



# Memorandum

**TO:** RULES AND OPEN GOVERNMENT COMMITTEE      **FROM:** Betsy Shotwell

**SUBJECT:** SEE BELOW

**DATE:** June 8, 2010

Approved

Date

6/9/10

**SUBJECT: STATUS OF NOTABLE FEDERAL LEGISLATION RELEVANT TO LOCAL GOVERNMENT – MAY RECESS 2010**

## RECOMMENDATION

Acceptance of the attached status report from the City's Federal advocacy firm of Patton Boggs, LLP, in Washington, D.C.

## OUTCOME

That the Rules and Open Government Committee and the City Council have the opportunity to review the status report by Patton Boggs staff on pending federal legislation in Washington, D.C. half-way way through the second year of the 111<sup>th</sup> Congress in 2010.

## BACKGROUND

The firm of Patton Boggs, LLP, is providing the attached update on the status and prospects of pending federal legislation of particular relevance and interest to local governments. This activity supports the City's advocacy and education in promoting our federal legislative priorities.

## ANALYSIS

The attached report describes in detail the status of high-profile federal legislation of interest to the City as Congress reconvenes following the Memorial Day recess, including reauthorizations of the Federal Aviation Administration and Surface Transportation, FY 2011 Appropriations, climate/energy legislation, and bills related to funding a number of job creation proposals.

However, as stated in the memo -- "Growing public and Congressional concerns over the increasing deficit combined with moderate Members' insistence on "pay-as-you-go" principles, are impeding action on and likely will stall most other budget and tax legislation until after the November mid-term elections." Furthermore with a number of Congressional activities still to play out, including the "Supreme Court nomination and financial services regulatory reform,

**Rules and Open Government Committee**

**Re: Status of Notable Federal Legislation Relevant to Local Government Interests – May Recess 2010**

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small business lending, defense authorization and possibly a few appropriation bills” there will be little time left for addressing other issues.

The Gulf of Mexico oil spill has consumed Congressional attention since April with over a dozen oversight hearings held to date. With these hearings and ongoing federal investigations focused on what happened to sink the Deepwater Horizon rig that tragically claimed 11 lives, perhaps a narrowly focused energy-only bill will surface to most prominently address offshore drilling safety while leaving climate change for the 112th Congress.

**PUBLIC OUTREACH**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

By providing this document to the Rules and Open Government Committee in June, this document will be posted on the City’s website with the June 16 meeting agenda and interested public will have the opportunity to review the document prior to the full Council acceptance.

**COORDINATION**

This memo was coordinated with the City’s Washington, D.C. lobbyist firm of Patton Boggs, LLP.



BETSY SHOTWELL

Director, Intergovernmental Relations

Attachment: Patton Boggs, LLP, “Status of Notable Federal Legislation Relevant to Local Government Interests – May Recess 2010”

For more information contact: Betsy Shotwell, Director of Intergovernmental Relations at (408) 535-8270.

## MEMORANDUM

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**To:** City of San Jose  
**From:** Patton Boggs LLP  
**Date:** June 6, 2010  
**Subject:** Status of Notable Federal Legislation Relevant to Local Government Interests – May Recess 2010

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This memorandum provides an update on the status and prospects of pending, high-profile federal legislation with particular relevance to local governments as Congress reconvenes following the Memorial Day recess. Specifically, the memo addresses –

- American Jobs and Closing Tax Loopholes Act (H.R. 4213), providing for extension of expired tax incentives and a range of recovery-related funding assistance
- FY2010 Supplemental Appropriations (H.R. 4899) for war and disaster needs, and potential domestic programs
- Local Jobs for America Act (H.R. 4812)
- FY2011 Appropriations
- Collective Bargaining for Public Safety Personnel (S. 3194)
- America COMPETES Act (H.R. 5116)
- Juvenile Accountability Block Grant Program Reauthorization (H.R. 1514 / S. 2866)
- Federal Aviation Administration Reauthorization
- Water Resources Development Act
- Surface Transportation Reauthorization
- Climate Change / Energy legislation

Most notably, Congressional leaders began the month of May intending to complete work on two bills before adjourning for the weeklong recess – the re-titled American Jobs and Closing Tax Loopholes Act of 2010 (“tax extender” bill / H.R. 4213) and the FY2010 Supplemental Appropriations (“war supplemental” / H.R. 4899). In the end, neither was finished as each chamber advanced only one of the bills, with the House narrowly approving a scaled-down version of the tax

extender bill and the Senate passing a narrow version of the war supplemental, leaving both awaiting further action and amendment.

