

Preservation Priorities Delayed Until Lame Duck Congressional Session

September 15, 2006 - Neither Republicans nor Democrats seem anxious to tackle any major preservation issues this month in the run up to the November election and the fast approaching recess date of September 29th, which will allow lawmakers the whole month of October to make their case for re-election to their constituents. In the interim, several key issues important to preservation remain in limbo.

Preservation Funding

There is little chance that the FY'07 Interior Appropriations Bill (HR 5386) will be taken up before Congress adjourns for the November election and it appears that most of the appropriations business in the Senate will be delayed until Congress returns for a lame-duck session on November 13th. In the interim, a stop-gap continuing resolution (CR) will be needed to fund Interior programs at the House-passed level, including the Historic Preservation Fund (\$58.658 million) and Save America's Treasures Program grants (\$15 million). There is still the possibility that the Interior bill could be folded into an omnibus spending measure, which may complicate any efforts to raise preservation funding in conference on such a large bill. The best scenario would be for the Interior bill to pass as a stand-alone, where preservation funding won't be lost in the larger spending issues. In either case, advocacy will be needed to support the higher funding levels in the Senate for the HPF (\$70.658 million) and SAT funding (\$30 million) in the lame duck session.

New Markets Tax Credit (NMTC) Extension

Probably no other item has been bandied about more than the new markets tax credit in this session. The NMTC and other popular "tax extenders" continue to be a political football in the pre-election jockeying by both parties to deliver on other tax promises to constituents — including permanent tax relief on issues such as the estate tax, the child care tax credit, and marriage penalty relief. Investors in preservation projects are concerned that any failure to enact a one-year extension in the NMTC could jeopardize rehabilitation deals and projects that can't afford to languish until Congress acts. The popular wisdom is that lawmakers will eventually come to their senses once they realize they can't deliver all the promised "tax goodies" to constituents, and probably pass the "tax extenders" package either as a stand-alone bill or perhaps attached to an expected omnibus spending measure in the lame duck session.

Earmark Reform

Since preservation projects are some of the most heavily earmarked items in federal programs, preservationists have been watching the debate over earmark reform with keen interest in the latter part of this congressional session. Preservation earmarks have drawn little scrutiny and scant criticism over the years, but there is still concern that an overzealous reform package may either exclude certain types of earmarks on a technicality or create an atmosphere that makes lawmakers reluctant to offer earmarks in the first place.

Nonetheless, the House approved (H. Res. 1000) this week that would institute changes in how earmarks are reported and identified. However, considerable disagreement still exists between appropriators and Majority Leader John Boehner (R-OH) on whether the new rules treat all committees equally in identifying earmarks and also even over what constitutes an earmark. For instance, the GOP leadership continues to insist that a tax earmark is one that only affects a single entity. Appropriators claim such a definition would exempt the tax-writing committees almost entirely from the new disclosure rules. Other exemptions include earmarks not included in new bills or in managers' amendments.

The new earmark rules will be in effect only through the end of the 109th Congress and will have to be renewed when the 110th Congress convenes next year.