



**American Water Works  
Association**

**Government Affairs Office**  
1401 New York Avenue NW  
Suite 640  
Washington, DC 20005-2149  
T 202.628.8303  
F 202.628.2846

**Headquarters Office**  
6666 West Quincy Avenue  
Denver, CO 80235-3098  
T 303.794.7711  
F 303.347.0804  
www.awwa.org

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## *Washington D.C. Report*

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### **Special Election Issue**

It is the special and wonderful property of a democracy that from time to time the people can fundamentally redraw the political landscape. Such a thing happened yesterday in the mid-term elections.

As you have heard by now, Democrats will control the House in the 110<sup>th</sup> Congress that convenes in January. At the time of this writing, it is not clear who will control the Senate, and a tie there is entirely possible. Remember that the Vice President casts tie-breaking votes in the Senate, so if the parties are tied, the Republicans will be considered the majority party.

While the full implications of this election will not be apparent for some time, we can give you an early glimpse. First, the election will be widely seen in Washington as a vote for change away from one-party government and the highly partisan attack politics and gridlock that have characterized Washington in recent years. The defeat or retirement of a number of moderate Republicans, and the election of more conservative Democrats, will shift both parties to the right in Congress. The Democrats are challenged to rise above being the angry opposition to becoming a true partner in governing.

Second, any suggestion that this marks the end of the Bush presidency is wrong. While he was governor of Texas, Mr. Bush showed that he can work very effectively with a legislative branch controlled by the opposition party. It is possible, even likely, that the next two years could be among the most productive of his presidency with respect to middle-ground legislation.

Third, it is impossible to overstate the importance of the war in Iraq to politicians of both parties as they start preparing for the next election two years hence. That issue has the potential to overshadow almost everything else, until it is resolved.

**Congressional Leadership Races.** The House and Senate will convene next week in a lame duck session, with several items of business to address. By far the most important will be election of the House and Senate leadership. Each party will caucus to elect the men and women who will largely control the legislative agenda for the coming Congress. The majority party will appoint committee chairs, control the schedule on the House and Senate floor, set the tone for Congressional debate, determine what amendments may be offered, control subpoena powers for Congressional oversight, and chart 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 have a sense about 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 Nancy Pelosi, D-Calif., is considered a shoo-in for Speaker, but the race for Majority Leader (the number two post for the majority party) is likely to be contested by Rep. Steny Hoyer, D-Md., Rep. John Murtha, D-Penn., and possibly others.

On the Republican side, it is not considered likely that Rep. Dennis Hastert, R-Ill., will move from Speaker to Minority Leader. The job of Minority Leader (the top spot now for the Republican Party in the House) will likely be contested, with Reps. Roy Blunt (MO), John Boehner (Ohio) and possibly others seeking the post.

Once the top leadership is chosen in each party, those leaders will work with party steering committees to appoint committee chairs (Democrats) and ranking members (Republicans). Seniority will be the major factor in both parties, but won't necessarily be determinative. With appropriate caveats, here is what we expect today:

Energy and Commerce. Rep. John Dingell, D-Mich., is considered a certainty to resume his chairmanship of the Energy and Commerce Committee. Dingell was first elected to Congress in 1955, and in his prior stint as chair of this committee, he was known for his aggressive oversight of federal agencies, whichever party held the White House.

The ranking Republican will likely be Rep. Joe Barton, R-Texas, the current chair of the Committee. His interests have been in energy policy, the Clean Air Act and issues involving the Food and Drug Administration. Look for lively debate and animated hearings with these two leading their parties.

In the last two Congresses, Rep. Hilda Solis, D-Calif., was ranking Democrat on the Subcommittee on Environment and Hazardous Materials. She could take the chair in the 110<sup>th</sup> Congress. However, the E&C Committee is expected to make at least some changes in the jurisdictions of its subcommittees, and as members scramble for new subcommittee assignments, Solis could be bumped by more senior members. In the past, her interests have centered on environmental justice for minority communities. The ranking Republican will likely be Rep. Paul Gillmor, R-Ohio, who chaired the subcommittee the past two sessions of Congress.

Appropriations Committee. The chair of this committee will likely be Rep. David Obey, D-Wis. Obey chaired the committee for nine months in 1994, the last time all appropriations bills were passed on time. He is known as a skilled, determined legislator. The ranking Republican will likely be Rep. Jerry Lewis, R-Calif., who chaired the committee beginning in the current session of Congress. He generally believes in limiting the growth of federal spending, except when it comes to defense.

Chair of the appropriations subcommittee that funds EPA will likely be Rep. Norman Dicks, D-Wash. A veteran legislator, Dicks is known as a strong advocate for his state's natural resources and national parks. The ranking Republican could be Rep. Zach Wamp, R-Tenn., because the chair during the current Congress, Rep. Charles Taylor, R-N.C., lost his re-election bid. Wamp is a fiscal conservative, but can be pragmatic and open to bipartisan negotiations. His interests have included renewable energy.

