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The Authoritative Resource on Safe Water SM

Washington D.C. Report

The Election: What it Means for Water

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Yesterday the American people redrew the country's political landscape. As you know by now, a huge wave of voter anger swept the nation – and swept the Democratic Party from control in the House of Representatives. Democrats held on to a reduced majority in the Senate but fell short of the sixty votes needed to pass most bills.

We will not add to the outpouring of views you will see in coming days about what caused this wave or what it means for Democrats, Republicans, or the 2012 presidential election. But we would like to give you an early glimpse at what the election may mean for AWWA members and the water community over the next two years.

Republicans won a historic number of seats in the House – at least 60 – more than reversing the 54 seats that Democrats had picked up in the last two election cycles. At the time of this writing, the winner has not been declared in a number of close races, and we don't know what the exact margins of control will be in either the House or the Senate in the 112th Congress. Remember, though, that the Vice President casts tie-breaking votes in the Senate, and you should consider that the Democrats have one more vote there if the chamber is evenly split on any given issue.

In any event, even though this election really does have important – even profound – implications for the longer term, you won't have to wait long to see its first effects on the Congress. Both the House and Senate return in the next two weeks for a lame duck session in which much important business awaits. This business includes a budget and appropriations bills for every single federal department for the fiscal year that started on October 1. In addition, decisions are needed now on taxes, treaties, and other pressing matters. Given that the Democrats will have less power in the next Congress, we can expect them to seek permanent decisions on as many items as possible in the lame duck session. For their turn, Republicans will want to support only temporary decisions that tide things over until their new House majority is seated in January.

When the new Congress convenes on January 3, you can expect a very interesting dynamic not only between the two parties but within each party caucus. Inside the Democratic caucus there will be blood letting, finger pointing, and assignment of blame for their losses. Ironically, those Democrats who survived the election tend to be some of the more liberal members of the Democratic caucus, from more liberal districts. Large numbers of moderate or conservative Democrats from conservative districts simply lost to a Republican challenger. For its part, the Republican caucus will be more conservative. It is now home to numerous new members who are beholden to the Tea Party and who

don't aspire to be a part of the "regular order" on Capitol Hill. Indeed, some members of this group have been proud to say that they aren't coming to Washington to get along and to compromise but rather to stand firm and fight on principle.

Taken together, these trends suggest that there is a smaller "middle" in Congress than there was before the election. At the same time, polls show that four out of five Americans are not strongly partisan, want an end to the bickering in Washington, and want members of Congress to compromise "in the middle" to do essential business. In fact, these surveys showed that disgust with Congress is strongly bipartisan: 48 percent said that if they could, they would sweep out every single incumbent member and start with a clean slate in both House and Senate. Many political experts believe the leaders in both parties understand that they will be the next victims of this anti-incumbent passion, unless they can get essential business done in the middle-of-the-road going into 2012.

Congressional Leadership. When the House and Senate convene in two weeks, the most important business to many members of Congress will be the maneuvering for House and Senate leadership positions and committee assignments. Each party will caucus to elect the men and women who will largely control the legislative agenda for the coming two years. The majority party in each chamber appoints committee chairs, controls the schedule on the floor, sets the tone for Congressional debate, determines what amendments may be offered, controls subpoena powers for Congressional oversight, and charts the relationship with the President for the next two years. Because this period runs through the next Presidential election – which all but officially starts today – the choices are unusually important.

Although surprises are likely, we can give you a sense about some of the important leadership positions in the coming Congress. At this time we are reporting only on top leaders and on committees important to water utilities.

The House. At the top of the House leadership, current Minority Leader John Boehner (R-OH) is all but anointed as the next Speaker of the House. On an interesting note, remember that the Speaker of the House is the only House officer mentioned in the Constitution. He is supposed to represent the whole House, not his party, and stands next in line to the Presidency, after the Vice President. We expect that the current Minority Whip, Eric Cantor (R-VA), will become Majority Leader. There could then be a contest for the position of Majority Whip, with Rep. Pete Sessions (TX) and Kevin McCarthy (CA) both considering the spot. Some Hill insiders say the smart money would be on McCarthy in that contest (he now serves as Deputy Whip, is very popular among conservatives, and led the development of the House Republican's "Pledge to America" this summer). However, many believe that Boehner will try to avoid this contest by offering Sessions another post. One possibility for Sessions is a second term as head of the Republican Congressional Campaign Committee. Mike Pence (IN) currently serves in the leadership but is said to be eyeing a run for either President or Governor; it is believed he is not seeking a House leadership post in the coming Congress.

