On July 28, the Senate by a 93-1 vote returned to the House an amended version of H.R. 7776, the Water Resources Development Act of 2022 (WRDA). It authorizes the U.S. Army Corps of Engineers (Corps) to carry out activities concerning water resources development projects, water supply and wastewater infrastructure, flood control, navigation, or ecosystem restoration, such as shoreline restoration. In addition, it modifies the process used to deauthorize certain inactive water resources development projects. The bill also includes a number of policy and process changes, and creates a number of advisory committees.

Under Title I, General Provisions, Section 101 expands the Scope of Feasibility Studies related to Flood and Coastal Storm Risk Management, directing that the Secretary of the Army, "at the request of the non-Federal interest for the study, shall formulate alternatives to maximize net benefits from the reduction of the comprehensive flood risk that is identified through a holistic evaluation of the isolated and compound effects of – (1) a riverine discharge of any magnitude or frequency; (2) inundation, wave attack, and erosion coinciding with a hurricane or coastal storm; (3) a tide of any magnitude or frequency; (4) a rainfall event of any magnitude or frequency; (5) seasonal variation in water levels; (6) groundwater emergence; (7) sea level rise; (8) subsidence; or (9) any other driver of flood risk affecting the study area."

Further under Section 101(b), if requested, the Secretary "shall formulate alternatives – (1) to maximize combined net benefits for the primary purpose of the study and for water supply, water supply conservation, and drought risk reduction; or (2) to include one or more measures for the purpose of water supply, water supply conservation, or drought risk reduction." Section 101(c) provides that all costs shall be shared in accordance with the cost share requirements otherwise applicable to the study.

Section 106, Planning Assistance to States, is amended to prioritize both inland and coastal life safety risks, as well as to the maximum extent practicable assistance to economically disadvantaged communities. Further, the Secretary is authorized to carry out activities, at full Federal expense – "to inform and educate States and other non-Federal interests about the missions, programs, policies, and procedures of the Corps of Engineers; and to engage with States and other non-Federal interests to identify specific opportunities to partner with the Corps of Engineers to address water resources development needs." The Secretary is directed to designate staff in each district office to provide such assistance.

Section 107, Floodplain Management Services, specifically directs the Secretary to identify and specific opportunities to partner with the Corps to address flood hazards.

Section 113 authorizes the Secretary to engage in basic research, applied research, advanced research, and development projects, including such projects that are – (1) authorized by Congress; or (2) included in an Act making appropriations for the Corps.

Section 114 creates a committee to develop and make recommendations to the Secretary and the Chief of Engineers on activities and actions that should be undertaken "to ensure more effective delivery of water resources development projects, programs, and other assistance to economically disadvantaged communities and Indian Tribes." It would be comprised of ten individuals appointed by the Secretary with "experiential or technical knowledge" needed to address related issues.

Section 115 similarly creates a Non-Federal Interest Advisory Committee comprised of members representing interests related to harbors, including inland harbors, flood and coastal storm risk management, aquatic ecosystem restoration, as well as inland waterborne transportation, water supply, recreation, hydropower and emergency preparedness stakeholders. In addition, it would include representatives with expertise in conservation, environmental policy, and rural water resources.

Section 117 creates a Western Water Cooperative Committee to ensure that Corps flood control projects in Western States are operated consistent with congressional directives by identifying opportunities to avoid or minimize conflicts between operation of Corps projects and State water rights and water laws. It may make recommendations for legislation or the promulgation of policy or regulations.

The Committee would be comprised of – the Assistant Secretary of the Army for Civil Works (or a designee); the Chief of Engineers (or a designee); one representative from each of eighteen States, "who may serve on the

Western States Water Council, to be appointed by the Governor of each State;" similarly one representative with legal experience from each of the States to be appointed by the Attorney General of each State; and one employee from each of the impacted regional offices of the Bureau of Indian Affairs.