Chair of the appropriations subcommittee that funds the Department of Homeland Security will likely be Rep. Martin Sabo, Minn. Sabo has been concerned in the past about getting sufficient resources to "first responders." Rep. Harold Rogers, R-Ken., currently the chair, could become the ranking member.

Rogers has blocked many earmarks while chairing the subcommittee, but has also been called a “pragmatic conservative.”

Agriculture Committee. The Farm Bill will be up for reauthorization in the 110<sup>th</sup> Congress, so the leadership of the Agriculture Committee will be significant because it will determine conservation funding and important source water protection policies. The new chair of that committee may be Rep. Collin Peterson, D-Minn. In the past, he has opposed attempts to trim the agricultural budget. He is also a strong advocate for dairy interests. The current chair, Rep. Bob Goodlatte, R-Va., could become ranking member.

Chair of the subcommittee that will handle conservation programs will likely be Rep. Tim Holden, D-Penn., another advocate for dairy farmers who also sits on the Transportation and Infrastructure Committee. The ranking Republican will likely be Rep. Frank Lucas, R-Okla., the current chair, and supporter of a “reliable safety net” for farmers and ranchers.

**The House Legislative Agenda.** The Democrats expected to be elected to leadership positions next week have explicitly signaled their intention to focus on certain reforms that enjoy strong support in the political middle, as well as practices (like oversight hearings) that they believe are important to restore Congress’s constitutional role as an independent branch of government. Many of the newly elected Democratic members are more conservative than their likely leaders and committee chairs, especially on fiscal and social issues, so it will be very interesting to see how the Democrats can fashion a legislative agenda and hold their caucus together.

Likely-Speaker Nancy Pelosi has promised certain procedural reforms will be voted on the House floor within the first 100 hours of Democratic control. These include a ban on gifts from lobbyists and a restoration of requirements that all tax cuts and spending increases be offset by other changes in the budget, so the net effect is deficit neutral. In Washington parlance, this is called “paygo” for pay-as-you-go. The gift ban will not affect AWWA or its Fly-In, as we don’t do that anyway. The paygo requirements could complicate efforts to obtain significant increases in state revolving loan funds for water infrastructure, or steps others may take to obtain a national water trust fund.

You can also expect early votes on items such as raising the minimum wage; a college tuition tax break for lower and middle-class families; implementing the recommendations of the 9/11 Commission (with special attention to strengthening border, port, and transit security); more government control over Medicare drug prices; and raising taxes on oil company profits. The Democrats have been, perhaps ironically, friendlier to the President’s comprehensive immigration plan than Republicans have been, so action is also possible on a comprehensive bill or a guest worker program.

With respect to legislation of special interest to water utilities, we expect increased interest in the House in pushing the regulation of perchlorate and emerging contaminants; revisiting chemical security provisions affecting water utilities to enhance federal requirements, including a push away from the use of chlorine and toward the use of “inherently safer technologies;” and advancing proposals for a trust fund or other dedicated infrastructure funding.

It is too early to say whether or not these items could pass the Senate, would be acceptable to the President, or could muster enough support to override a Presidential veto.

**The Senate.** At the time of this writing, control of the Senate is undecided, and it may not be known for weeks as recounts are likely in close races in Montana and Virginia. Whichever party controls the Senate will elect the Majority Leader. A change is assured in that post, since the current Majority Leader, Sen. Bill Frist of Tennessee, is retiring at the end of this Congress. The minority party will elect the Minority Leader. The parties will also elect Majority and Minority Whips (the number-two spot in each party in the Senate), and a chair of the party’s Senate caucus (considered to be the number-three

spot in the leadership). Whether these leaders choose to work things out through negotiation and compromise or seek showdowns to highlight differences with the other party will determine how the Senate works in the coming Congress.

If the parties are evenly split, then the Republicans will be considered the majority party, since the Vice President casts any necessary tie-breaking votes in the Senate. The last time this happened, the parties agreed to equal membership on all committees and equal numbers of staff. Otherwise, expect the majority party to have more members on all committees, and disproportionately more on certain important committees, like those in charge of taxing and spending.

Once the majority and minority leaders have been chosen, those leaders will work with a steering committee of party members to appoint the chairs and ranking members of all committees, just as in the House. Seniority will be an extremely important factor in determining chairs and ranking members, but is not always determinative. We can't know with certainty who the committee chairs and ranking members will be, because there will be a game of "musical chairs" as Senators change from one committee to another to pursue a claim of seniority on another committee, or simply to pursue the seat on a committee with a changing jurisdiction.

Given that surprises are likely, this is how we expect the leadership positions to line up, knowing what we know today (parties in alphabetical order):

Democratic Leadership. Sen. Harry Reid, D-Nev., currently the Senate Minority Leader, is considered a shoo-in to lead his party in the Senate, either as Majority or Minority Leader. The Democratic Whip is expected to be Sen. Richard Durbin of Illinois. The job of Secretary of the Democratic Caucus might not stay with Sen. Debbie Stabenow of Michigan, as rumors of a contest for that job are strong.