Growing public and Congressional concerns over the increasing deficit combined with moderate Members' insistence on "pay-as-you-go" principles, are impeding action on and likely will stall most other budget and tax legislation until after the November mid-term elections. Further, after these two measures, the Senate calendar will be filled for much of the summer with the Supreme Court nomination, financial services regulatory reform, small business lending, defense authorization, and possibly a few appropriations bills, which leaves no time for consideration of other legislation.

### **American Jobs and Closing Tax Loopholes Act ("tax extender" bill / H.R. 4213)**

On May 28, the House barely passed a scaled-back version of an expanded the tax extender bill that had languishing for months. The original legislation had been drafted to renew expired incentives such as the research and development tax credit, biodiesel fuel credits, and Empowerment Zone designations. However, that base was being used to carry a variety of other provisions, ranging from continued unemployment benefits and increased funding for youth summer jobs to extra Medicaid payments for States and increasing surcharges for the Oil Spill Liability Trust Fund. After shedding some of those additions, the House passed the bill 215-204, then split out and took a separate vote on a measure preventing a 21% Medicare payment cut to doctors due to go into effect on June 1.

House Democrats eager to pass a comprehensive bill were forced to make the cuts to garner just enough votes because of strong resistance from the fiscally conservative coalition of Blue Dog Democrats. Earlier versions of the bill added \$80 - \$100 billion to the deficit, while Congressional Budget Office estimated the final version passed by the House adds \$54.2 billion to the deficit over ten years. Notable concessions included –

- shortening the extension of unemployment benefits through November 30 instead of December 31, 2010;
- eliminating the extension of COBRA health insurance subsidies for unemployed workers;
- postponing scheduled Medicare payments cuts for doctors by only 19 months, through 2011, instead of through 2013; and
- removing proposed continuation of enhanced federal Medicaid match contributions to States through a higher Federal Medical Assistance Percentage (FMAP), worth about \$31 billion in aid nationwide.

Removal of FMAP funding in particular could have a significant consequences for local governments. Because both of the House and Senate bill versions originally included the aid when first passed, up to 30 States had assumed the assistance in finalizing their own budgets. The lack of FMAP relief leaves massive shortfalls – from hundreds of millions to billions of dollars – and maintenance of effort requirements mean gaps likely will be filled by cuts in unrelated areas like general local grants-in-aid, public safety, and education, as well as health personnel and services.

However, the final House-passed version of the bill does retain a number of high priority provisions benefitting and advocated by local governments –

- Youth Summer Jobs: The bill adds \$1 billion immediately available for the youth summer jobs program, consistent with the funding provided in last year's Recovery Act. That includes an expansion of the upper age range eligible for program activities from age 21 to age 24. However, this funding is a target for the Senate to cut or eliminate; the Senate previously rejected an amendment to include youth summer jobs in passing its original version of the bill.
- Temporary Assistance for Needy Families (TANF) Emergency Fund: The bill extends the popular program created in the Recovery Act, which can be used to subsidize employment in private or public jobs for low-income individuals, particularly transitional and apprenticeship job programs, with a 20% non-federal match. The bill provides \$2.5 billion to continue the program through September 2011, meeting the President's Budget proposal. This program also is a prime target for Senate reductions.
- Build America Bonds (BABs): The bill extends BABs for two more years, but reduces the current 35% subsidy to 32% for those issued in 2011 and 30% in 2012. The extension period is one year less and a slightly lower subsidy level than originally passed the House; the President's Budget proposal sought to make BABs permanent but at a 28% subsidy, which municipal bond issuers felt would not be of sufficient value.
- Recovery Zone Bonds: The bill expands and fixes formula issues with the Recovery Zone Bond program. Given slow utilization and start-up challenges in using initial allocations made under the Recovery Act, the bill extends the deadline for local governments to issue these bonds by one year until January 2012, and allows States to recapture and reallocate bond allocations not issued by May 2011. The bill also fixes the formula problem that left many localities without allocations despite experiencing very high unemployment because the original distribution was based on net job losses; places with overall population increases have experienced unemployment that dramatically outpaces natural job growth. Specifically, the bill doubles the Recovery Act authorities and provides another \$10 billion for Recovery Zone Economic Development Bonds (*general obligation, with 45% federal subsidy*) and \$15 billion for Recovery Zone Exempt Facility Bonds (*private activity*), both allocated so that each large city /county receives a proportion equal to at least its share of national unemployment in December 2009.
- National Housing Trust Fund: The bill provides \$1 billion to capitalize the authorized in 2008. The Senate previously opposed funding the program until HUD drafted regulations, but HUD now has begun that process.

