

## ALABAMA UTILITY CONTRACTORS ASSOCIATION

**TIM AYERS, EXECUTIVE DIRECTOR**  
**NOVEMBER 2022**



### **Director's Comments:**

A few weeks ago, I, along with AUCA President Tim Gilliam, AUCA Board of Directors Members Larry Logsdon and Chad Tubbs, and AUCA member Jim Watterson had the privilege to serve on a panel at the Alabama Utility Management & Technology Workshop. The event was put on by the American Water Works Association (AWWA) and Alabama's Water Environment Association (AWEA), and our panel was tasked with discussing the topic of labor and material shortages, supply chain disruptions and price escalation issues that continue to plague our industry. This was an excellent opportunity to present to a room full of Engineers and Utility Owners from around the state.

One point that was heavily emphasized is that with the current marketplace of plentiful infrastructure projects, Owners and Engineers that are willing to be fair and open minded are going to find themselves much better off than those that are unwilling to allow escalation clauses, or other ways to mitigate the inflationary risk that Contractors, Suppliers and Distributors are asked to assume. Another recurring theme that was mentioned during our panel discussion, as well as at other times during the conference, was the topic of allowing Design-Build, or other forms of Alternative Project Delivery Methods for Public Works Projects. Many of our AUCA members might recall that this has been attempted before through legislative efforts in Montgomery, and proved to be a very volatile and divisive topic for the entire Alabama Construction Industry.

I absolutely see the benefits, but also genuinely understand the concerns for those in opposition to Alternative Project Delivery Methods on Public Works Projects. Currently, there are no known efforts to bring forth legislation regarding this topic in the upcoming session. However, AUCA will continue to keep our finger on the pulse of our members and react accordingly should any such legislation on this topic be introduced in 2023.

#### **Inside This Issue:**

CWCC Report	2-6
Upcoming Events	7
News & Notes	8-11
Health & Safety	12

*Tim*

## *Clean Water Construction Coalition Report*

From Dan Kennedy - Chairman CWCC & Sante Esposito - Key Advocates

### **November 2022 Insights**

**NOTE: this summary includes an update of the issues as of November 15th.**

#### **Midterm Election**

Like many, we were planning for a red wave. That was based not only on the polls and news reports but also on calls we made to a number of Member offices. What we learned from those calls was that the Republicans were more than optimistic - they were confident while the Democrats were, at best, concerned. And then Tuesday and every day thereafter happened.

Starting with the House of Representatives, let me begin by putting things into historical perspective. Historically, on average, 27 House seats have been lost by the party in power – that is, the party that controls The White House - in the midterm election. As examples, the Republicans lost 40 seats in the Trump midterm, the Democrats 63 in the Obama midterm and the Democrats 54 in the Clinton midterm. Also, when the President is below 50% approval rating – which Biden is – the historical midterm average loss since 1982 is 46 seats.

#### ***The Results:***

Starting with the House, going into the election the Democrats had 222 seats and the Republicans 213. As of now, the Democrats have won 204 seats and the Republicans 215. That leaves 16 seats outstanding. Some are competitive seats but many are western races that have not as yet finished vote counting. However, if you look at who is ahead at this time in the 16 remaining races, the Democrats lead in 10 and the Republicans in 6 – making the final total for each 214 Democrats and 221 Republicans (MSNBC has it at 215 Dems to 220 Reps plus or minus 3). The magic number for majority in the House is 218 so, at best, it would be a slim Republican majority. And that would mean a net gain of 8 seats or so by the Republicans – well below the average and definitely not a red wave.

In the Senate, going into the election the Democrats had 50 seats and the Republicans 30, the Vice President holding the tie vote. Historically, on average, 4 seats have been lost by the party in power in the midterm election. As of now, the Democrats have 50 seats (including a net gain of 1 seat) and the Republicans 49. So the Dems will maintain the majority in the Senate with Georgia still at play with a Dec 6 runoff. Georgia is still key in either giving the Democrats an extra vote if they need it (because of Sens Manchin and/or Sinema) or the Republicans a tie per the current situation.

