Charlotte County, Florida
2022 Federal Legislative Agenda

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<u>Local Government Issues</u>

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 estimates that roughly 3.8 million policyholders will pay higher premiums, while 1.2 million policyholders will see rate decreases. New NFIP policies are subject to new RR2 pricing beginning on Oct. 1, 2021, while existing policyholders will face new pricing on or after April 1, 2022 if their price increases. If existing policyholders' price is scheduled to decrease under RR2, they can benefit when their policy renewal occurs 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.

Finally, House Financial Services Chair Maxine Waters (D-CA) has 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 seems supportive of this annual rate increase cap.

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
Late last year, 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.

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: Fiscal Year 2023 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 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.

FEDERAL ISSUE: Fiscal Year 2023 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.

POSITION: ***Support*** $500,000 in Investigations funding via the annual Energy & Water Appropriations bill or an Army Corps of Engineers Work Plan for the Charlotte County, Manasota Key beach nourishment project to begin a federal feasibility study.

FEDERAL ISSUE: Water Resources Development Act: 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, the County requested the support of Rep. Steube for an earmark for the for the Ackerman septic to sewer project, which was provided with $3.2 million in funding. As of March 1, that funding request remains pending and depends on the successful completion of an FY22 omnibus funding package by Congress in the next few weeks.

In another effort, to potentially provide the County with federal assistance for its efforts, the County submitted a Water Resources Development Act (WRDA) request to amend its exiting Army Corps of Engineers "environmental infrastructure" authorization that had yet to be utilized so that future funding could be used to support the ongoing septic to sewer conversion project. In 2018, our request was included in the Senate version of WRDA but was dropped in conference and was not included in the final bill (no requests like ours were included at that time).

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*** efforts to secure funding for Charlotte County sewer system expansion. ***Support*** efforts amend the Charlotte County existing "environmental infrastructure" authorization that has yet to be utilized so that future funding can be used to support the ongoing septic to sewer conversion project.

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.

$350 million in federal funding for the Everglades program was included in the Fiscal Year 2022 Administration budget, providing the most significant boost in funding to the program in many years. Meanwhile, the Infrastructure Investment and Jobs Act (also known as the infrastructure bill) includes 1,097,967,736 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 be coming online (such as the Herbert Hoover Dike rehabilitation). 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 in 2019. Since then, they have hosted roughly monthly Project Delivery Team meetings to develop alternative options for management of the Lake. The Corps anticipates having a final report completed by the end of 2022.

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, and continued funding for the Tamiami Trail bridging project 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 ever 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. More specifically, it appears the Administration aims to codify more recent Supreme Court decisions related to WOTUS into the regulations and plans to unveil a new definition later this year.

The Federal government's role in crafting this regulation over the past decade can be summed up by EPA Administrator Michael S. Regan, in which he states, "In recent years, the only constant with WOTUS has been change, creating a whiplash in how to best protect our waters in communities across America."

Regardless of this current effort, the WOTUS rule is likely to remain one of the most confounding in the federal government; this new approach by the Biden Administration may still be unlikely to change that. The courts will surely have extensive opportunities to consider the rule, while a new Administration in 2024 (should one be elected) would certainly have a different perspective on how to define WOTUS. This remains an issue that demands the legislative attention of Congress, yet will continue to struggle to receive it.

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, 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.

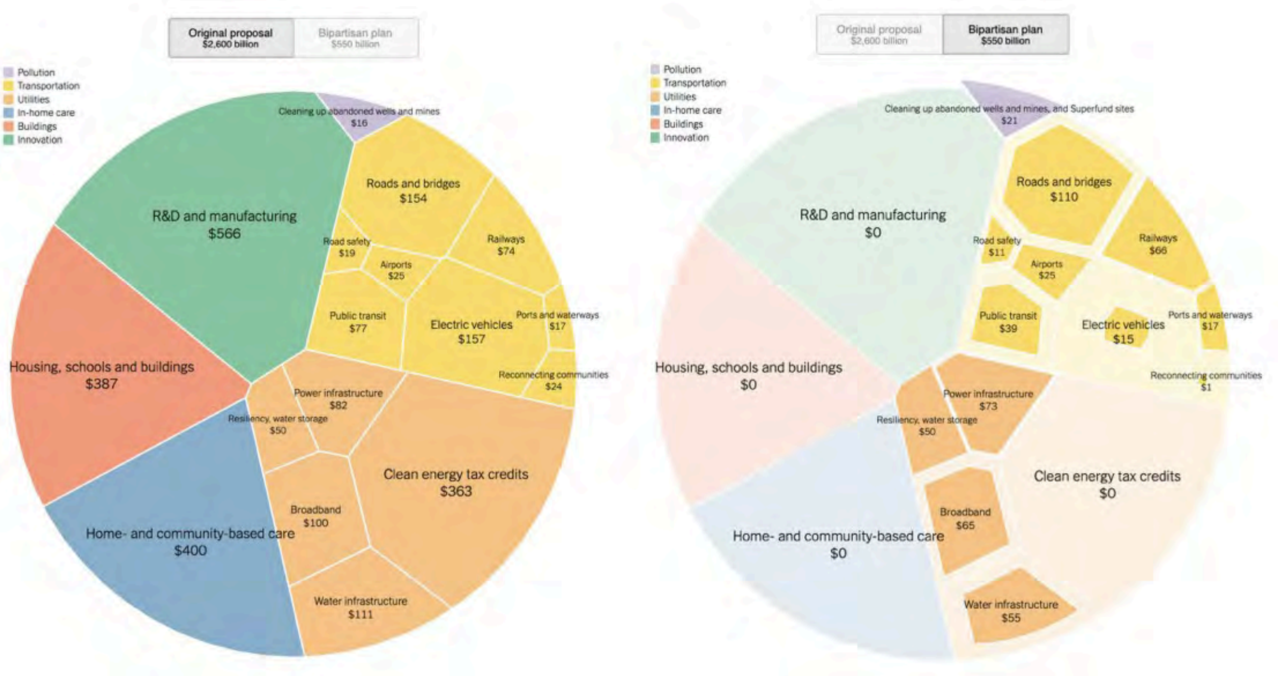
POSITION: ***Oppose*** the potential expansion of energy exploration in Florida.

