



**Sustainable Water  
Infrastructure  
Coalition**

Statement Submitted for the Record

Sustainable Water Infrastructure Coalition

before the

**COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES**

Regarding

**“Tax Reform and Tax Provisions Affecting State  
and Local Governments”**

March 19, 2013

Chairman Camp, Ranking Member Levin and Members of the Committee: The Sustainable Water Infrastructure Coalition (SWIC) appreciates the opportunity to submit written testimony on tax reform and tax provisions affecting state and local governments.

SWIC is an alliance of corporations, public organizations, private and public water and wastewater service providers, construction contractors, pipe and equipment manufacturers and distributors, engineering companies, labor unions, financial institutions, and other business organizations working to advance sustainable water and wastewater infrastructure policy through public awareness, education and advocacy.

Cities, towns and communities across the nation face major challenges over the next 20 years to replace aging and worn out water and wastewater systems, which are vital to maintaining public health and building local economies. Capital investment for such projects will be difficult as many states and local governments face budget deficits, revenue shortfalls and opposition to new taxes.

### **Water and Wastewater Infrastructure Today**

The American Society of Civil Engineers (ASCE) released on March 19 its latest report card on the condition of the nation's infrastructure. Water and wastewater infrastructure received a grade of "D," meaning there is a "strong risk of failure."<sup>1</sup> Local governments understand the impact of the nations failing infrastructure and face an average of 650 water main breaks per day. Moreover, nearly two trillion gallons of treated drinking water is lost to broken or leaking pipes at a cost of \$2.6 billion per year<sup>2</sup> and 900 billion gallons of raw sewage leaks into waterways and watersheds annually.<sup>3</sup>

### **Root of the Problem**

On one hand, local governments are understandably reluctant to increase user rates for water and wastewater infrastructure and services. On the other is a mounting and unavoidable need for capital investment to repair and replace aging or obsolete infrastructure and build new facilities to ensure compliance with ever-increasing federal and state regulatory standards. This dilemma is the result of unfunded federal mandates and decades of delay in providing capital investment in infrastructure that is now at or nearing the end of its useful life.

### **Funding Gap**

The U.S. EPA raised awareness of the infrastructure crisis in 2002 with its study entitled *The Clean Water and Drinking Water Infrastructure Gap Analysis*. The report analyzed projected water and wastewater infrastructure investment need to current spending levels over a 20-year period and found an investment gap of \$271 billion for Clean Water (wastewater) and \$263 billion for Drinking Water. EPA's current reports indicate 20-year capital improvement need of \$334.8 billion for drinking water and \$298.2 billion

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<sup>1</sup> American Society of Civil Engineers' 2013 Report Card for America's Infrastructure

<sup>2</sup> ITT Corporation, "Value of Water Survey: Americans on the U.S. Water Crisis," 2012

<sup>3</sup> Washington Post, "Billions needed to upgrade America's leaky water infrastructure," Ashley Halsey III, , January 2, 2012, P1

need for wastewater.<sup>4</sup> The 2007 data includes the following unmet infrastructure investment needs, which threaten safe drinking water and clean watersheds.

- Michigan - \$15.2 billion
- California - \$68 billion
- New York - \$55.7
- Texas - \$34 billion
- Florida - \$28.57 billion
- Ohio - \$25.7 billion
- New Jersey - \$24.5 billion
- Pennsylvania - \$23 billion
- Illinois - \$21.9 billion
- Washington - \$14.4 billion
- Wisconsin - \$11.8 billion

### **Spending Forecast**

The U. S. Conference of Mayors report on projected costs of water infrastructure is even more alarming. The 2010 report forecasts future spending for public water and wastewater systems will range between \$2.5 and \$4.8 trillion over the next twenty years. Projected spending is almost double the \$1.6 trillion local governments have invested in the past 53 years. The report also found that “cities provide the overwhelming majority of public water and wastewater investment – accounting for more than 95% of total expenditures for these public services.”<sup>5</sup>

### **Tax-exempt Bonds**

The primary source of federal financial support for water and wastewater infrastructure is tax-exempt municipal bonds. These bonds represent a long-standing partnership among federal, state and local governments in building and maintaining the nation’s public infrastructure. Over the past decade, state and local governments financed more than \$1.65 trillion of infrastructure investment with tax-exempt bonds -- \$258 billion for water and wastewater facilities.<sup>6</sup>

The federal tax code classifies state and local tax-exempt bonds as either governmental purpose bonds, which limit private participation, or private activity bonds, which allow for private participation. In general, the interest on governmental bonds is exempt from federal taxation, whereas the interest on private activity bonds is not unless they are issued for projects that benefit the general public, called “qualified private activities.” Tax-exempt bonds for governmental purposes and for qualified private activities provide lower cost capital for infrastructure because the bond buyer does not have to include the interest income from the bond in federal gross income and thus is willing to accept a lower interest rate for the bond. Essentially, the lower interest rate arising from the federal tax-exemption subsidizes state and local investment in infrastructure projects.