#### ***Leadership Offices:***

Starting with the Senate Democrats because that's the easiest one to predict. There's no indication

## *Clean Water Construction Coalition Report*

*(Continued from page 2)*

of a change in leadership with Schumer solidly entrenched to be majority leader. No timing on elections announced yet.

On the Republican side, the consensus is that the absence of a red wave was favorable to Senator McConnell to retain his leadership for a number of reasons - he did not predict a red wave, he was adamant in saying that some of the Republican candidates were not the best and he did not have a lead role on election strategy and funding so cannot be "blamed" for the overall outcome. Had there been a red wave – say 54-55 Republican seats – then maybe he would have been challenged. For example, Senator Rick Scott of Florida – chair of the Senate Campaign Committee - has not denied that he would be interested. Now, Scott is in the doghouse. The leadership elections are scheduled for this week – as of now McConnell wants to process but others want to postpone until after the Dec. 6 Georgia election to give Walker a chance to vote in the caucus if he wins.

In the House, on the Democratic side, the lack of a red wave seems, at least initially, to have lessened the pressure for a new breed of leaders – Pelosi, Hoyer and Clyburn are in their eighties. That doesn't mean that there wouldn't be challenges and changes. And Pelosi has implied that because of the incident involving her husband and his recovery which is expected to be long term, she may step aside. While a valid concern, she may also be using that as cover for the age issue and losing the House even marginally as a way out. Nov. 30 has been set for the elections.

As for the Republicans, a red wave would have sealed the speakership for Congressman McCarthy because he would have inherited many new supporters. However, that didn't happen and now he is seeking to preside over what appears likely to be an extremely thin majority – a scenario that hands massive leverage to the far right. The Republican Freedom Caucus – the MAGA Members - have already laid out their demands in return for their vote for McCarthy as Speaker, and they say that they are willing to play hardball to get what they want. So far the biggest sticking point is that they want to restore the "motion to vacate" which the Democrats repealed. That motion allows a single Member to force a vote on the speakership at any given time. In essence, it would be a vote to fire the Speaker. Also, Congressman Andy Biggs (R-AZ) is running for speaker not that he would get the nomination as McCarthy only needs a majority of the caucus but to show McCarthy that as of now he does not have the 218 votes he needs to be elected speaker by the full House. The nomination vote is scheduled for today. The full House vote in January.

### ***Committee/Subcommittees:***

Committee and subcommittee assignments will be a work in progress for some time given the results of the election, retirements, and Members' preferences. Last Congress, the Senate Commerce Committee did not finalize its subcommittee assignments until March of the next year. As to the number of majority versus minority members on Senate committees and subcommittees, if Warnock loses and the Senate stays at 50/50 then the number of both sides on committees and subcommittee will stay as is – equal number. If Warnock wins, the Democrats will get one more slot than the



## *Clean Water Construction Coalition Report*

*(Continued from page 3)*

Republicans on committees and subcommittees making it easier to move legislation. Right now, with equal numbers, to move a bill out of committee or subcommittee if there is a tie vote, the bill sponsoring side must offer a motion to discharge the committee or subcommittee on the Senate Floor which is debatable, time consuming and causes delays in the overall legislative process. In the House, with an expected Republican majority, there will be new committee and subcommittee chairs, with the number of majority to minority members on committees and subcommittees reflecting the overall ratio of majority to minority members in the full House.

### ***Priorities:***

We haven't heard anything from the Senate or House Democrats on priorities for the new Congress. We have in the House from Congressman McCarthy. However, that was before the election results. He identified three: 1) repeal Biden policies although no specifics on which policies; 2) cut spending with the focus on the appropriations process but also including entitlement reform such as Medicare/Medicaid; and, 3) investigations including the Afghan withdrawal, Ukraine funding, COVID cause and treatment, immigration including the border wall and reform, and Hunter Biden. Also, Congressman Sam Graves (R-MO), the incoming chair of the Transportation and Infrastructure Committee, announced that he wants to hold hearings on the Bipartisan Infrastructure Law.

