

## MEMORANDUM

TO: Mayor Craig Brown and Members of Council

CC: City Manager Office, Executive Leadership Team, City Attorney Office

FROM: Sally Bakko, Director of Policy and Governmental Relations

DATE: April 19, 2024

RE: Legislative Report: Austin and Washington Update

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Please find below an update on legislative activities in Austin and Washington. (*To access links below, control+click on link.*)

### **Gulf Coast Protection District (GCPD) Update**

The [Gulf Coast Protection District](#) Board of Directors met on Wednesday, April 17th, in the large conference room in their new office location at 1150 Gemini Street, Houston.

- Galveston County Commissioners Court appointed former State Senator Larry Taylor to represent Galveston County, filling the vacancy resulting from the death of Roger “Bo” Quiroga. Mr. Taylor’s term is set to expire June 16, 2027.
- GCPD is pursuing US Army Corps of Engineers FY 2024 “Additional Funding” that may be available to advance the Coastal Texas Project towards a “New Start” construction designation.
- Congressman Randy Weber (TX-14th) submitted an FY 2025 \$65 million Community Project Funding (CPF) request, that would allow for the following immediate work:

#### *Coastal Storm Risk Management (CSRM)*

- West Galveston and Bolivar Beach and Dune Systems: \$15,000,000.
- Bolivar Roads Gate System: \$5,000,000. Initiate pre-construction design analyses.

#### *Ecosystem Restoration*

- Bolivar Peninsula and West Bay Gulf Intercoastal Waterway (GIWW) Breakwaters: \$25,000,000. Address erosion on the bayside of Bolivar Peninsula.
- Follett’s Island Gulf Beach and Dune Restoration: \$20,000,000. Restore existing beach and dune complex on 10.1 miles of Gulf shoreline on Follett’s Island.
- I joined GCPD Executive Director Nicole Sunstrum to attend the Texas Association of Business (TAB) Washington DC Fly-In meetings last week. Recognizing the supply chain protections provided by the Coastal Texas Project, TAB has been a valuable partner on support letters advocating for federal funds for the project. TAB Fly-In attendees heard from Texas Delegation members Senator John Cornyn, Senator Ted Cruz, Rep. Tony Gonzales, Rep. Nathaniel Moran, Rep. Henry Cuellar, Rep. Roger Williams, Rep. Colin Allred, and Governor Gregg Abbott’s Director of Federal and State Relations Director Wes Hambrick. I provided factsheets outlining the implications and protections provided by the Coastal Texas Project to supply chains originating in the upper Texas Coast that impact economies in 21 states. This information was shared with senior staff with the US Chamber of Commerce, National Association of Manufacturers, and the American Petroleum Institute.
- The next GCPD Board Meeting will be held at the Historic Galveston Water & Electric Light Community Center located at 715 30<sup>th</sup> Street in Galveston on May 8th.

## Austin Update

### Texas Legislature – Interim

#### Senate Committee on Water, Agriculture & Rural Affairs – Interim Charge Hearing

The Senate Committee on Water, Agriculture, and Rural Affairs will meet at **10:00 am on Wednesday, May 15<sup>th</sup>**, to hear invited and public testimony on the following interim charge:

- **Water System Reliability:** Evaluate water systems in Texas and identify opportunities to better equip those systems to serve the public. Review the coordination of relevant state agencies dealing with Texas water issues and identify opportunities for improved coordination and effectiveness.

#### Texas Department of Insurance Review of Worker Comp Rules

The Texas Department of Insurance (TDI) is set to start review of the following workers' compensation rules:

- [Compensation Procedure – Employers](#)
- [Compensation Procedure – Claimants](#)
- [Insurance Carriers: Notices, Payments, and Reporting](#)

TDI's review will consider whether the reasons for initially adopting these rules continue to exist and whether these rules should be repealed, readopted, or amended. See more information about these rules [here](#). Written comments may be submitted to Legal Services, MC-LS, Texas Department of Insurance, Division of Workers' Compensation, P.O. Box 12050, Austin, Texas 78711-2050 or to [RuleComments@tdi.texas.gov](mailto:RuleComments@tdi.texas.gov). Written comments must be received by **5:00 p.m. on May 13**.

## Washington Update

### National Flood Insurance Program Update

#### ▪ Risk Rating 2.0 Litigation

U.S. District Court Judge Darrel James Papillion issued an [order](#) on March 28, 2024, related to a lawsuit filed on June 1, 2023 (Case No. 2:23-cv-01839). Plaintiffs are the States of Louisiana, Florida, Idaho, Kentucky, Mississippi, Montana, North Dakota, South Carolina, Texas, and Virginia; more than sixty Louisiana municipal entities, including parishes, municipalities, and levee and drainage districts; and one Louisiana non-profit organization. Defendants are the Department of Homeland Security ("DHS"); Alejandro Mayorkas, in his official capacity as Secretary of DHS; FEMA; Deanne Criswell, in her official capacity as Administrator of FEMA; and the Federal Insurance and Mitigation Administration.

