

July 2024

MEMORANDUM

RE: Water Resources Development Act of 2024

**Summary**

Our nation's water resources systems are crucial to our economy, public safety, and the preservation and enhancement of our environmental resources. Our levees, dams, inland waterways, and ports protect hundreds of communities, support millions of American jobs, and generate trillions in economic activity. However, many of these infrastructure assets have reached the end of their design life, and the investment gap must be closed if we hope to both repair and modernize our water resources systems to be competitive in the 21st Century.

ASCE's [2021 Report Card for America's Infrastructure](#) gives the nation's infrastructure an overall grade of "C-". While this represents the first time the nation's overall GPA has reached the "C" range since ASCE started grading the nation's infrastructure in 1998, the nation's water infrastructure systems continue to see significant challenges and the nation's [dams](#) and [levees](#) each received a grade of "D" in 2021. According to the Association of State Dam Safety Officials, the nation's more than 92,000 dams require more than \$ 157 billion worth of repairs, while the nearly 30,000 miles of levees nationwide will require approximately \$80 billion for maintenance and rehabilitation over the next decade. [Inland waterways](#) received a grade of "D+" on the Report Card, while [ports](#) received "B-". Inland waterways and ports present an array of needs from landside infrastructure upgrades to waterside infrastructure improvements, such as dredging. According to ASCE's [Bridging the Gap](#) economic study, water transportation needs from 2024-2033 are about \$45 billion. If funding levels included in the Infrastructure Investment and Jobs Act (IIJA) become the new baseline for annual investment, this sector will have an anticipated investment of \$32 billion and a funding gap of \$13 billion. However, if funding levels revert to pre-IIJA levels in 2027, the funding gap would grow to \$19 billion.

The Water Resources Development Act (WRDA) is legislation which Congress considers on a biennial basis authorizing new water resources infrastructure projects and studies for the U.S. Army Corps of Engineers (USACE). It also includes key water resources policy changes affecting USACE and USACE adjacent programs and activities. WRDA legislation is drafted

and debated by the [Senate Environment and Public Works \(EPW\) Committee](#) and the [House Transportation & Infrastructure \(T&I\) Committee](#).

Since 2014, WRDA has been passed by Congress and signed into law on schedule every two years. This predictability allows USACE to better plan project activities and more easily formulate their budget in a timely manner. In addition, WRDA is usually developed in a bipartisan fashion, which promotes more widespread support in Congress.

On May 22nd, [Senate EPW marked up and approved](#) its 2024 WRDA legislation on a bipartisan basis. [House T&I followed suit](#) on June 26<sup>th</sup> by advancing its own WRDA bill. Both the House and Senate are expected to hold final votes on their WRDA bills in the coming weeks.

The [Senate legislation \(S. 4367\)](#) includes authorization of \$2.28 billion for 8 new federal water resources infrastructure projects. Additional highlights include:

- Authorization of 62 new project feasibility studies
- Adjusting the cost share requirements for the Inland Waterways Trust Fund (IWTF) from 65%-35% to 75%-25% general fund-IWTF.
- Requires more timely updates to USACE's online "permit finder" to provide accurate updates as to the status of projects with an authorized permit or projects awaiting a permit.
- Requires establishment of Levee Owners Advisory Board to provide guidance to USACE on certain levee safety and flood control related issues.

For additional background on the Senate's bill, please see the [section-by-section summary](#) put together Senate EPW.

The [House legislation \(H.R. 8812\)](#) includes authorization of \$6.7 billion for 12 new water infrastructure projects which have been reviewed by USACE. Additional highlights include:

- 159 new project feasibility studies
- Reauthorization and reforms to the National Dam Safety Program
- Incorporation of low-head dams into the National Inventory of Dams
- Progress implementing the newly authorized Inland Waterways Regional Dredge Pilot Program
- Authorization of new national coastal mapping program
- Extension of the National Levee Safety Program through 2033

For additional background on the House's bill, please see the [section-by-section summary](#) put together by House T&I.

## Water Resources Development Act 2024

### *Improving the Nation's Dams and Levees*

#### *National Dam Safety Program Reauthorization*

H.R. 8812 contains a provision (Sec. 128) which would reauthorize the National Dam Safety Program through 2028. The program's legislative authority officially expired on September 30, 2023, and has been utilizing previously appropriated funds for its operation. In addition to reauthorizing the program, it significantly increases the amount states may receive in NDS State Assistance Grants to up to four times the total funds committed to a state's dam safety program (the current max is up to half of the "reasonable cost" to implement a program.) The bill also makes changes to the High Hazard Potential Dam Rehabilitation Grant Program by removing non-federal cost share burdens for small, disadvantaged communities, and provides clarification around floodplain management plan requirements for grant eligibility.

