

2010 Legislative Outlook

—by Laurence Socci



It's been a pretty quiet 2009 on Capitol Hill as far as legislation affecting surveying and mapping professionals is concerned. We had a new Congress and a new President and a host of issues shaping up as candidates for debate and legislative intervention. Here are some issues to keep an eye on in Washington in 2010.

RESPA HANDBOOK—RESPA recently released its revised handbook. ACSM met with RESPA officials in 2005 to discuss the inclusion of information about the value of getting a survey done prior to the purchase of property in the handbook. At the time, we were told by RESPA officials—including the current RESPA Director—that the language we had proposed would be included. However, the need for a survey is mentioned only briefly and rather unsatisfactorily in the newly published handbook:

“Survey lenders or title insurance companies may require a survey to disclose the location of the property. The survey is a drawing of the property showing the location of the house and other improvements on the property. You may be able to avoid the cost of a new survey if you determine the company who previously surveyed the property and request an update. Check with your lender and title insurance company on whether an updated survey is acceptable.”

We did not propose this language. Because the handbook has already been released, we will work to ensure that RESPA issue an addendum or, better still, a revised definition of a survey. Executive Director Curt Sumner recently sent letters to key Members of Congress and RESPA Director, Ivy Jackson, voicing opposition by ACSM/NSPS to the language used about the need for a survey in the RESPA handbook.

COFPAES ISSUES—One of the big issues COFPAES is working on is payment retainage on A/E contracts. There is a “standard clause” provision in part 52 of the FAR which authorizes contracting officers to impose 10% retainage fees on A/E contracts. This fee, combined with the 3% withholding tax scheduled to go into effect in 2012, would allow the government to hold 13% payment on federal surveying and mapping contracts.

Another issue COFPAES is working on is language for S. 1619, the Senate “Livable Communities Act of 2009.” The language proposed by COFPAES aims to ensure that the term “multidisciplinary team for planning phase” is understood as including land surveyors and mapping professionals, among

others; that “contractual requirements” means “to require a QBS selection process”; and that “National Spatial Data Infrastructure” is understood as requiring the updating and maintaining of the seven framework data layers comprising the National Spatial Data Infrastructure.

The revisions proposed by COFPAES for inclusion in the legislation are:

1. Use a multidisciplinary professional collaborative approach to the “charrette” process in developing a community vision and strategy.
2. Use the time-tested qualifications based selection (QBS) process for the selection of design professionals by grant recipients.
3. Provide for the necessary baseline geospatial data for community planning through coordination with the National Spatial Data Infrastructure (NSDI), as established in OMB Circular A-16 and President Clinton’s Executive Order 12906.

PRESIDENT OBAMA’S “EDUCATE TO INNOVATE” PROGRAM

—President Obama launched in early February the “Educate to Innovate” campaign, a nationwide effort to help reach the administration’s goal of moving American students from the middle of the pack to the front in science and math achievement over the next decade. The President announced a series of partnerships involving leading companies, universities, foundations, non-profits, and organizations representing millions of scientists, engineers, and teachers who are expected to motivate and inspire young people across the country to excel in science, technology, engineering and mathematics (STEM). ACSM is monitoring this and other STEM related legislation working through Congress to determine how best we can play a positive role in these endeavors.

PROPOSED HEALTHCARE LEGISLATION AND ITS EFFECT ON SMALL BUSINESS

—There are different healthcare bills in the House and the Senate which will, at some point, be combined into one bill. Although they both contain elements which can be discussed and debated, one element that should concern most ACSM members is how they will affect small business.

Before going into how each bill affects small business, we need to understand a term that is used throughout both bills. That term is “healthcare insurance exchange.” An “exchange” is an insurance marketplace where people without access to affordable healthcare coverage through an employer can purchase health insurance plans. Subsidies would be available to households earning up to 400 percent of the poverty level, or \$88,200 for a family of four.

The Senate and House bills differ on the requirements for employers to provide healthcare insurance for their employees. The Senate bill does not require employers to offer health insurance. However, if even one employee of a firm with more than 50 employees receives a subsidy through the new exchanges, the firm would face a fine equal to \$750 for every person on its payroll.

