



Legislative Bulletin.....January 15, 2013

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H.R. 152 – Disaster Relief Appropriations Act, 2013

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Order of Business: The bill is scheduled to be considered on 15, January 2013, subject to a structured rule (H. Res. 23). The structured rule will allow one Amendment in the Nature of a Substitute (AINS), one offset amendment, and twelve additional amendments. RSC summaries of the amendments are forthcoming in a separate document.

Summary: For procedural reasons the House will consider two major amendments to the underlying bill. The first, offered by Mr. Rogers (R-KY), is an Amendment in the Nature of a Substitute (AINS) that is substantively identical to the underlying bill. According to CBO, this AINS authorizes \$11.6 billion in emergency funding and \$5.4 billion in disaster funding for a total of \$17.0 billion. The Rogers AINS provides \$5.4 billion for FEMA's Disaster Relief Fund, which provides individual assistance, including temporary housing, debris removal and disaster-damaged, facilities that are either publicly owned or owned by certain non-profits. The AINS will also provide \$235 million for repairs and reconstruction of VA medical facilities which were damaged, \$14.6 million for the Federal Aviation Administration to repair or replace navigation systems, control towers, and other facilities or equipment, and \$24.2 million for the Army National Guard to repair buildings and structures damaged during Hurricane Sandy.

The second, offered by Mr. Frelinghuysen (R-NJ), amends H.R. 152 to include an additional \$33.7 billion in emergency and nonemergency spending. These two amendments combined would bring the total authorization of budget authority to \$50.7 billion.

Department or Program	Rogers	Frelinghuysen + Rogers
Dept. of Agriculture	\$6 million	\$218 million
Dept. of Commerce	-	\$476 million
Army Corps of Engineers	\$1.35 billion	\$5.35 billion
Dept. of Defense	\$24.2 million	\$76.6 million
Environmental Protection Agency	-	\$608 million
General Services Administration	-	\$7 million
Health and Human Services	\$100 million	\$800 million
Homeland Security (inc. FEMA)	\$5.53 billion	\$12.1 billion
Housing and Urban Development (inc. CDBG)	\$3.85 billion	\$16.0 billion

Dept. of Interior	\$286.9 million	\$839 million
Dept. of Justice	-	\$21.3 million
Dept. of Labor	-	\$25 million
Legal Services Corporation	-	\$1 million
NASA	-	\$15 million
Small Business Administration	\$153 million	\$805 million
Smithsonian	-	\$2 million
SSA	\$2 million	\$2 million
Dept. of Transportation	\$5.45 billion	\$13.07 billion
Veterans Affairs	\$235.6 million	\$235.5 million
Totals	\$17.0 billion	\$50.7 billion

Additional Background: On December 7, 2012, President Obama requested a \$60.4 billion package for Hurricane Sandy related spending. On December 28, the Senate passed, by a vote of 62-32, a \$60.4 billion package that largely mirrored the President’s request and appropriated a total of \$60.4 billion. By a vote of 354-67, the House voted on January 4, 2013, to approve the piece of the Senate bill authorizing a temporary increase in the borrowing authority of FEMA for carrying out the National Flood Insurance Program (at a cost of \$9.7 billion).

Committee Action: Referred to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Possible Conservative Concerns:

- Some conservatives may be concerned that emergency spending should be paid for, either through budgeting or offsets. RSC members have historically pushed for offsets to emergency and disaster spending bills.
 - Rogers: \$5.4 billion of the \$17 billion Rogers Amendment is subject to Budget Control Act (BCA) caps on disaster spending. An amendment by Mr. Mulvaney, which offsets the Rogers AINS with an across-the-board cut, was accepted by the Rules Committee and will be considered today.
 - Frelinghuysen: \$3.5 billion of the \$33.7 billion Frelinghuysen Amendment is subject to the BCA non-emergency spending cap. No amendment to fully offset the Frelinghuysen amendment was accepted by the Rules Committee, though a full offset for the Frelinghuysen Amendment was offered by Rep. Rokita (R-IN). There will be no vote to fully offset the Frelinghuysen amendment.
- Some conservatives may be concerned that disaster and emergency spending be limited to areas affected by Hurricane Sandy.
 - Rogers: Both the transportation funding (Page 21, Line 23) as well as the Community Development Block Grant funding (Page 23, Line 14) **are limited** to areas affected by Hurricane Sandy, limiting the scope of where and how funds may be used.
 - Frelinghuysen: Transportation funding (Page 39, Line 7) and Community Development Block Grant funding (Page 43, Lines 11-15) **are not limited** to

areas affected by Hurricane Sandy. Transportation funding is contemplated for the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (Page 39, Lines 11-13).

- Some conservatives may be concerned that non-emergency spending is not being taken up under regular order, within BCA spending caps.
 - Rogers: **Does not** include any non-emergency spending.
 - Frelinghuysen: **Includes** \$3.46 billion in Army Corps of Engineers spending designated by CBO as non-emergency.
- Some conservatives may be concerned that local match requirements should be preserved where possible.
 - Rogers: Waives matching requirements for \$10 million in Small Business Administration grants and cooperative agreements.
 - Frelinghuysen: Waives matching requirements for \$50 million in Historic Preservation Fund grants.
- Some conservatives may be concerned that spending in out years should be approved under regular order, within the BCA spending caps.
 - Rogers: According to CBO, 51 percent of spending outlays occur in FY15 and beyond.
 - Frelinghuysen: According to CBO, 80 percent of spending outlays occur in FY15 and beyond.

Administration Position: “The Administration supports House passage of H.R. 152, making appropriations for disaster relief for the fiscal year ending September 30, 2013, if amended to provide the necessary resources to continue ongoing response and recovery efforts for Hurricane Sandy, while helping impacted communities effectively mitigate future risk of disaster to prevent losses of this magnitude from recurring. Given the emergency and one-time nature of this supplemental appropriation, and in keeping with the response to Hurricane Katrina, Deepwater Horizon, and other disasters, the Administration believes that all funding in the bill should be designated as an emergency requirement and not be offset.”

Cost to Taxpayers: According to CBO, the AINS offered by Mr. Rogers (KY) would increase budget authority by \$17.0 billion. The amendment to the AINS offered by Mr. Frelinghuysen (NJ), would increase budget authority by an additional \$33.7. These two amendments combined would bring the total authorization of budget authority to \$50.7 billion.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:

Neither a committee report nor a statement filed in the Congressional Record asserting the presence or absence of earmarks was available at press time.

What Is the Constitutional Authority for the Legislation?: Chairman Rogers (KY) in the Congressional Record, January 4, 2013: Congress has the power to enact this legislation pursuant to the following: The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: ``No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law" In addition, clause 1 of section 8 of article I of the Constitution (the spending power) provides: ``The Congress shall have the Power . . . to pay the Debts and provide for the common Defence and general Welfare of the United States. . . ." Together, these specific constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability, and to set forth terms and conditions governing their use.”

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific powers* granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

Outside Organizations:

- Citizens Against Government Waste is positively scoring a “no” vote against the Frelinghuysen Amendment.
- FreedomWorks is positively scoring a “no” vote on H.R. 152 (Rogers Amendment) and the Frelinghuysen Amendment.
- Club for Growth is positively scoring a “no” vote on H.R. 152 (Rogers Amendment) and the Frelinghuysen Amendment.
- Heritage Action is positively scoring a “no” vote on the Frelinghuysen Amendment.
- The National Taxpayers Union is positively scoring a “no” vote on the Rogers Amendment and the Frelinghuysen Amendment.

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