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<sup>4</sup> U.S. Environmental Protection Agency, “Drinking Water Needs Survey and Assessment, Fourth Report to Congress,” Feb 2009. Clean Watersheds Needs Survey, 2008 Report to Congress, Jan 2008.

<sup>5</sup> U.S. Conference of Mayors, “Trends in Local Government Expenditures on Public Water and Wastewater Services and Infrastructure: Past, Present and Future,” March, 2010

<sup>6</sup> U.S. Conference of Mayors, “Protecting Bonds to Save Infrastructure Jobs 2013,” February, 2013

### **Qualified PABs for Water and Wastewater Infrastructure**

Congress controls the use of state and local debt for private activities by restricting the type of private activity and by providing an annual state volume cap limit. Projects for the furnishing of water are qualified activities only if the water is made available to the general public. The same restrictions apply for “sewage” facilities. Generally, the public use restrictions for the furnishing of water and sewage do not constrain access to PABs for most water and wastewater projects. However, the state volume caps do. Historically, the issuance of tax-exempt private activity bonds for water and wastewater projects is only 1% of all issuance, even though the need is much greater. The housing sector receives the majority of PAB issuance.<sup>7</sup>

Some categories of critical infrastructure are not subject to state volume caps. For example, publicly owned projects financed with tax-exempt private activity bonds for airports, ports and solid waste facilities are not subject to the state volume cap.

### **Solid Waste Example**

During the 1980s, state and local governments faced declining landfill capacity and rapidly increasing disposal costs. Congress responded by eliminating the tax-exempt private activity bond volume cap on municipal solid waste projects in the Tax Reform Act of 1986. Elimination of the state volume cap made private activity bonds an available source of funding for solid waste facilities. Between 1896 and 2010, 41% of the \$467 billion bonds issued in the solid waste industry were tax-exempt private activity bonds. The infusion of private capital helped solve the solid waste infrastructure crisis and provides an example of what could happen if water and wastewater projects were removed from the restrictive volume cap.<sup>8</sup>

### **Eliminate PAB Cap for Water and Wastewater Projects**

Since 1986, private activity bond issuance has amounted to only 1% of total bond issuance for water and wastewater facilities. Removing the state volume cap on PABs for water and wastewater infrastructure would increase private capital investment and enable more public-private partnerships. “Public-private partnerships not only optimize the development, construction and long-term operation of the project, but also apportion sharing of risks between the public and private partners.”<sup>9</sup> Removing the PAB volume cap for water and wastewater projects “will increase capital investment in the nation’s water infrastructure by up to \$5 billion per year over time through public-private partnerships,” according to former U.S. EPA Administrator Stephen Johnson.<sup>10</sup>

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<sup>7</sup> U.S. House Transportation and Infrastructure Subcommittee on Water Resources and Environment, hearing on “The Future of Alternative Water Supplies: *Financing Water Infrastructure Projects*,” Testimony of Stephen E. Howard, Barclays Capital, March 12, 2012.

<sup>8</sup> *ibid.*

<sup>9</sup> *ibid.*

<sup>10</sup> U.S. Senate Appropriations Committee, hearing on “Fiscal Year 2009 Budget Request,” Testimony of Stephen L. Johnson, Administrator, U.S. EPA, March 4, 2008.

In 2001, the U.S. EPA's Environmental Financial Advisory Board recommended that private activity bonds for water and wastewater facilities be exempted from the state volume cap after recognizing that "state volume caps were constraining tax-exempt financing in a way that was limiting the supply and/or increasing the cost of investment funds."<sup>11</sup>

### **Legislation to Remove Water/Wastewater PAB Cap**

Last Congress, Representatives Bill Pascrell (D-NJ) and Geoff Davis (R-KY) introduced H.R. 1802, the *Sustainable Water Infrastructure Investment Act*, to provide for the removal of water and wastewater projects from the PAB state volume caps, similar to the exception that Congress granted to solid waste facilities in the Tax Reform Act of 1986. The bill, which leverages private capital investment in public infrastructure, received bipartisan support from 101 cosponsors and is supported by more than 80 public and private organizations involved with the water and wastewater sectors, including the U.S. Chamber of Commerce, the National Association of Manufacturers, the U.S. Conference of Mayors, the National League of Cities and the National Governors Association. Over the past several years, the legislation passed the U.S. House of Representatives twice and last year a five-year version of the measure received unanimous support from the Senate Finance Committee and passed the U.S. Senate with bipartisan support as part of the Transportation reauthorization bill.