Under the House bill, employers must pay 65 percent of family premiums or pay a penalty based on payroll. Small businesses with less than \$500,000 in payroll are exempt.

FEMA RISK MAP—FEMA’s Map Modernization Project is winding down. At its completion, 92 percent of the national population will have updated, digitized flood maps. FEMA is now moving full steam ahead with its Risk MAP Program. Risk MAP enhances the flood maps, involves communities during the assessment and planning stages, and guides and encourages them to communicate risk to their constituents. The four stages of the Risk MAP plan are: identify, assess, communicate, and mitigate risk. FEMA is collecting topographic data as part of the Risk Map efforts. The agency is scheduled to present a report to Congress on this issue in April 2010. FEMA is working with NOAA on height modernization. FEMA considers elevation data of such great importance that it has set aside \$20 million for collecting such data. As part of the FY10 Flood Mapping Appropriation Conference Report, FEMA was directed to develop a National Digital Elevation Acquisition and Utilization plan for the purposes of supporting floodplain map updates. FEMA’s Risk MAP Plan will provide county-level mapping information and support state-level funding for coastal, levee, and riverine designation. The plan is accessible on the FEMA website.

TRIGSTAR FUNDING—We are once again looking for federal funding for this program. Our point of contact on this issue is Congressman Chris Van Hollen (D-MD) because ACSM headquarters are located in his Congressional District. Traditionally, Members of Congress work for funding for organizations centered in their own districts or states first. Congressman Van Hollen is familiar with the TrigStar program because we have worked with him on this issue before. We are also looking to Senators Barbara Mikulski and Ben Cardin, Democrats representing the State of Maryland, for assistance in obtaining federal funding for this important and popular program.

PRESERVATION OF RAILROAD MONUMENTATION UPDATE

—We are continuing to work with Congress on the preservation of railroad monumentation issue. We’ve met with every member of the House and Senate Committees handling this issue and, while some have expressed support, the proposed legislation has yet to be introduced. This may be because the Senate has been dealing with a number of “big ticket” legislations which have tended to push smaller issues onto the back burner. However, we were advised to consider pushing for the inclusion of our concern into a bigger legislation package, such as the surface transportation reauthorization bill. We are currently following that advice.

3% WITHHOLDING OF PAYMENTS ON GOVERNMENT CONTRACTS

—Efforts continue to achieve full repeal of Section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 which requires the 3% withholding. Legislation was introduced in both the House and the Senate to accomplish this goal; S. 292 was introduced in the Senate by Senator Specter and the House bill H.R. 275 was introduced by Congressman Meek of Florida.

FLAIR ACT, H.R. 1520

—The FLAIR Act directs the Secretary of the Interior to develop a multipurpose cadastre of federal real property (an inventory of real property of the federal government) to assist with federal land management, resource conservation, environmental protection, and use of real property. It authorizes the Secretary to enter into cost-sharing agreements with states to include any non-federal lands in a state in such cadastre. It limits the federal share of any such agreement to 50 percent of the total cost to a state for the development of the cadastre of the non-federal lands in the state. It also requires the Secretary to submit a report on: (1) existing real property inventories or any components of any cadastre; (2) consolidation of inventories and components; (3) the use of existing inventories and components of any cadastre; (4) the cost savings that will be achieved; and (5) recommendations for legislation.

COASTAL MAPPING LEGISLATION

—Legislation was introduced earlier this year (Ocean and Coastal Mapping Integration Act H.R. 365 and S. 174) which would direct the National Oceanic and Atmospheric Administration (NOAA) to coordinate federal ocean and coastal mapping and surveying activities with (1) other federal efforts (such as the Digital Coast, Geospatial One-Stop, and the Federal Geographic Data Committee); (2) international mapping activities; and (3) mapping activities of coastal states, user groups, and nongovernmental entities. It also authorizes the Administrator of NOAA to convene an Ocean and Coastal Mapping Advisory Panel consisting of representatives from nongovernmental entities to provide input.

The legislation directs the NOAA Administrator to develop a plan for an integrated ocean and coastal mapping initiative within NOAA which would (1) identify all ocean and coastal mapping programs within NOAA and establish priorities; (2) encourage the development of innovative ocean and coastal mapping technologies and applications; and (3) document available and developing technologies and best practices in data processing and distribution.