On the Democratic side, it is considered unlikely that current Speaker Nancy Pelosi (D-CA) will stay in the Democrat's top slot as Minority Leader. Don't be surprised if she retires from Congress, or at least steps out of the Democratic leadership, after the lame duck session. Many expect current Majority Leader Steny Hoyer (D-MD) to become the top House Democrat. There could be competition to fill the Minority Whip job. James Clyburn (SC) is the current Majority Whip and could be hard to beat if, as expected, he seeks the same job in the minority.

Once the top leadership is chosen in each party, those leaders will work with trusted lieutenants and party "insiders" to appoint House committee chairs (Republicans) and ranking members (Democrats). Seniority will be an important factor, but is not determinative. The Republican caucus (but not the Democratic one) limits its members to three two-year terms in the senior committee seat. That clock has been running and will be a factor in some committee assignments. Rep. Boehner can grant a

“variance” to the term limit rule, so a close relationship to him will be especially important. With appropriate caveats, here is what we expect:

Energy and Commerce. Rep. Joe Barton (R-TX) has been the ranking member of this committee – which oversees EPA’s drinking water program – but is term limited for the top spot. Barton has not been close to John Boehner but has been working hard in an effort to mend those fences. Having said that, it is not certain that Barton will get a variance from the term limit rules, and many insiders believe that Fred Upton (R-MI) will be awarded the chairmanship. Upton is considered to be a moderate who enjoys favorable ratings from business groups. The ranking member of this committee will almost certainly be Henry Waxman, (D-CA).

Rep. John Shimkus (R-IL) is likely to chair the Health Subcommittee, which oversees the drinking water program, and Rep. Frank Pallone (D-NJ) is expected to become the ranking member.

Transportation and Infrastructure. This committee oversees the Clean Water Act and will have a central role in any water infrastructure bank legislation. We expect current ranking member John Mica (R-FL) to ascend to the chairmanship. The current Chairman, James Oberstar (D-MN), was defeated after 36 years in Congress, so the ranking member seat is up for grabs. The next senior Democrat is Nick Rahall of West Virginia, and he is likely to become ranking member. We hear that Rep. John Duncan (R-TN) may be in line to chair the Water Resources and Environment Subcommittee, with Rep. Eddie Bernice Johnson (D-TX) becoming the ranking member there.

Appropriations Committee. Normally it would fall to ranking member Jerry Lewis (R-CA) to become chair of this committee. However, Lewis grew up on this committee in the era of big spending and big earmarks. Boehner is said to be exacting a no-earmarks pledge from House Republicans and it’s possible that he’ll want new blood in this critical position. Smart money is on Norm Dicks (D-WA) to become ranking member, but there could be a scramble for this seat as the senior Democrat, Rep. David Obey, retires at the end of this Congress.

Chair of the Interior, Environment, and Related Agencies Subcommittee that funds EPA will likely be the current ranking member, Rep. Michael Simpson (R-ID). Rep. James Moran (D-VA) is likely to become the new ranking member there.

Chair of the Homeland Security Subcommittee that funds the Department of Homeland Security will likely be Rep. Harold Rogers of Kentucky, while Rep. David Price (D-NC) is expected to become its ranking member.

Agriculture Committee. The Farm Bill – one of the largest and most expensive pieces of legislation that Congress routinely passes – will be up for reauthorization in the 112th Congress. AWWA will pay close attention to this bill in hopes of using it more effectively to protect sources of drinking water from agricultural contamination. The chair is likely to be Rep. Frank Lucas (R-OK), and the ranking member is expected to be Rep. Collin Peterson (D-MN).

The Senate. Democrats will keep control of the Senate with a thin margin, and we don’t expect Senate leadership to change: Harry Reid (D-NV) will remain as Majority Leader and Mitch McConnell (R-KY) will stay in place as Minority Leader. Several close races haven’t been decided yet, and it may be several weeks before we know the exact numbers in each party, but remember that it takes 60 votes to either break a filibuster or end a “hold” on a bill. Remember too that Joe Lieberman of Connecticut and Bernie Sanders of Connecticut are Independents, but generally caucus with the Democrats.

Among other changes, you can expect the addition to Republican ranks to change the party ratios on each committee. For example, the Committee on Environment and Public Works, which oversees

EPA, currently has 11 Democrats and 8 Republicans. In the next Congress, you can expect that ratio to reflect near parity.

Committee on Environment and Public Works. The current chair, Sen. Barbara Boxer (D-CA), held on to her seat after a tough election fight and is expected to continue as chair of this committee, which oversees EPA and most infrastructure programs. Sen. James Inhofe (R-OK) should continue to serve as Ranking Member. Benjamin Cardin (D-MD) is expected to stay on as chair of the Subcommittee on Water and Wildlife, which has jurisdiction over drinking water and wastewater. Mike Crapo (R-ID) will likely continue to serve as Ranking Member of the subcommittee.