As summarized in the order, "Plaintiffs allege FEMA's new methodology, known as "Risk Rating 2.0—Equity in Action," exceeds FEMA's statutory authority, is not in accordance with law, is contrary to a constitutional right, and was implemented without observance of the procedures required by law...According to Plaintiffs, Risk Rating 2.0 fundamentally changes how FEMA calculates rates for federal flood insurance and is producing alarming results."

Shortly after Plaintiffs instituted this lawsuit, they filed a Motion for Preliminary Injunction, and Defendants filed a Motion to Dismiss for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure. A joint hearing on the Plaintiffs' Motion for Preliminary Injunction and Defendants' Motion to Dismiss occurred on September 14, 2023.

The Court, according to the March 28 order, found that the "[Defendants' Motion to Dismiss Plaintiffs' Complaint should be GRANTED IN PART and DENIED IN PART, and Plaintiffs' Motion for](#)

Preliminary Injunction in advance of trial on the merits should be DENIED.” Claims brought by the Plaintiff States and Plaintiff Policyholders can move forward for a trial on the merits, which has not yet been scheduled. For more information on the lawsuit, [click here](#).

#### ▪ **Customer Care Branch and Office of the Flood Insurance Advocate**

The Federal Emergency Management Agency has created a National Flood Insurance Program (NFIP) Customer Care Branch (CCB). View more information about the CCB in a presentation slide deck [here](#) and FEMA’s **Office of the Flood Insurance Advocate (OFIA)** in presentation slide deck [here](#). CCB can be contacted at [NFIPUnderwritingMailbox@fema.dhs.gov](mailto:NFIPUnderwritingMailbox@fema.dhs.gov) and OFIA can be contacted at [Insurance-Advocate@fema.dhs.gov](mailto:Insurance-Advocate@fema.dhs.gov). Rhonda Montgomery, Flood Insurance Advocate and Joseph Cecil, Advocate Team Lead, can be reached at [Rhonda.Montgomery@fema.dhs.gov](mailto:Rhonda.Montgomery@fema.dhs.gov) and [Joseph.Cecil@fema.dhs.gov](mailto:Joseph.Cecil@fema.dhs.gov), respectively. Your communications could address your individual questions about your policy, premiums, and rating factors. Moreover, FEMA is compiling all submitted concerns for trend analysis and potential resolve. By reaching out to either resource, you are formally registering your concern with FEMA.

#### **FTA Final Rule Updating Public Transportation Agency Safety Plans Regulation**

The Federal Transit Administration (FTA) [announced](#) a final rule updating the Public Transportation Agency Safety Plans regulation, along with a newly revised National Public Transportation Safety Plan. The updated regulation also incorporates the Bipartisan Infrastructure Law requirement that transit agencies serving areas with a population of less than 200,000 develop their safety plans in cooperation with frontline transit worker representatives.

#### **EPA Proposes First-Ever National Standard for PFAS, Announces \$1 Billion in Funding**

Last week the Environmental Protection Agency (EPA) [issued](#) the first-ever national, legally enforceable drinking water standard on per- and polyfluoroalkyl substances (PFAS). The [final rule](#) sets limits for five individual PFAS: PFOA, PFOS, PFNA, PFHxS, and HFPO-DA (also known as “GenX Chemicals”) and sets a limit for mixtures of any two or more of four PFAS: PFNA, PFHxS, PFBS, and “GenX chemicals.” EPA estimates that between about 6 percent and 10 percent of the 66,000 public drinking water systems subject to this rule may have to take action to reduce PFAS to meet these new standards; all public water systems have three years to complete their initial monitoring for these chemicals. They must inform the public of the level of PFAS measured in their drinking water and where PFAS is found at levels that exceed these standards, systems must implement solutions to reduce PFAS in their drinking water within five years. More information, including several fact sheets and details on upcoming webinars, can be found [here](#). In addition to the final rule, EPA also announced nearly \$1 billion in newly available funding through the *Infrastructure Investment and Jobs Act* (IIJA) to help states and territories implement PFAS testing and treatment at public water systems and to help owners of private wells address PFAS contamination. An allocation table can be found [here](#).

#### **Reports of Interest**

[Miriam Adelson, Texas Sands PAC push for gambling in Texas - Austin Business Journal \(bizjournals.com\)](#)

[Texas Lawmakers Look to Take Zoning Changes Out of Dallas' Hands - D Magazine](#)