FEDERAL ISSUE: Infrastructure Investment

BACKGROUND; HOW IT MAY AFFECT CHARLOTTE COUNTY: Last year, Congress passed the 2,700+ page Infrastructure Investment and Jobs Act (IIJA) after months of speculation, negotiation, and debate. The roughly $1.2 trillion measure is split almost in half between two main components:

1) A five-year surface transportation reauthorization to continue upon the expiration of the previous authorization known as the FAST Act; and
2) Roughly $550 billion in additional investment in infrastructure, generally intended to be spent over five years, more than half of which will go towards transportation.

You may recall that President Biden initially proposed spending $2.6 trillion on physical infrastructure, whereas the IIJA instead includes $550 billion in new spending above the transportation authorization bill. A visual representation of the broad differences between the two plans follows:



Broadly speaking, the IIJA proposes the following in new, above baseline spending above what is proposed as an extension of surface transportation programs, with more than half of the funding going towards transportation:

- **Transportation**: $284 billion
  - **Roads & Bridges**: $110 billion
  - **Transit**: $39 billion
  - **Rail**: $66 billion
  - **Safety**: $11 billion
  - **Airports**: $25 billion
  - **Ports & Waterways**: $17 billion
  - **Electric Vehicle Chargers**: $7.5 billion
  - **Electric Buses**: $7.5 billion
  - **Reconnecting Communities**: $1 billion
- **Water**: $55 billion
- **Broadband**: $65 billion
- **Energy & Power**: $73 billion

- **Environmental Remediation**: $21 billion
- **Western Water Infrastructure**: $8.3 billion
- **Resiliency**: $46 billion

The Department of Transportation will have a tremendous influence over where a large percentage of the new funding for transportation is spent: more than $105 million will be provided via competitive grant applications – more than 1/3rd of the overall funding.

Within the transportation sector, rail is clearly the big winner, receiving a huge boost to improve service in the Northeast Corridor and elsewhere. Beyond that, roads and transit will both receive significant boosts in funding, but not necessarily in the transformative ways the Administration and some in Congress initially hoped. The IIJA will often maintain the transportation status quo, albeit while providing increased levels of funding.

<u>POSITION</u>: ***Monitor*** implementation of the Infrastructure and Investment and Jobs Act. ***Support*** all opportunities to secure funding for Charlotte County's infrastructure priorities.

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, unfortunately all were Democrats and the bill also lacked key support from advocacy constituencies.

Unfortunately, there have been limited legislative efforts since 2019 to address these issues.

POSITION: ***Support*** legislation that would 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.

67,367 drug overdose deaths occurred in the United States in 2018. The age-adjusted rate of overdose deaths decreased by 4.6 percent from 2017 (21.7 per 100,000) to 2018 (20.7 per 100,000). Opioids—mainly synthetic opioids (other than methadone) – are currently the main driver of drug overdose deaths. Opioids were involved in 46,802 overdose deaths in 2018 (69.5 percent of all drug overdose deaths). The rate of deaths in Florida due to drugs actually declined by nearly 10 percent between 2017 and 2018.

The state of Florida received $126 million over two fiscal years (FY 2019 and 2020) through the State Opioid Response (SOR) grant program from the Department of Health and Human Services. While the program technically expired at the end of Fiscal Year 2020, Congress continues to fund it, as evidenced by the $1.5 billion allocation in the appropriations bills that were signed into law in late 2020. SOR is a popular program because now it can be used for the full continuum of services for substance use disorders.

In the future, opioid lawsuits could add another factor to Congress' calculation of how much SOR money states need going forward. Many states are likely to try to make the case that they should receive a significant amount of settlement or lawsuit money in the future.

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 116th Congress, the Affordable Housing Credit Improvement Act of 2019 (S. 1703/H.R. 3077) was bipartisan legislation to expand and strengthen the Low-Income Housing Tax Credit. Specifically, 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 stalled Build Back Better Act included significant investments in affordable housing. However, its fate remains unknown.

POSITION: ***Support*** legislation to improve the Low-Income Housing Tax Credit.

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. It is unclear what changes may be made to it in order to address the concerns initially raised by both communities and HUD.

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.

The first two rounds of the BRIC program were open for applications in 2020 and 2021, but only one year of awards has been made.

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. In 2020, HUD notified Florida that it would receive $633 million in CDBG-MIT money for "strategic, high-impact projects to mitigate disaster risks and better protect against future losses."

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 proposes 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.

<u>POSITION</u>: ***Monitor*** 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. ***Support*** Charlotte County's efforts to secure funding from each program. ***Monitor*** the Federal Emergency Management Agency's proposed rule "Cost of Assistance Estimates in the Disaster Declaration Process for the Public Assistance Program."