The Senate will begin consideration of the revised legislation when it returns on June 7. However, with moderate and conservative Senators also concerned over deficit increases, support for the bill is uncertain. Additional amendments are anticipated to secure the 60 votes needed to overcome a filibuster and invoke cloture to pass the bill.

**FY2010 Supplemental Appropriations (“War Supplemental” / H.R. 4899)**

The Senate easily passed its version of the FY2010 Supplemental Appropriations Act on May 27 by keeping it focused solely on war funding, veterans, and disaster assistance. On the other hand, the House postponed Appropriations Committee mark-up of its more expansive version because of resistance to billions of additional dollars in domestic funding currently in the draft package.

During Senate consideration, Sen. Harkin (D-IA) planned to introduce an amendment seeking to add about \$23 billion to backfill teacher salaries and prevent layoffs. The Administration supported this funding. However, acknowledging that he could not secure 60 votes to block a filibuster, Sen. Harkin instead decided to pull the amendment in anticipation of an identical provision in the base House bill, which he then could support during a conference.

The draft House bill circulated by Appropriations Committee Chairman Obey (D-WI) includes the teacher funding, as well as \$5.7 billion in supplemental Pell Grant funding totaling, \$4.5 billion for diplomacy and foreign assistance, \$677 million for U.S.-Mexico border security and enforcement, and other spending.

Of particular interest to local governments, the House draft responds to suggestions for assistance with general fund responsibilities through COPS Hiring Grants at \$1.2 billion to address police force level reductions, including program flexibilities as provided in the Recovery Act; and SAFER grants at \$500 million for retention of firefighters. However, because COPS Hiring Grants are competitions for three-year funding with maintenance of effort requirements, they are limited in impact and not accessible to many localities. Instead, a Justice Assistance Grant formula allocation targeting use for uniformed personnel costs, perhaps with some distress factor adjustment, could guarantee immediate assistance to more localities without imposing new longer-term local funding obligations, although the likelihood of achieving this alternative through advocacy is low.

A new date for the House Appropriations Committee mark-up has not yet been determined. With increasing opposition to the size of the package and 30 Republican amendments already identified for the mark-up, it is possible the House simply could take up the measure passed by the Senate.

**Local Jobs for America Act (“Local Jobs Bill” / “Miller Bill” / H.R. 4812)**

Major local government associations continue to press localities to register support and seek cosponsors for the Local Jobs for America Act, but the core of the bill has no real prospect for passage and those provisions with potential have been advanced separately for either the tax extender or war supplemental measures. As previously reported, the bill proposes \$75 billion in formula funding to cities and counties over two years – half to prevent local government layoffs and half to rehire or hire new workers in the public or non-profit sectors. *See attachment for a full explanation of how provisions would work for localities.*

The bill also proposes the same funding as the current draft House war supplemental for teachers (\$23 billion), police (\$1.2 billion), and firefighters (\$500 million), plus on-the-job training funds.

Despite notable House Democrat support with 161 co-sponsors, the bill cannot garner enough votes to pass in this Congress. The measure is extremely expensive and without specified offsets, no Senate companion sponsor is identified, and sufficient political support is lacking among moderate and conservative Members for a policy perceived as increasing the deficit in order to fund preservation or new hires of public and non-profit employees.

### **FY2011 Appropriations**

The House and Senate are not expected to complete work on the twelve FY2011 appropriations bills before the November mid-term elections. The most likely scenario is similar to recent years in few of appropriations bills are passed before the end of the fiscal year – typically security-related measures such as Defense, Military Construction, or Homeland Security – but an omnibus or minibus packages are finished in a “lame duck” session or even in the next calendar year.

Several factors suggest a significant and broader delay in the appropriations endgame. In a climate with heightened concern about federal spending and the federal deficit, and with contentious and consequential midterm elections ahead, passage of the annual spending bills is laden with political difficulties. Clear indications of this came when the House failed to even produce, let alone pass, a Budget Resolution to set overall spending and revenue targets. Prospects for a change in party control of the House and/or Senate and the self-imposed earmark moratorium by House Republicans also create dynamics that impede legislative action prior to the election.