### ***Coalition Impact:***

Granted everything is and will be in flux for some time but in terms of congressional leaders, committee and subcommittee chairs and assignments, there will be new members in key positions and new staff and with that the need to pursue new relationships while continuing to build on existing ones.

In terms of the McCarthy announced priorities (if these hold), does repeal of Biden's policies include revisiting the Bipartisan Infrastructure Law and, if so, will the SRF's and Title XVI WIIN grants funds be on the table? Both SRF's and Title XVI, among many other Federal water programs, have never been supported by Republicans as they view them as a state and local responsibility.

On spending cuts, will that include the "add-ons" to the BIF that have been included in the annual appropriations bills. For example, in this years' appropriations bills, nearly \$1.7B is included for the Clean Water SRF and \$20M for WIIN grants, both amounts over and above the BIF funding levels. Will it also end earmarks like the Republicans did when they last took the House?

### **Lame Duck Session**

As of now, the focus is on four issues:



## *Clean Water Construction Coalition Report*

*(Continued from page 4)*

### 1.) "Build Back Better" Bill: Round Two

It has been reported that some Democrats are planning in the lame duck session to bring back the expanded child tax credit or a smaller version of it. Senators Sherrod Brown (D-OH) and Michael Bennet (D-CO) want to pair it with the renewal of an expired R&D tax break for businesses and other non-controversial items. This could be the vehicle for revisiting the "Build Back Better" Bill effort as the Democrats will still hold the majority in both Houses until the end of the year. If so, for the Coalition we would continue to advocate for funding for the Alternative Water Source Program and large scale water recycling projects, inclusion of H.R. 5118 or some variation, and any other items of interest.

Included in the House-passed "Build Back Better" bill of interest to the Coalition:

- \$30B for Safe Drinking Water SRF lead service line replacement projects;
- \$100M for state public water systems;
- \$700M to reduce lead in school drinking water;
- \$100M for large scale water recycling projects;
- \$1.15B for emergency drought relief;
- \$125M for Alternative Water Source Program grants; and,
- \$2B for sewer overflow and storm water reuse grants.

No funding for the Clean Water SRF is included in the House BBB. It does include new taxes.

Unofficially, the Senate Environment and Public Works Committee released its BBB title which includes \$9B for SDWSRF-funded lead remediation projects, \$225M for rural and low-income water assistance grants, \$125M for Alternative Water Source Program grants, and \$500M for sewer overflow and storm water reuse municipal grants.

2.) WRDA 2022 – both passed bills include only Corps of Engineers issues. Conference still pending. Will continue to monitor for possible inclusion of issues of interest.

### 3.) FY23 Interior and Energy and Water Appropriation Bills

Congress/the government is operating under a Continuing Resolution until at least Dec. 16. Pending that, work continues on the individual FY23 appropriations bills. To date, 6 of the 12 bills have passed the House, none in the Senate. The Federal government has operated under CR's in all but three of the last 46 years. This may not be the last CR for FY23. Included in both the House passed and the Senate announced FY23 appropriation bills are @\$1.7B for the Clean Water SRF, \$1.1B for the Safe Drinking Water SRF and \$20M for WINN grants.

4.) H.R. 5118, the "Wildlife Response and Drought Resiliency Act" and S. 4231, the "STREAM



## *Clean Water Construction Coalition Report*

*(Continued from page 5)*

Act” (Support to Rehydrate the Environment, Agriculture and Municipalities Act)

H.R. 5118 has passed the House. S. 4231 has been introduced in the Senate. The Coalition supports enactment of H.R. 5118 or some variation in the lame duck session.

H.R. 5118 authorizes \$600M (this is in addition to the \$550M appropriated in the Bipartisan Infrastructure Law) for Title XVI with no breakdown between the traditional Title XVI program and WIIN grants, with no fiscal year limitation, with an increase in the Federal share from \$20M to \$50M, and with project priority funding. The bill also authorizes \$700M (again, this is in addition to the \$450M appropriated in the Bipartisan Infrastructure Law) for large water recycling projects with total estimated cost of at least \$500M.