The Section includes Congressional Findings stating that – (1) a bipartisan coalition of 19 Western Senators wrote to the Office of Management and Budget on September 17, 2019, in opposition to the proposed rulemaking entitled "Use of U.S. Army Corps of Engineers Reservoir Projects for Domestic, Municipal & Industrial Water Supply" (81 Fed. Reg. 91556 (December 16, 2016)), describing the rule as counter to existing law and court precedent; (2) on January 21, 2020, the proposed rulemaking described in paragraph (1) was withdrawn; and (3) the Corps should consult with Western States to ensure, to the maximum extent practicable, that operation of flood control projects in prior appropriation States is consistent with the principles of the first section of the Act of December 22, 1944 (commonly known as the "Flood Control Act of 1944") (58 Stat. 887, chapter 665; 33 U.S.C. 701–1) and section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b).

Section 118 provides that on request of "the Governor of State in which the Governor declared a statewide drought disaster in 2021, the Secretary is authorized to update water control manuals for waters in the State, with priority given to those waters that accommodate a water supply project."

Section 127 under the National Dam Safety Program Act (33 U.S.C. 467 et seq.) directs the Secretary to inventory low-head dams, meaning "a river-wide dam that generally spans a stream channel, blocking the waterway and creating a backup of water behind the dam, with a drop off over the wall of not less than 6 inches and not more than 25 feet." The Secretary, in consultation with the heads of appropriate Federal and State agencies, shall include in the inventory: "(i) the location, ownership, description, current use, condition, height, and length of each low-head dam;" (ii) any information on public safety conditions at each low-head dam; "(iii) public safety information on the dangers of low-head dams;" (iv) a directory of financial and technical assistance resources available to reduce safety hazards and fish passage barriers at low-head dams; and "(v) any other relevant information concerning low-head dams." Within 18 months, the Secretary is to submit the inventory to the relevant House and Senate Committees. The bill authorizes $30M for the inventory.

Section 129 authorizes $25M for national levee restoration assistance to mitigate flood risk and increase resiliency to extreme weather events and improve or remove levees prioritizing help for economically disadvantaged communities.

Section 131 allows the Secretary to expedite evaluation of permits, taking into account multi-user mitigation bank instruments sponsored by applicants. Credits generated by the mitigation bank: "(i) shall be limited to current and future projects and activities of the entity, company, or carrier… for a public purpose, except that in the case of a non-Federal public entity, not more than 25 percent of the credits may be sold to other public and private entities."

Section 132 amends Section 1043(b) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2201 note; Public Law 113–121) to provide for a non-federal project implementation pilot program by adding "or discrete segment" after "separable element" each place it appears. "The term 'discrete segment' means a physical portion of a project or separable element that the non-Federal interest can operate and maintain, independently and without creating a hazard, in advance of final completion of the water resources development project, or separable element thereof."

Section 134 amends Section 1116 of the WIIN Act (130 Stat. 1639) so that in a "State in which a drought emergency has been declared or was in effect for at least 2 years during the 10-year period preceding a request from a non-Federal interest for assistance…, the Secretary is authorized – (1) to conduct an evaluation for purposes of approving water supply conservation measures that are consistent with the authorized purposes of water resources development projects under the jurisdiction of the Secretary; and (2) to enter into written agreements pursuant to section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) with non-Federal interests to carry out the conservation measures approved…."

Eligible water supply conservation measures may include: (1) stormwater capture; (2) ground water replenishment or aquifer storage and recovery; (3) "releases to augment water supply at another Federal or non-Federal storage facility;" and (4) other conservation measures that "enhance usage of a Corps of Engineers project for water supply including measures utilizing a natural feature or nature-based feature" to reduce drought risk. A non-Federal interest is required to "pay only the separable costs associated with the evaluation, implementation, operation, and maintenance of an approved water supply conservation measure…."