Republican Leadership. Expect a couple of leadership changes on the Republican side. Majority Leader Bill Frist will retire when the 109<sup>th</sup> Congress adjourns and Sen. Rick Santorum of Pennsylvania lost reelection, so his job is open as Chairman of the Republican Conference (the number-three spot in the party in the Senate). The consensus seems to be that current Majority Whip Mitch McConnell, R-Ken., will take either the majority or minority leader's job, depending on who controls the chamber. McConnell's elevation will create an opening at the number-two spot (Whip), and a contest is likely there involving Sens. Trent Lott of Mississippi and Lamar Alexander of Tennessee. Sen. Jon Kyl of Arizona is expected to be the front-runner for chairing the Republican Conference.

Environment and Public Works Committee. If the Democrats claim the majority in the Senate, the senior Democrats currently on the Committee on Environment and Public Works are expected to claim the chairs of other committees instead (Sen. Max Baucus, D-Mont., is likely to take the chair of the Senate Finance Committee. Sen. Joe Lieberman, who ran from Connecticut as an independent, is expected to chair the Homeland Security and Government Affairs Committee, given the near certainty that Senate Democrats will restore his seniority). That could leave Sen. Barbara Boxer, D-Calif., as chair, or as ranking member if Democrats are the minority party. On the Republican side, the current chair, Sen. James Inhofe, R-Okla., would like to remain as chair or become the ranking member. However, if Republicans keep their majority, it is possible that Sen. John Warner, R-Va., who is term limited as chair of the Senate Armed Services Committee, could assert seniority and claim the chair of EPW, where his term limit as a chair would start afresh.

At the Subcommittee on Fisheries, Wildlife, and Water, which has direct jurisdiction over drinking water, Sen. Hillary Clinton, D-N.Y., will likely be either chair or ranking member. On the Republican side, Sen. Lincoln Chafee, R-R.I., lost his bid for re-election, so expect either Sen. John Warner, R-Va., or Sen. Lisa Murkowski, R-Alaska, to serve as chair or ranking member.

Appropriations Committee. For the Democrats, Sen. Robert Byrd, D-W. Va., the longest-serving current member of the Senate, is expected to become either chair or ranking member. On the

Republican side of the aisle, Sen. Thad Cochran, R-Miss., who has served on the Appropriations Committee for 22 years, is likely to remain as chair or become ranking member.

On the appropriations subcommittee that funds EPA and other water programs, the senior Democrat is likely to be Sen. Byron Dorgan, D-N.D. On the Republican side, the current subcommittee chair is Sen. Conrad Burns, R-Mont. His race is still undetermined at this point. If Burns loses, expect Sen. Ted Stevens, R-Alaska, to take the chair or the role of ranking member. Otherwise, Burns will resume the top spot on that committee for his party.

Agriculture. As we mentioned earlier, conservation and source water protection programs are contained in the Farm Bill, and with that legislation due for reauthorization in the 110<sup>th</sup> Congress, the leadership of the Agriculture Committee takes on new significance. On the Democratic side of the aisle, Sen. Tom Harkin, D-Iowa, is likely to either chair or continue as ranking member. For the Republicans, expect the current chair, Sen. Saxby Chambliss, R-Ga., to continue in that role or to become ranking member.

The agriculture subcommittee that deals directly with conservation will likely see Sen. Blanche Lambert Lincoln, D-Ark. as the senior Democrat. On the Republican side, expect the current chair, Sen. Mike Crapo, R-Idaho, to continue in that role or become ranking member.

Homeland Security and Governmental Affairs. Sen. Joe Lieberman is the current ranking Democrat, and if Democrats control the Senate, he is expected to become the committee chair. On the Republican side, expect Sen. Susan Collins, Maine, to continue as chair or become ranking member.

**Senate Legislative Agenda.** If the Democrats control the Senate, expect their legislative agenda to closely resemble the House agenda described above. If Republicans control the Senate, the broad outlines of their legislative agenda will be set in coordination with the White House, as before. The White House has signaled its desire to make permanent the repeal of the estate tax and to resume work on reforming Social Security to include private accounts. Expect a heavy emphasis on using the Senate as the bastion against proposals unacceptable to the President and the Republican caucus that come over from the House.

With respect to legislation of special interest to utilities, a Republican Senate leadership is expected to remain unfriendly to requirements to regulate perchlorate or emerging contaminants, and to reopening chemical security legislation affecting water utilities. Senate Republicans (as well as Democrats) are likely to pay increased attention to the problems many small water systems have in affording compliance with drinking water regulations, and to look for solutions that do not involve opening the Safe Drinking Water Act. Finally, we expect a Republican Senate (but less so a Democratic Senate) to remain leery of proposals to advance dedicated infrastructure funding, such as a trust fund, unless a willing taxpayer can be found to shoulder the cost.

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.

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