On May 17, Senator Feinstein (with Senators Kelly and Sinema – both Arizona Democrats – as co-sponsors) introduced S. 4231, the STREAM Act. A hearing was held on the bill on May 25 by the Energy and Natural Resources Subcommittee on Water and Power. The bill authorizes – it does not appropriate - \$300M for FY24-28 for the WIIN grant program. These funds, albeit authorizations, are over and above the BIF WIIN grant appropriated amount of \$550M. The Federal share is \$20M. Priority is given to projects that meet certain criteria.





*Upcoming Meetings & Events:*

***AUCA Board of Directors Meeting***

**Wednesday, December 7, 2022  
Montgomery, AL**

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***Mobile Area Holiday Lunch Meeting***

**Thursday, December 8, 2022**

***Tuscaloosa Area Holiday Lunch Meeting***

**Tuesday, December 13, 2022**

***Huntsville Area Holiday Lunch Meeting***

**Thursday, December 15, 2022**

***Birmingham Area Holiday Lunch Meeting***

**Friday, December 16, 2022**

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***AUCA 2023 Spring General Meeting,  
Golf Tournament and Shrimp & Crawfish Boil***

**Thursday, April 20, 2023  
Arrowhead Country Club  
Montgomery, AL**

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***AUCA 2023 Fall General Meeting  
& Sporting Clay Shoot***

**Thursday, October 12, 2023  
Lower Wetumpka Shotgun Sports Club  
Montgomery, AL**



## News & Notes:

### **Alabama Election & Legislative Updates:**

The political "red wave" that was expected nationally didn't occur, but certainly did here in Alabama. Republicans will remain in total control in state government by maintaining the governor's office and both the Alabama House and Senate. Once again, no Democrat holds a statewide office in Alabama.

Kay Ivey easily won another term as Governor, while Will Ainsworth will continue to preside over the Alabama Senate after comfortably winning another term as Lieutenant Governor. Steve Marshall will remain as the Attorney General, while Wes Allen was elected as the new Secretary of State to replace the outgoing John Merrill.

Katie Britt will be the next U.S. Senator to represent Alabama. She will take up the seat left vacant by retiring Senator Richard Shelby. Britt, who once served as Chief of Staff for Senator Shelby, will be the first Republican woman to represent Alabama in the U.S. Senate and also one of the youngest Senators ever elected in the state.

Also worth noting, voters overwhelmingly approved a recompilation of the Constitution of Alabama of 1901. This now allows for certain language to be removed and outdated provisions and sections to be updated and edited.

In the Alabama Legislature the Republican and Democratic parties will hold the same number of seats in both chambers as they did prior to the election, which maintains the Republicans' filibuster-proof supermajority. However, many of the faces will be new due to the retirement of several legislators, also because some incumbents were defeated (either in the primaries or general election), while others chose to instead run for other government offices.

New leadership will also be in place in the House. The Alabama House Republican Caucus held its first post-election meeting to elect members to leadership posts for the upcoming term. House Speaker nominee is Nathaniel Ledbetter (R-Rainsville) and Speaker Pro Tem nominee is Chris Pringle (R-Mobile). The Speaker Pro Tem is tasked with presiding over the House when the Speaker is unavailable. House Majority Leader will be Scott Stadthagen (R-Hartselle). Due to the position of House Majority Leader being an internally-elected position, Stadthagen will assume his new role immediately. House GOP Caucus Vice Chair will remain Wes Kitchens (R-Arab). The Vice Chair will assume the responsibilities of the Majority Leader in his absence.

Anthony Daniels (D-Huntsville) remains the House Minority Leader, a position he's held for the past five years. Barbara Drummond (D-Mobile) will serve as Democratic Caucus Leader, and Mary Moore (D-Birmingham) will serve as Caucus Co-Chair.

Given that Republicans hold a supermajority, the members nominated for Speaker and Speaker Pro Tem will be officially elected to their posts when the full chamber meets for a working session in January.

The 2023 legislative session begins in March in Montgomery.