### **Job Creation and Economic Activity**

While it is true that investment in water and wastewater infrastructure enhances public health and environmental protection, it also creates high-paying jobs, generates significant economic activity and expands the local tax base. Industry studies have indicated that every \$1 billion invested in water and wastewater infrastructure creates up to 28,000 new jobs<sup>12</sup> with average annual earnings of more than \$50,000 and increases demand for products and services in other industries by more than \$3 billion. Due to a ripple effect that construction employment offers, investment in water infrastructure generates measureable employment in hundreds of standard industry classifications recognized by the US Census Bureau.<sup>13</sup>

Moreover, a \$1 billion investment also generates more than \$82 million in state and local tax revenue at a time when states and local communities need it most. In fact, according to *The Economic Impact and Financing of Infrastructure Spending*, released by the Associated Equipment Distributors in 2012, "investing \$1.00 in sewer systems and water infrastructure returns a full \$2.03 in tax revenue to federal and state/local governments, of which \$1.35 specifically accrues at the federal level."<sup>14</sup> By all accounts, investment in our underground environmental infrastructure pays off on many levels.

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<sup>11</sup> Environmental Financial Advisory Board, "Private Sector Initiatives to Improve Efficiencies in Providing Public-Private Environmental Services, U.S. EPA, June 2001

<sup>12</sup> Associated General Contractors of America, "Build Now for the Future, A Blueprint for Economic Growth," Washington, DC, 2010

<sup>13</sup> Clean Water Council, "Sudden Impact: An Assessment of Short-Term Economic Impacts of Water and Wastewater Construction Projects in the United States," Washington, DC, P10

<sup>14</sup> Associated Equipment Distributors, "The Economic Impact and Financing of Infrastructure Spending," Washington, DC, 2012, p3

In closing, SWIC appreciates the opportunity to offer comments on the important role of tax-exempt bonds in financing the nations aging infrastructure and encourages the committee to preserve the tax-exemption on municipal bonds and remove water and wastewater projects from the PAB state volume cap to help municipalities contain costs and provide much needed access to capital. For more information, please visit:

[www.sustainablewaterinfrastructure.org](http://www.sustainablewaterinfrastructure.org) or contact:

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Supporters of Legislation to Remove Water Private Activity Bonds from State Volume Caps

Amerex  
American Concrete Pavement Association  
American Concrete Pipe Association  
American Concrete Pressure Pipe Association  
American Council of Engineering Companies  
American Iron and Steel Institute  
American Public Works Association  
American Rental Association  
American Road and Transportation Builders Assn.  
American Society of Civil Engineers  
American Subcontractors Association  
American Supply Association  
American Water  
American Water Works Association  
Associated Equipment Distributors  
Associated Equipment Manufacturers  
Associated General Contractors of America  
Associated General Contractors of Texas  
Atlantic States Pipe  
Construction Management Association of America  
Barclays  
Bond Dealers of America  
Bond Market Association  
California Association of Sanitation Agencies  
Carlyle Infrastructure Partners  
Caterpillar  
CDM  
Clow Valve Company  
Coca Cola Company  
Design Build Institute of America  
Design Professionals Coalition  
Distribution Contractors Association  
Dow Chemical Company  
Ductile Iron Pipe Research Association  
EJ Company  
Environment One  
General Electric  
Gulf Coast Waste Disposal Authority  
HDR Engineering  
Infrastructure Management Group  
Interlocking Concrete Pavement Institute  
International Private Water Association  
International Union of Operating Engineers  
ITT Industries  
Jacobs Engineering  
John Deere  
Kennedy Valve  
Laborers-Employers Coop and Education Trust  
Laborers International Union of North America  
Manchester Tank  
Mason Contractors Association of America  
McWane  
Michigan Infrastructure & Transportation Association  
Mueller Water  
NAIOP  
National Asphalt Pavement Association  
National Association of Manufacturers  
Nat'l. Assn. of Regulatory Utility Commissioners  
National Association of Sewer Service Companies  
National Association of Towns and Townships  
National Association of Water Companies  
National Association of Women in Construction  
National Council for Public-Private Partnerships  
National Governors Association  
National Precast Concrete Association  
National Society of Professional Engineers  
National Stone, Sand & Gravel Association  
National Utility Locating Contractors Association  
NUCA Representing Utility and Excavation Contractors  
Pacific States Cast Iron Pipe Company  
Parsons Brinckerhoff, Inc.  
Plastics Pipe Institute  
Plumbing-Heating-Cooling Contractors Association  
Portland Cement Association  
Poseidon Resources Corporation  
San Antonio Water System  
Siemens  
SPI: The Plastics Industry Trade Association  
Texas Rural Water Association  
Texas Water Development Board  
Tyler Pipe  
United Rental  
United Water  
Uni-Bell PVC Pipe Association  
US Chamber of Commerce  
US Conference of Mayors – Mayors Water Council  
Valve Manufacturers Association  
Veolia Water  
Vermeer Corporation  
Vinyl Institute  
Water and Sewer Distributors of America  
Water and Wastewater Equipment Manufacturers Association  
Water Environment Federation  
WaterReuse Association  
Watts Water Technologies