S. 4367 includes no such provisions related to the National Dam Safety Program or High Hazard Potential Dam Rehabilitation Grant program.

#### *Low-Head Dams*

H.R. 8812 includes a provision (also Sec. 128) which requires USACE to incorporate low-head dams into the National Inventory of Dams. Low-head dams are small, river spanning structures which produce strong undetectable currents threatening public safety. WRDA 2022 authorized the creation of a National Low-Head Dam Inventory.

S. 4367 includes no such provision related to the inventory of low-head dams.

**ASCE Position:** Reauthorization of the National Dam Safety Program has been a top ASCE legislative and WRDA priority since 2023. ASCE was heavily involved in drafting the legislative language contained in H.R. 8812 and has met with several House and Senate offices encouraging support for these provisions. Reauthorization of the NDSP will not only ensure that the program is able to receive annual appropriations, it also provides greater assurance to states and their dam safety programs that state assistance grants and other federal resources will be available to bolster their programs, utilize key funds from sources such as the Bipartisan Infrastructure Law, and monitor the condition and safety of dams nationwide.

ASCE also strongly supports efforts to provide an accurate accounting of the nation's low-head dams. ASCE highlighted the challenges and dangers posed by these structures in the dams chapter of the 2021 Report Card for America's Infrastructure. A comprehensive inventory, which includes factors and data such as ownership, condition, and public safety concerns, will only improve the overall safety of the nation's dams.

### ***National Levee Safety Program Extension***

H.R. 8812 includes an extension of the National Levee Safety Program through 2033. The program was officially reauthorized through 2028 in WRDA 2022.

S. 4367 includes no such provision related to the National Levee Safety Program.

### ***Levee Owners Advisory Board***

S. 4367 contains a provision (Sec. 114) authorizing the creation of a USACE Levee Owners Advisory Board, which would largely consist of non-federal owners and operators of federally constructed levee systems to provide advice and guidance on certain levee safety and flood mitigation issues affecting USACE built levee systems.

**ASCE Position:** The National Levee Safety Program has continued to make progress in its development, including the recent release of the first ever draft National Levee Safety Guidelines earlier this year. Ensuring the program continues to operate under legislative authority into the next decade will allow the program to continue its development and provide it with the opportunity to support the standing up of state levee safety programs. It will also allow for levee safety guidelines to be finalized and provide a framework for states to use in regulating and monitoring the safety and effectiveness of their levee systems.

The establishment of a Levee Owners Advisory Board has the potential to improve communication and coordination between USACE, as well as other federal agencies, and levee owners and operators. This could prove valuable as USACE continues to develop the National Levee Safety Program by improving the ability of federal agencies such as USACE to understand the concerns of levee owners and operators, as well as other stakeholders. This could provide greater ability to work with states that own and operate non-federal levee systems.

### ***Improving the Nation's Ports and Inland Waterways***

#### ***Inland Waterways Trust Fund Project Cost Sharing***

S. 4367 further adjusts the cost share formula for Inland Waterways Trust Fund (IWTF) projects from 65%-35% to 75%-25% General Fund-IWTF. WRDA 2020 adjusted the cost share from a 50% - 50% split to the current 65% - 35% split, and WRDA 2022 permanently extended the current cost share formula. The 2022 Senate bill contained a similar provision to S. 4367, but the House and Senate conferees settled on the permanent extension language in the final agreement. Inland waterways construction and rehabilitation costs, including for locks, are shared by the federal government through general funds and by users through the IWTF. Operation and maintenance costs for inland waterways are covered in full by the federal government. The IWTF is supported by a 29 cents per gallon tax on barge fuel and cannot exceed expenditures in any given year. In April 2015, this user tax was increased by 9 cents for the first time since 1995 upon the urging of the Inland Waterways Users Board, in order to increase investment in the system.

H.R. 8812 contains no such provision.