News & Notes:

***Alabama Utility Management & Technology Workshop***

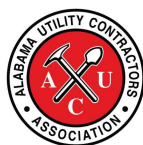


**AUCA 2023 Scholarship Program:**

AUCA will open the application process in December for our 2023 Scholarship Program. Scholarships will be awarded to applicants that have not previously received an AUCA scholarship. Deadline for submissions will be February 28th, and winning applicants will be selected at the March 2023 AUCA Board of Directors Meeting.

Application Criteria:

- Must be a resident of Alabama.
- Must be enrolling in, or attending a community college, technical school, or university in Alabama.
- Open to any field of study, but preference may be given to applicants enrolled/enrolling in an engineering or construction-related curriculum.
- Must be either employed by, or have a parent or grandparent employed by a current AUCA member company.



# News & Notes:

## AUCA 2023 Calendars:

AUCA will soon be receiving a supply of 2023 AUCA Calendars. If you would like to have one of these hanging on your office wall before they're all gone, please contact the AUCA office and we will make arrangements for delivery.



**Alabama Utility Contractors Association**  
*We Dig Alabama*  
 Phone: (205) 582-9436 Fax: (205) 582-9155  
[www.aluca.org](http://www.aluca.org)

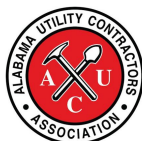
JANUARY 2023

☐ Total Days Observed in the Year
☐ Total Days Remaining in the Year  
☐ Working Days Remaining in the Year (Excluding Saturday and Sunday)
☐ Working Days Remaining in the Year (Excluding Holidays)

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
<b>1</b> <small>MON</small> <hr/> <hr/> <hr/> <hr/> <small>NEW YEAR'S DAY</small>	<b>2</b> <small>TUE</small> <hr/> <hr/> <hr/> <hr/>	<b>3</b> <small>WED</small> <hr/> <hr/> <hr/> <hr/>	<b>4</b> <small>THU</small> <hr/> <hr/> <hr/> <hr/>	<b>5</b> <small>FRI</small> <hr/> <hr/> <hr/> <hr/>	<b>6</b> <small>SAT</small> <hr/> <hr/> <hr/> <hr/> <small>FULL MOON</small>	<b>7</b> <small>SUN</small> <hr/> <hr/> <hr/> <hr/>
<b>8</b> <small>MON</small> <hr/> <hr/> <hr/> <hr/>	<b>9</b> <small>TUE</small> <hr/> <hr/> <hr/> <hr/>	<b>10</b> <small>WED</small> <hr/> <hr/> <hr/> <hr/>	<b>11</b> <small>THU</small> <hr/> <hr/> <hr/> <hr/>	<b>12</b> <small>FRI</small> <hr/> <hr/> <hr/> <hr/>	<b>13</b> <small>SAT</small> <hr/> <hr/> <hr/> <hr/>	<b>14</b> <small>SUN</small> <hr/> <hr/> <hr/> <hr/> <small>THIRD QUARTER MOON</small>
<b>15</b> <small>MON</small> <hr/> <hr/> <hr/> <hr/>	<b>16</b> <small>TUE</small> <hr/> <hr/> <hr/> <hr/> <small>MARTIN LUTHER KING DAY</small>	<b>17</b> <small>WED</small> <hr/> <hr/> <hr/> <hr/>	<b>18</b> <small>THU</small> <hr/> <hr/> <hr/> <hr/>	<b>19</b> <small>FRI</small> <hr/> <hr/> <hr/> <hr/>	<b>20</b> <small>SAT</small> <hr/> <hr/> <hr/> <hr/>	<b>21</b> <small>SUN</small> <hr/> <hr/> <hr/> <hr/> <small>NEW MOON</small>
<b>22</b> <small>MON</small> <hr/> <hr/> <hr/> <hr/>	<b>23</b> <small>TUE</small> <hr/> <hr/> <hr/> <hr/>	<b>24</b> <small>WED</small> <hr/> <hr/> <hr/> <hr/>	<b>25</b> <small>THU</small> <hr/> <hr/> <hr/> <hr/>	<b>26</b> <small>FRI</small> <hr/> <hr/> <hr/> <hr/>	<b>27</b> <small>SAT</small> <hr/> <hr/> <hr/> <hr/>	<b>28</b> <small>SUN</small> <hr/> <hr/> <hr/> <hr/> <small>FIRST QUARTER MOON</small>
<b>29</b> <small>MON</small> <hr/> <hr/> <hr/> <hr/>	<b>30</b> <small>TUE</small> <hr/> <hr/> <hr/> <hr/>	<b>31</b> <small>WED</small> <hr/> <hr/> <hr/> <hr/>				