Section 137 expedites hydropower at Corps facilities by directing the Secretary to: (1) ensure that the policy is implemented nationwide in an efficient, consistent, and coordinated manner; and (2) assess opportunities – "(A) to increase the development of hydroelectric power at existing hydroelectric water resources development projects of the Corps of Engineers; and (B) to develop new hydroelectric power at nonpowered water resources development projects of the Corps of Engineers."

Section 141, Columbia River Basin, authorizes the Secretary, in coordination with other Federal and State agencies and Indian Tribes, "…at Federal expense, to carry out a study to determine the feasibility of a project for flood risk management and related purposes in the Columbia River basin and to report to the [Committees with jurisdiction]…, including recommendations for a project to potentially reduce the reliance on Canada for flood risk management in the basin."

It also authorizes the Secretary to "expend funds appropriated for the purpose of satisfying United States obligations under the Columbia River Treaty to compensate Canada for operating Canadian storage on behalf of the United States under such Treaty…. If the U.S. entity calls upon Canada to operate Canadian reservoir storage for flood risk management on behalf of the United States, which operation may incur an obligation to compensate Canada under the Columbia River Treaty – (A) the Secretary shall submit to the Committees [with jurisdiction] …a written notice of the action and a justification, including a description of the circumstances necessitating the call; (B) upon a determination by the United States of the amount of compensation that shall be paid to Canada…a written notice specifying such amount and an explanation of how such amount was derived, which notification shall not delay or impede the flood risk management mission of the U.S. entity; and (C) the Secretary shall make no payment to Canada for the call under the Columbia River Treaty until such time as funds appropriated for the purpose of compensating Canada under such Treaty are available."

Under Title II, Studies and Reports, Section 214, Western Infrastructure Study, directs the Secretary to "conduct a comprehensive study to evaluate the effectiveness of carrying out additional measures, including measures that utilize natural features or nature-based features at or upstream of reservoirs for the purposes of – (1) sustaining operations in response to changing hydrological and climatic conditions; (2) mitigating the risk of drought or floods, including the loss of storage capacity due to sediment accumulation; (3) increasing water supply; or (4) aquatic ecosystem restoration…. [T]he Secretary shall include all reservoirs owned and operated by the Secretary and reservoirs for which the Secretary has flood control responsibilities under section 7 of the Act of December 22, 1944 (commonly known as the Flood Control Act of 1944) (58 Stat. 890, chapter 665; 33 U.S.C. 709) …." Further, the Secretary is directed to "consult with applicable – (A) Federal, State, and local agencies; (B) Indian Tribes; (C) non-Federal interests; and (D) other stakeholders, as determined appropriate…." Nothing in this section provides authority to the Secretary to "change the authorized purposes at any of the reservoirs…."

Title III, Section 343, Water Supply Storage Repair, Rehabilitation, and Replacement Costs amends Section 301(b) of the Water Supply Act of 1958 (43 U.S.C. 390b(b)) by inserting the following: "For Corps of Engineers projects, all annual operation and maintenance costs for municipal and industrial water supply storage under this section shall be reimbursed from State or local interests on an annual basis, and all repair, rehabilitation, and replacement costs shall be reimbursed from State or local interests (1) without interest, during construction of the repair, rehabilitation, or replacement, (2) with interest, in lump sum on the completion of the repair, rehabilitation, or replacement, or (3) at the request of the State or local interest, with interest, over a period of not more than 25 years beginning on the date of completion of the repair, rehabilitation, or replacement, with repayment contracts providing for recalculation of the interest rate at 5-year intervals."

Section 344 is amended by adding: "At the request of any non-Federal interest, the Secretary may waive the accrual of interest on any non-Federal cash contribution under this section or section 101 for a project for a period of not more than 1 year if the Secretary determines that – (i) the waiver will contribute to the ability of the non-Federal interest to make future contributions; and (ii) the non-Federal interest is in good standing under terms agreed to…. The Secretary may grant not more than 1 waiver…for the same project."