**ASCE Position:** ASCE supports further amending the IWTF cost share adjustment for future rehabilitation projects. This will ensure that the IWTF remains available for future projects and will help to reduce the inland waterways project backlog. Previous WRDA bills have changed the cost-share for certain projects, which allowed for more leveraging of funds and increased project efficiency. This precedent proved that making this cost-share change will encourage faster construction and expedite the completion of inland navigation projects.

***Inland Waterways Regional Dredge Pilot Program***

H.R. 8812 includes a provision (Sec. 115) clarifying the way USACE selects projects for the Inland Waterways Regional Dredge Pilot Program, which was first authorized in WRDA 2022. The provision provides USACE with greater flexibility to award projects which improve inland waterway navigability, increase freight capacity, and have the potential to enhance the availability of containerized cargo.

S. 4367 contains no such provision related to the Inland Waterways Regional Dredge Pilot Program.

**ASCE Position:** ASCE supports efforts to enhance investment in dredging activity, which will help to address the \$45 billion in water transportation needs reflected in ASCE's Bridging the Gap study. Dredging is critically important to keeping inland waterways navigable. Inland waterways are an efficient and environmentally beneficial mode of transportation, as a barge can move as many tons as 70 trucks.

***Improving the Viability of Community Harbors***

Sections 112 through 114 of H.R. 8812 provide support for emerging, remote, and underserved community harbors. Section 112 requires USACE to provide guidance for developing a mechanism to receive non-federal cost shares for maintenance and dredging activities from non-federal interests. Section 113 provides greater support for projects to improve remote harbors in Alaska, Hawaii, and U.S. territories, as well as projects that would improve the economic viability of communities surrounding such harbors. Section 114 provides USACE with greater authority to support and carry out harbor projects for underserved communities.

Section 352 of S. 4367 provides support for underserved community harbors, including for purposes related to ecosystem restoration. This section extends the authorization of appropriations from WRDA 2022 until 2029.

**ASCE Position:** ASCE supports efforts to address challenges in emerging, remote, and underserved community harbors, which have the potential to contribute to the nation's economic growth. These provisions can help enhance economic activity, advance environmental justice, and create new job opportunities.

## **Permitting Process and Transparency**

### ***Permitting Application Office***

H.R. 8812 contains a provision (Sec. 106) requiring USACE to establish a single office dedicated to coordinating and providing guidance for permit applications for non-federal water resources projects.

S. 4367 does not contain such a provision.

### ***Online Permitting Activities***

H.R. 8812 contains a provision (Sec. 107) requiring implementation of a system for electronic preparation and submission of project permit applications, as well as a means to track documents related to environmental reviews online.

S. 4367 contains a provision (Sec. 106) requiring USACE to provide timely updates to its online “permit finder” indicating the status of projects that have been awarded a permit or are awaiting approval of a permit.

**ASCE Position:** ASCE supports efforts to improve and reduce delays in the project permitting process. This includes the designation of a single lead agency to coordinate reviews and use of a single environmental document. It also includes the use of a publicly accessible dashboard indicating the status of environmental reviews. The provisions contained in H.R. 8812 and S. 4367 have the potential to improve the transparency of the permitting and environmental review process and streamline project permitting reviews through the creation of a dedicated USACE office. They also have the potential to improve the permitting application process by making such procedures more available in an online format.

## **Further Action**

With markups of both House and Senate WRDA bills complete, the bills now face votes on final passage in their respective chambers. Once this occurs, House and Senate negotiators will work out differences between the two bills in a conference committee to advance a final WRDA agreement. While timing for House and Senate votes on their respective WRDA bills remains unclear, it is important to note that final passage of WRDA remains on schedule to be completed by the end of 2024. ASCE will continue working with both Senate EPW and House T&I, as well as Members of Congress to ensure final passage of WRDA 2024 this year.

***For questions, please contact the ASCE Government Relations team.***

**Caroline Sevier**, Managing Director, Government Relations and Infrastructure Initiatives, [csevier@asce.org](mailto:csevier@asce.org)

**Carlos Condarco**, Director, Government Relations, [ccondarco@asce.org](mailto:ccondarco@asce.org)

**Matthew McGinn**, Energy, Environment, Water, & Parks, [mmcginn@asce.org](mailto:mmcginn@asce.org)

**Eleanor Lamb**, Transportation, Aviation, Ports, & Inland Waterways, [elamb@asce.org](mailto:elamb@asce.org)

**Martin Hight**, Resilience, Research & Development, STEM, [mhight@asce.org](mailto:mhight@asce.org)