

## Earmarks sail away as ports sink

By: Adam Snider

November 21, 2011 10:29 PM EST

U.S. ports are struggling for funds at the same time many are undertaking major expansion projects in order to stay apace with global shipping trends — but their money hunt has changed drastically in the post-earmark world.

A massive project widening the Panama Canal will be finished in 2014, meaning larger ships carrying three times the cargo can easily access the East Coast of the U.S. It comes at an important time for U.S. trade — President Barack Obama has laid an ambitious goal of doubling exports in five years. But only one of the East Coast ports — Virginia's Port of Norfolk — is currently wide and deep enough to accept the new, larger ships.

With port modernization an integral part of improving U.S. trade balances, lawmakers are weighing new ways of funding projects without the earmarks they've come to love. At the same time, a highway and transportation bill pending in the House would increase yearly port spending. Sen. Lindsey Graham (R-S.C.) is on the front lines of the changing face of port funding: He's looking to help South Carolina's Port of Charleston find \$4.2 million to study expanding its facility. The port is hugely important, he said, accounting in some way for one in five jobs in the state. He sees the earmark ban as a chance for improvement.

"Now that we don't earmark, it's an opportunity to replace that system — which has a parochial bent — with something that is more merit-based," Graham told POLITICO.

Graham is pushing to create a competitive grant program that would judge projects on their merit — Congress would fund it yearly and the Army Corps of Engineers would have a good pool of projects to draw from, he said. Although his language was included in the Senate's version of an energy and water funding bill, his fight is far from over. That measure was recently pulled from the floor and may come back after Thanksgiving.

Graham said earmarks skewed the debate and distracted from a larger plan. "When you do the earmarking, there's no way to have a national vision, because everybody is looking at their own backyard," he said. But such a national vision didn't miraculously appear after the earmark ban — and ports are still waiting for it, said Kurt Nagle, president and CEO of the American Association of Port Authorities. "It's clear that the U.S. needs to really develop its transportation and specifically freight transportation policy, including that connecting into and out of ports, for the U.S. to continue to be competitive," Nagle said.

An AAPA survey showed that 35 ports have spent \$9.4 billion during the past five years — but those figures are likely underestimated. Only 35 of the nation's 185 ports reported statistics to AAPA.

Graham said handing over the power of the purse to the executive branch by ending earmarks hasn't solved anything. "The executive branch is never going to put all the money you need to deal with ports in their budget — they never have," he said. "So we're in no-man's land."

"I think if you turn all the power over to the executive branch, you'll have political abuses of another form," Graham added. "If I voted for Obamacare, I'm sure I would have gotten the Port [of Charleston] deepened, but I'd have been at the bottom of the port."

With all the disparaging of the executive branch, it's no surprise that Graham is careful to draw a distinction between his competitive grant proposal and other programs in which the executive branch controls all decisions. His proposal would let the Army Corps of Engineers retain final decision-making authority, and some sort of independent commission could be involved in the process, he said.

Graham is not alone in his quest. Rep. Laura Richardson (D-Calif.) said a merit-based system would divide the money better than the formulas that direct about half of current port spending. Richardson's district is home to a massive port complex in the San Pedro Bay that includes the Port of Los Angeles — the country's busiest — and the Port of Long Beach.

"Sen. Graham and others such as myself are constantly trying to get the focus on funding to be merit-based and not simply a formula," Richardson said.

The South Carolina Republican and the California Democrat might have the same goal but with unclear results. "My approach is to give Charleston a chance," Graham said. "I can't guarantee an outcome."

How port funds are divvied up takes on added importance as lawmakers look to make more money available.

The highway bill from House Transportation and Infrastructure Chairman John Mica (R-Fla.) would tie port spending to the yearly revenue raised from user fees. The Harbor Maintenance Trust Fund is sitting on about \$6 billion — raised by a tax on the value of shipped goods — that could be used on port modernization projects. Richardson was an original co-sponsor of a standalone bipartisan bill (H.R. 104) to do the same thing.

Additional funds are sorely needed as ports, just like all other sectors of the economy, have been hit by the recession. "It is an extremely challenging time, financially, for ports," said AAPA's Nagle.

While earmarks might be a thing of the past, they still have their defenders, especially if they're related to infrastructure.

Nagle said it's unfair to compare port earmarks to the nefarious ones that overshadowed previous discussions of the issue. Port projects had to go through multiple layers of cost-benefit and other studies before they could be approved for an earmark, Nagle said. "They're significantly different than the primary target of the earmark debate," he said.

A number of members from both parties — such as Richardson and tea party darling Rep. Michele Bachmann (R-Minn.) — have backed the merit of some transportation earmarks.

"When you look at how we handled them, except for a few obviously inappropriate directives, for the most part I think members dealt with that in a very responsible way," Richardson said. "I, personally, would like to see us get back to the point where they're really directed by the needs and knowledge of the district and not just strictly formulas."

Still, earmarks owe much of their bad image to a famous transportation one — the "bridge to nowhere." There was also the Coconut Road earmark that Don Young's staff changed after it had passed the House and Senate — violating a fundamental legislative rule.