Committee on Homeland Security and Governmental Affairs. Senator Joseph Lieberman (I-CT) is the current chair. Although Democrats were unhappy with him for his support of Sen. John McCain for president in 2008, they awarded him the chairmanship of this committee because they needed his vote to reach a bloc of 60 in the last Congress. While 60 is out of the question this time, his vote will be just as important in a Senate so closely divided, so expect him to remain as chair. Senator Susan Collins of Maine will likely return as the ranking Republican.

Appropriations Committee. Daniel Inouye (D-HI) is expected to remain chair of this powerful committee, and Sen. Thad Cochran (R-MS) is likely to remain as Ranking Member.

Senator Diane Feinstein (D-CA) is expected to remain Chair of the Interior, Environment, and Related Agencies Subcommittee that funds EPA, and Lamar Alexander (TN) is likely to remain its ranking member.

Agriculture. As noted earlier, the farm bill is up for reauthorization next year, and the leadership of the Agriculture Committee takes on new significance. The current chair, Senator Blanch Lincoln (D-AR) lost her bid for re-election and has to be replaced. The next several Democrats in line based on seniority already chair other committees, and the chair of Agriculture will thus likely be determined by whether one of these senior Democrats chooses to give up his chairmanship of another committee to claim the one on Agriculture. If not, the chair could go to Senator Debbie Stabenow (D-MI) or Ben Nelson (D-NB). On the Republican side, expect Senator Saxby Chambliss (R-GA) to remain as Ranking Member.

Water Issues in the New Congress. Although it isn't possible to predict the Congressional agenda with confidence, a number of high profile bills are likely to consume much time and attention in the next Congress. These include appropriations and deficit reduction, the farm bill, the highway bill, the education reform bill known as "No Child Left Behind," a nuclear arms reduction treaty, and action on long-stalled free trade legislation. A number of other bills of more direct importance to the water community are also likely to see action:

Chemical Security Legislation. The current chemical security program (including the Chemical Facility Anti Terrorism Standards program, or CFATS) is set to expire in 2011. Expiration is unlikely to be an option, though if Congress deadlocks on reform of this program then a simple extension of the current law is possible. The water community is exempt from the current program, though President Bush, President Obama, and members of Congress from both parties have worked to bring the water sector into it. We expect that the terms for including the water sector in the program will continue to be a point of debate. With the Republicans running the House, an outright ban on chlorine gas (under the guise of Inherently Safer Technology requirements, or IST) may be less likely than it appeared in the last two years, when AWWA and others fought that proposal to a standstill. However, neither party wants to be seen as "soft" on homeland security, so expect this issue to be back in focus and to require continued effort by the water sector.

Infrastructure Funding. This issue will also receive a lot of attention, though with the highway bill (and the highway trust fund) up for renewal, the water sector will have to fight harder than ever to bring adequate attention to water infrastructure needs. With Republicans controlling the House, where revenue bills must originate under the Constitution, a water trust fund supported by new taxes is highly unlikely to advance. There is also now what one insider calls “primal pressure” against higher federal spending and for lowering the federal budget deficit. However, the AWWA water infrastructure bank offers a fresh, low cost, and responsible solution to the water infrastructure problem. It carries no partisan baggage and is very easy on the federal deficit. It’s going to take a lot of work but we are hopeful that a water bank bill will be introduced and can advance.

Oversight. One of the things the House majority can do with little if any bipartisan support is conduct oversight of the executive branch. You can expect oversight hearings and interrogatories concerning actions by the Administration, including questions about the health benefits that can realistically be expected from EPA’s new drinking water strategy and its recent decision to set drinking water standards for perchlorate. Stay tuned for more on this front.

Editorial Note. We suspect it will be fashionable in the days ahead to predict the coming Congress will be seized in total gridlock and paralysis. Indeed, it is likely to start out that way. But there are enormously skilled and highly dedicated legislators in the leadership of both parties. With narrow margins and divided government, these men and women will simply have to work together and agree on common sense, middle ground solutions to the critical issues. Whatever their politics, many savvy observers of the Washington scene believe the Congress can and will do that, if only after an initially difficult period. To paraphrase what Winston Churchill once famously said, after Americans have tried and rejected all the other options, they generally do the right thing.

As always, we will provide additional information as it becomes available. In the meantime, please don’t hesitate to call your AWWA Washington Office if you have questions or comments. And as always, thanks for your membership and support of AWWA!