a per capita dollar amount (set at \$1 in 1986) as an indicator that a disaster may warrant Federal assistance. The per capita indicator remained at \$1 until 1999, when the Agency began adjusting the indicator for inflation in 1999 and annually thereafter (it was \$1.50 in FY 2019, but would have been \$2.32 had FEMA accounted for inflation between 1986 and 1999). Also in 1999, FEMA established a \$1 million minimum threshold, meaning it would not recommend that the President authorize the PA program unless there was at least \$1 million in damages resulting from the disaster and within the proposed area for Public Assistance. At the time, FEMA believed \$1 million was a level of damage from which even the least populous States could recover with their own resources. FEMA has never increased the \$1 million threshold.

1. FEMA proposes to increase the per capita indicator to account for increases in inflation from 1986 to 1999, and to adjust the individual States' indicators by their total taxable resources (TTR).
 - a. Individual States' per capita indicators are proposed to range from \$1.51 to \$3.15.



- i. Florida's is proposed to be \$1.98 per capita.
 - ii. Using the new formula, Florida would have to have storm damages exceeding \$42,172,664 in order to be eligible for a federal disaster declaration. This is an increase of 49.5% from the state's current baseline.
2. FEMA also proposes to increase the minimum threshold by accounting for inflation from 1999 to 2019, and annually thereafter.
 - a. The proposed rule would increase the current minimum threshold from \$1 million to \$1.535 million for FY 2019.

FEMA believes these changes would provide a better distribution of responsibilities between the States and the federal government, and will incentivize States to invest more in response, recovery, and mitigation capabilities. While these proposed changes might be reasonable, it should be clearly understood that this proposed rule will ensure that either fewer disasters are federally declared and therefore benefit from FEMA funding or that it simply takes longer for federal assistance to be authorized, given that more time will need to be spent writing Preliminary Damage Assessments in order to meet the new threshold.

Since the release of the disaster deductible proposal by FEMA, there have not been any additional actions taken to implement the rule.

POSITION: *Monitor* the Federal Emergency Management Agency's Building Resilient Infrastructure and Communities program. *Support* Charlotte County's efforts to secure funding from the program. *Monitor* the Federal Emergency Management Agency's proposed rule "Cost of Assistance Estimates in the Disaster Declaration Process for the Public Assistance Program."