One strong possibility is for the appropriations bills to be marked up out of Subcommittee, but not to receive Full Committee or Floor action. This would enable Members to take credit for earmarked funds without formal action on the bills themselves. Typically the Subcommittee mark-ups occur in June and July in the House, and closer to September in the Senate. While regular budget hearings have proceeded with testimony from Administration officials, no mark-ups have been scheduled.

### **Reduce Unnecessary Spending Act (H.R. 5454) / Veto Wasteful Spending and Protect Taxpayers Act (S. 3423)**

In addition, as previously reported, legislation has been introduced based on a proposal submitted to Congress by the Administration, providing the President with expedited rescission powers.

The proposal would allow the President to send a package of requested rescissions to Congress within 45 days of enactment of a spending bill; the procedure would apply to discretionary spending, not entitlement programs such as Medicare or Social Security. Congress then would have 25 days to consider the rescissions and pass the package, as a whole and without amendment, by an up-or-down vote (*both timeframes are counted in terms of days Congress is in session, excluding weekends, holidays, etc.*). Spending on the proposed rescissions would be held by the Administration until Congress acts or for the 25 days designated for Congressional review lapse, but the rescissions would take effect only if approved by a majority vote in both Chambers.

The Administration aims to reduce spending through this process, targeting “programs that are heavily earmarked or not merit-based as well as those that are plainly wasteful and duplicative.” Examples highlighted in the proposal include the Environmental Protection Agency STAG program for water-sewer projects and U.S. Department of Transportation surface transportation projects,

both of which are heavily earmarked by Congress rather than distributed through the regular formula allocation process.

A number of Congressional Members, particularly appropriators, spoke out against the President's proposal cited the Congressional constitutional power over the purse. Others, including the fiscally-conservative Democratic Blue Dog Caucus, expressed support. Both House and Senate leadership are publicly neutral on the proposal, stating they will review it and work with the President to promote fiscal responsibility.

Most prior attempts to secure Presidential line-item veto have failed due to lack of Congressional support. In fact, President Obama opposed the line item veto when he was in the Senate. A successful legislative effort, the Line Item Veto Act of 1996, was deemed unconstitutional by the Supreme Court in 1998 as a violation of separation of powers. By allowing Congress the opportunity to vote on the rescission package, the Administration believes the proposal preserves the constitutional balance between the Executive and Legislative branches.

Given the current political environment surrounding earmarks, such legislation is likely to garner more support than it has in the past, but still is unlikely to move this year. Political pragmatists point out that the rescission process will only further delay an appropriations process that already runs months behind schedule almost every year. However, supporters feel even the threat of line by line scrubbing of spending bills will help prevent wasteful provisions. The proposal is setting a public tone of reduced spending as a highlight of the President's strategy budget negotiations; the Administration noted in its press release that Congress had only adhered to 60% of the President's proposed cuts in FY2010.

#### **Collective Bargaining for Public Safety Personnel (S. 3194)**

Most recently targeting the war supplemental, Majority Leader Reid (D-NV) continues his ongoing efforts to find a legislative vehicle to carry a bill (S. 3194) that would expand collective bargaining rights and extend oversight by the Federal Labor Relations Authority to public safety. Voting procedures requiring that an amendment be germane to the underlying bill ultimately discouraged him from trying to attach the measure, but he will seek to pursue other options for passage prior to the election.

As previously reported, the bill requires that localities and States recognize and bargain collectively with unions representing police, firefighter, and emergency medical responders. The measure would affect approximately 20 states that do not currently allow public safety workers to join unions, and could impact existing laws in other states that do by potentially expanding terms and conditions of employment subject to collective bargaining, such as disciplinary procedures.

For several years, local and State governments and their associations have opposed the bill, but with advocacy from labor and first responders, the provision has significant bipartisan support in Congress. Sen. Enzi (R-WY) remains the leading opponent raising procedural challenges and asserting that the bill first should be considered in committee.

**America COMPETES Act (H.R. 5116)**

After failing twice due to political maneuvers unrelated to bill substance, the House successfully passed legislation on May 28 that reauthorizes the 2007 America COMPETES Act, providing \$85.6 billion over five years for science and industrial innovation programs. Much of the bill is focused on education and training in the Science, Technology Engineering, and Mathematics (STEM) area, promoting pure research, and providing loan guarantees and program support to small- and medium-sized manufacturers.

However, the bill also supports specific local government priorities by providing more assistance for efforts to form "Regional Innovation Clusters" that better leverage metropolitan assets to promote high-potential industry sectors; creating Energy Innovation Hubs for which regions will compete, akin to the multiagency E-RICs grant currently under review; and supporting further development of smart grid technologies through reauthorization of the Advanced Research Projects Agency for Energy (ARPA-E).