The legislation also authorizes the NOAA Administrator to establish joint ocean and coastal mapping centers of excellence (including a joint hydrographic center) in institutions of higher education to conduct such activities as: (1) research and development of innovative ocean and coastal mapping technologies, equipment, and data products; and (2) mapping the U.S. outer continental shelf. The Administrator is required to continue developing a strategy for expanding contracting with nongovernmental entities. We intend to play an integral role in the progress of both H.R. 365 and S. 174.

AMERICAVIEW GEOSPATIAL IMAGERY MAPPING PROGRAM (H.R. 2489, S. 1078)—

Legislation was introduced in the House and Senate which would authorize a comprehensive, national cooperative Geospatial Imagery Mapping Program through the U. S. Geological Survey, in order to promote the use of the program for education, workforce training and development, and applied research, and to support federal, state, tribal, and local government programs. Under the AmericaView Geospatial Imagery Mapping Program Act, the Secretary of the Department of the Interior, acting through the AmericaView program, shall maintain AmericaView in each State to: (A) Share and cooperate in the development of geospatial imagery mapping applications, education, and training infrastructure in each State; (B) Cooperate with the AmericaView project to develop nationally consistent standards for geospatial imagery mapping in each State; (C) Expand the number of geospatial imagery mapping courses taught at educational institutions and provide training, remote sensing data, and teaching tools to educators; (D) Expand geospatial imagery mapping research at research educational institutions; (E) Expand the knowledge and use of geospatial imagery and map products in the current workforce through outreach programs, workshops, and other training opportunities; (F) Build partnerships with local governments to identify unique research and development needs and geospatial imagery mapping pilot projects; (G) Promote cooperation and sharing of expertise regarding geospatial imagery among participating States and within each participating State; and (H) Enable the States to provide geospatial imagery to the USGS. The legislation also calls for an advisory committee to be composed of at least one representative of each of AmericaView; the USGS; and the Department of Agriculture; and representatives of such other agencies as the Secretary may designate. ACSM will work to amend the legislation to provide for a repre-

sentative from the private surveying and mapping community to be included in the advisory committee as well.

PUBLIC LAND SURVEY SYSTEM FOUNDATION—A Memorandum of Agreement between ACSM and the Bureau of Land Management (BLM) was signed on Sept. 2, 2008, to: (1) Create a single point of contact for surveyors in the United States for knowledge and information about the Public Land Survey System (PLSS) in support of critical national priorities; (2) Collect monies from various educational efforts to be used for the good of the profession; (3) Fund educational opportunities, scholarships and other training for the survey profession as it relates to PLSS issues; (4) Fund joint projects for research or special effort with other entities, including the BLM, as they relate to PLSS issues; and (5) Publish additional BLM materials which are of interest to the private sector surveying community for which BLM has no budget to produce. An agreement was recently reached so that all proceeds derived from the sale of BLM's *Manual of Surveying Instructions* will be directed to the Public Land Survey System Foundation for the purpose of advancing the PLSS for the public good.

These are just a few of a number of important issues we are working on.. Be sure to sign up to receive the *Government Affairs Updates*, so you can stay abreast of the legislative work being done on behalf of the surveying and mapping community.

PERMAMARK®
The Original Plastic Survey Marker
Choice of Surveyors for over 30 years!



- ▲ Permanent Identification
- ▲ Cost Effective
- ▲ Installs Fast and Easy
- ▲ Stamping Included
- ▲ Eliminates Electrolysis
- ▲ Non-Corrosive
- ▲ Faded Service

Sizes Fit: 1/2", 3/4" & 1" pipe and 3/8", 1/2", 5/8", & 3/4" rebar
Colors: STANDARD: Yellow ALTERNATE: Red & Orange

For FREE samples
Write, call, or fax
Barnette Industries, Inc.

<p>Western Division 5880 Laird Road Loomis CA 95850 Tel: 916-852-7050 Fax: 916-852-7173</p>	<p>Eastern Division 53 Pequito Road Shalimar FL 32579 Tel: 850-851-2500 Fax: 850-851-8885</p>
--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------

TO LEAVE YOUR MARK, USE PERMAMARK