<b>2</b>	<b>JANUARY</b>	<b>FEBRUARY</b>	<b>MARCH</b>	<b>APRIL</b>	<b>MAY</b>	<b>JUNE</b>
<b>0</b>						
<b>2</b>	<b>JULY</b>	<b>AUGUST</b>	<b>SEPTEMBER</b>	<b>OCTOBER</b>	<b>NOVEMBER</b>	<b>DECEMBER</b>
<b>3</b>						

**JANUARY**



News & Notes:

**Alabama Underground Damage Prevention Authority (ALUDPA)**

The Alabama Underground Damage Prevention Authority (ALUDPA) was established for the purpose of enforcing the Alabama Underground Damage Prevention State Law, for reviewing penalty provisions, and for reviewing the adequacy of the Alabama State Law Enforcement Program.



The Enforcement Program is a complaint-driven process where a complaint may be submitted against an entity for violation of the Alabama Underground Damage Prevention State Law. A complaint may be submitted as information only and not designated for enforcement penalties.

A complaint may be submitted using the Complaint Form [at this Website](#) no later than 30 days after the occurrence of an alleged violation. The submitted Complaint Form is reviewed by the ALUDPA for determination of an alleged violation and for penalty provisions that may apply. The reported violator is then notified by the ALUDPA that a response may be submitted using the Response Form at this Website no later than 14 days after the ALUDPA notification.

A GUIDE TO ALABAMA'S

# Enforcement Process

HOW TO SUBMIT AND RESPOND TO COMPLAINTS  
AT WWW.ALUDPA.ORG

STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
Report any violations within 30 days of incident. Can be reported for info only or enforcement purposes.	Alleged violator will be notified with time/date/location of incident. Alleged violator has 14 days to respond.	Exec. Committee reviews the complaint/response. Then makes a recommendation.	Exec. Committee notifies the alleged violator and complainant of any penalty action recommended.	Alleged violator can accept and pay the penalty, or submit an appeal to be heard by entire Damage Prevention Authority

## Health & Safety:



# OSHA ALERT ▶▶▶▶

## Trench collapses can be deadly

Trench hazards are well-known, yet far too many workers continue to be injured or killed during excavation work. **Trench collapses**, or cave-ins, are more likely than other excavation-related incidents to result in worker fatalities. **It only takes seconds to become buried in thousands of pounds of soil.**

Trench hazards can be controlled when employers act responsibly, train employees, and follow federal standards. These important steps can keep excavation work safe:

- Ensure there is a safe way to enter and exit the trench
- Trenches must have cave-in protection – remember to ***Slope, Shore, Shield***
- Keep materials away from the edge of the trench
- Look for standing water or other environmental hazards, and
- Never enter a trench unless it is properly inspected



Trench Safety PSA ▶▶

## OSHA Wants to Help

For assistance, employers can contact their **local OSHA office** or the **On-Site Consultation Program**.

OSHA news alerts are issued on occasion to draw attention to worker safety and health issues and solutions.



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***AUCA IS A MEMBER-DRIVEN, NEEDS  
FOCUSED TRADE ASSOCIATION CREATED  
SOLELY TO PROMOTE AND ADVANCE THE  
UTILITY INDUSTRY IN THE STATE OF  
ALABAMA.***

**We're on the Web !  
[www.aluca.org](http://www.aluca.org)**

**Please print out this newsletter to share with others in your company. And, if you are receiving this for the company owner, please print out a copy for him/her.**

**Let AUCA Be Your Source For All Your  
Training Needs**

**Contact the Association Office for more information**

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