Timing for Senate action is uncertain.

**Juvenile Accountability Block Grant Program Reauthorization (H.R. 1514 / S. 2866)**

On May 18, the House passed legislation reauthorizing the Juvenile Accountability Block Grants Program at \$350 billion per year through FY2014, with strong bipartisan support.

The goal of the program is to reduce juvenile offending through programs focused on both the offender and the juvenile justice system in which offenders are held responsible for the loss, damage, or injury perpetrated on the victim and held accountable for their crimes through individualized sanctions, interventions, and/or more restrictive actions.

No action on the bill has been taken yet in the Senate.

**Federal Aviation Administration Reauthorization**

A conference agreement on legislation to reauthorize Federal Aviation Administration programs remains stalled, and the latest temporary extension (the thirteenth since October 2007) will expire on July 3. Prospects seem slim for the House and Senate to reach agreement by this date, notwithstanding weeks of staff work to resolve the differences between the bills.

Of primary interest for local governments and airport sponsors among the problematic issues is increasing and indexing the maximum Passenger Facility Charge (PFC) to help raise revenues for airport improvements. The House bill increases the PFC from \$4.50 to \$7.00, but the Senate bill does not include any across-the-board PFC adjustment, and while a compromise on some increase is virtually certain, the level and potential for indexing remains unclear. Another debate relevant to localities is over a House provision that would require the FAA to adopt a rule raising standards for Aircraft Rescue and Fire Fighting (ARFF) equipment and response time, supported by firefighters but deemed extremely costly and functionally unnecessary by airport operators.

Overall, a more intractable impediment to final resolution is the very strong threat of a Senate filibuster over a House provision that would place FedEx ground workers under the National Labor Relations Act, equivalent to treatment of UPS, thereby making it easier for unions to organize. Other provisions in the House bill generating Senate resistance include a sunset of antitrust immunity granted to international code sharing agreements that would require airlines to resubmit applications subject perhaps to a different standard of review; and the relative stringency of requirements for enhanced inspection of foreign repair stations.

Finally, the House bill adds ten additional beyond-the-perimeter slots at Reagan National Airport, withdrawing ten inside-the-perimeter slots at non-peak hours. While the Senate bill does not include any similar provision, several amendments to increase beyond-the-perimeter slots were filed on the Senate floor, and some additional beyond-the-perimeter flights should be included in the final compromise.

#### **Water Resources and Development Act (WRDA)**

House Transportation and Infrastructure Committee action on the next Water Resources Development Act seems possible prior to mid-term elections, and perhaps even before the August recess. WRDA authorizes the Army Corps of Engineers to conduct studies and carry out projects including navigation improvements at harbors and waterways, flood damage reduction, shoreline protection, and environmental restoration. Although WRDA is intended to be enacted every two years, Congress has not followed this schedule in recent cycles. The latest WRDA bills were enacted in 2007 (over a veto by President Bush) and 2000.

The House Committee originally solicited Member projects in November 2009 for inclusion in a potential WRDA 2010. The Senate Environment and Public Works Committee followed in April 2010, first indicating some prospect for movement.

Typically, passing WRDA legislation could be considered a prime year-end action item, yet the prospects for completion are not high. The WRDA bill often is bipartisan and allows Members to show progress on individual projects important to their constituents, while as an authorizing measure that requires future appropriations rather than committing funds, the costs to be offset tend to be relatively limited. However, the crowded legislative calendar again leaves little time for consideration, and the unilateral moratorium on all "earmark" project requests adopted by House Republicans also extends to WRDA requests, likely reducing normal incentives for collaboration.

#### **Surface Transportation Reauthorization**

Although the fundamental question remains of how to finance a multi-year transportation bill, the Senate Environment and Public Works Committee is working at the staff level on a discussion draft for the highway policy title of surface transportation reauthorization successor legislation to the "Safe, Accountable, Flexible, Efficient Transportation Equity Act" (SAFETEA). The Senate Banking Committee with jurisdiction over the transit title has not made significant progress, focusing on financial services reform legislation.

The version produced last year by the House Transportation and Infrastructure Committee also remains in limbo pending some resolution with the Ways and Means Committee over finding new revenue streams to meet Highway Trust Fund obligations and new proposed spending.

