How Congress Came Together Over Flood Insurance Reform

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The one thing almost everyone in Washington can agree on is that, in the current political environment, it is nigh impossible to pass practically any legislation that's even slightly controversial. Legislation falls victim to partisan bickering, ideological squabbles, fiscal constraints and opposition from special interest groups.

So, how was it that the National Flood Insurance Program was substantially amended back in March, barely 20 months after it had been reauthorized in the Biggert-Waters Flood Insurance Reform Act of 2012, a major bipartisan agreement that required four years and 17 temporary extensions to resolve?

First, some background: The NFIP was created in 1968 to provide an alternative to repeated federal relief efforts after hurricanes, riverine floods and mudslide natural disasters. The idea was that the federal government would offer affordable insurance not being provided by the private market and that rates would be set to ensure that those benefiting from the program were paying its costs. The program insured about 5.5 million homes and was financially self-sustaining until the extreme hurricane season of 2005, when Hurricane Katrina and several other storms overwhelmed the system’s resources and required a $16 billion loan from the federal treasury. From that point forward, the NFIP became much more politically troublesome.

Prior to the Biggert-Waters Act, the last full reauthorization of the NFIP had expired in September 2008. For nearly four years, the program operated under temporary reauthorizations as an ideological battle over the costs and benefits of the program prevented assembling the necessary majorities to adopt a bill that could satisfy a sufficient coalition to achieve a long-term fix. At the time of its adoption, Biggert-Waters was viewed as a major legislative accomplishment, even more remarkable for the large majorities by which it was adopted in July 2012: 373-52 in the U.S. House of Representatives and 74-19 in the U.S. Senate.

Within six months of the enactment of Biggert-Waters, some flood insurance policyholders began to receive notice of massive increases in premiums, from less than $2,000 annually to more than $28,000 in some cases. Due to the vagaries of how the Federal Emergency Management Agency implements its flood mapping program, the area around New Orleans was one of the first localities to learn of the magnitude of the premium increases resulting from Biggert-Waters. And therein lies one of the crucial elements of the success in enacting significant revisions barely a year later.

New Orleans is home to Greater New Orleans Inc., a regional public-private economic development alliance serving Southeastern Louisiana. Its mission is primarily business development, but they represent the 10 parishes in the Greater New Orleans area, and the GNO staff promptly learned of the
NFIP rate increases from parish presidents and business leaders. In consultation with its membership and board of directors, they quickly decided action was necessary to avoid a serious economic catastrophe that would result if the rumored rate increases went into effect.

In early May 2013, GNO staff and eight parish presidents traveled to Washington and met with the leadership of the House Financial Services Committee. While the meeting was cordial, it was clear there was little appetite for revisiting this controversial issue so soon after it had been resolved in very difficult negotiations. The GNO group also met with members of the Louisiana House and Senate delegations, which were highly sympathetic.

The GNO management and staff were experienced coalition builders and public relations professionals. It was apparent that this was being viewed by Congress as a local issue applying only to one storm-prone area. The GNO leaders realized that other geographic areas were not yet receiving notices of the premium increases and that it would be necessary to make them aware of what was coming their way in order to gain the necessary critical mass to have an impact on Congress.

Out of this Washington visit, a plan was developed to create the Coalition for Sustainable Flood Insurance to pursue adjustments in the Biggert-Waters provisions. GNO organized a series of weekly conference calls to plan a campaign, coordinate efforts and build support. Over the next year, the core group of about 15 leaders, including the parish presidents, held a planning call early each week, and a broader support group held a conference call late in the week to discuss problems, hear from other areas of the country and maintain contact with Congress.

The first line of attack was to attempt to secure a delay in implementation of the Biggert-Waters provisions to allow time to resolve the underlying issues. While these efforts were ultimately unsuccessful, they served a valuable purpose in gaining news media attention and illuminating for members of Congress and their staffers the extreme hardship that would result from the Biggert-Waters provisions. Perhaps most important, these efforts helped establish working relationships between members from both parties and in both houses of Congress — members committed to put differences aside and solve this problem for their constituents. This cooperation across party and ideological lines helped avoid the strife that frequently scuttles legislation and was an essential factor in the successful adoption of the changes to Biggert-Waters.

CSFI undertook a relentless campaign to bring this issue to the attention of leaders in other parts of the country and let them know this was not just a Gulf Coast issue. CSFI reached out to state and local government officials, economic development groups, trade associations, news media outlets and educational institutions. The coalition urged members of Congress to send multiple “Dear Colleague” letters to every member of the House and Senate. They held press conferences and published op-eds. All these efforts focused on the problems of homeowners with specific information about their individual situations, including documented records of the rate increase notices they received.

CSFI’s initial conference call had about a dozen participants. In the following year, CSFI grew to represent over 250 organizations in 35 states. When the process was finished in March 2014, there were more than 800 individuals on the coalition contact list and over 200 regularly logged in on the weekly call. These calls were followed up with email summaries to keep those who could not call in informed and involved.
In the final analysis, this was simply grassroots politics at its most basic, but with a few crucial factors that assured success.

The first was leadership. If GNO members and staff had not taken this matter up early in the process, the rate increases would have been rolled out piecemeal with serial complaints around the country, but no focus and only a diffuse effort that probably would have accomplished nothing substantial.

The second factor was communication, from within the coalition and without, primarily targeted at members of Congress. The expertise of the GNO staff made this possible.

Most importantly, this work was cooperation. People from different parts of the country with varying points of view, facing disparate problems were able to agree on common ground and work together to achieve important changes, though none of them got all that they wanted. The greatest and most encouraging surprise was that members of the House and Senate — from opposing political parties — were able to work together for the good of their constituents in an election year, even though two of such members will face each other in the upcoming midterm elections for a Senate seat from Louisiana. In addition, one of the original sponsors of Biggert-Waters acknowledged the legislation was flawed and became a prime mover in the success which brought relief to NFIP policyholders.

The March 21, 2014, signing of the bill by President Obama was a great victory, but the process is not finished yet. The NFIP will have to be reauthorized in 2017, and it will no doubt engender some of the same arguments made this past year. It is heartening, however, to know that Congress can put its differences aside and solve problems for their constituents when the issue is presented properly.

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Disclosure: Jones Walker LLP represented GNO Inc. during its participation in the Coalition for Sustainable Flood Insurance. Larry Lavender was the principal professional working on matters with GNO.

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