Passage of a reauthorization bill this year is virtually impossible. Only a very slim possibility remains for action during the "lame duck" session after the midterm elections. A change in party control, particularly in the House, could be a catalyst for action on the reauthorization bill, with a lame duck session representing the best chance to make the politically difficult, but likely inevitable decision to increase the gas tax.

### **Climate / Energy Legislation**

Congress returns to a Senate vote on restricting EPA authority to regulate greenhouse gases under existing statutes while Democratic leaders renew interest in forcing debate on passing climate change legislation following the Gulf Coast oil spill.

In May, Sens. Kerry (D-MA) and Lieberman (I-CT) finally introduced a new comprehensive climate change / energy bill, entitled the "American Power Act." Sen. Graham (R-SC), who had been working with them for months to craft a bill that could garner Republican support, dropped his involvement out of concern that the Democratic leadership intended to bring immigration reform to the floor for political reasons, arguing that would make bipartisan progress on climate change impossible. However, the Deepwater Horizon accident is serving as a basis for bill sponsors to press for comprehensive climate bill action, while Republicans continue to resist with a united front.

Meanwhile, Sen. Murkowski (R-AK) soon will get a vote on her resolution to nullify EPA's "endangerment finding" that otherwise would allow the agency to regulate greenhouse gas emissions under the Clean Air Act. With 41 cosponsors currently on the resolution, including three Democrats, the measure could pass the Senate, but is far less likely to get through the House and faces a veto by the President. Even if it fails, Chairman Rockefeller (D-WV) is advancing a bill that would block EPA from regulating stationary emission sources for two years.

This collapse of the Kerry-Graham-Lieberman collaboration, agreement among Congressional leaders on delaying EPA action to regulate emissions, and Senate calendar constraints reaffirm that the more likely prospect for completion this year is a more narrow "energy-only" measure dealing with issues like increased cleaner energy production, national renewable portfolio and efficiency standards, and technology investment, such as the bipartisan American Clean Energy Leadership Act passed by the Senate Energy and Natural Resources Committee last year. In addition, while climate change legislation ultimately will be enacted in the future, the recent developments confirmed that a final bill will not look anything like the House-passed Waxman-Markey bill.

Still, stakeholders now are responding to the Kerry-Lieberman legislation as a baseline proposal. Local government interests primarily center on securing long-term dedicated funding of the Energy Efficiency Conservation Block grant from cap-and-trade revenues; and on directing more revenues toward transit and transportation projects that reduce vehicle miles traveled and vehicular greenhouse gas emissions, particularly when those proceeds are generated from transportation-related sources.

ATTACHMENT – Explanation of H.R. 4812, Local Jobs for America Act

Formula Funds for Local Government / Nonprofit Employment

- Cities and counties directly eligible are CDBG entitlement communities; 70% of the total funding goes to entitlement communities and 30% to states for non-entitlement pass-through.
- Formula for distribution to localities is weighted 25% for ratio of local population against the total population for all entitlement areas, 25% for ratio of poverty, and 50% for ratio of the number of unemployed individuals.
- Use of grant funds is limited to salaries and benefits to employ full-time, full-year workers for a period of two years; no more than 20% of those funded positions can be classified as management (executive, administrative, or professional as defined under the Fair Labor Standards Act).
  - (1) At most 50% of the grant can be used to pay for current local government employees who otherwise would have been laid off.
  - (2) At most 50% of the grant can be sub-awarded to nonprofit community-based organizations for new hires to perform functions not “customarily” performed by local government employees.
  - (3) Any amount can be used by the local government to make new hires or rehires.

NOTE: Estimates of the grant amount assume that 50% will be used to retain government employees, 25% to hire / rehire government employees, and 25% to nonprofits, using the national average wage and benefit costs associated with each status, e.g. total estimate is \$60,000 per retained government worker. So in high-cost areas, the job total will be lower.

Other Public Sector Job-Related Funding

- COPS Grants (competitive) totaling \$1.18 billion, generally subject to same Recovery Act-funded program requirements.
- Firefighter Assistance Grants (competitive), totaling \$500 million, subject to same Recovery Act-funded program requirements.
- Education employment formula grants to States, totaling \$23 billion, sub-allocated to local education agencies and public colleges / universities and generally subject to the same Recovery Act requirements.

Private Sector Job-Related Support (goes through Workforce Investment Board)

- WIA On-the-Job Training funds totaling \$500 million, but with \$250 million set-aside for residents in a locality with either (1) unemployment rate 2% higher than the national rate, or (2) at least a 12% poverty rate in the microdata area.