



N A R U C
National Association of Regulatory Utility Commissioners

July 14, 2009

The Honorable Charles Rangel
Chairman
Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

The Honorable Dave Camp
Ranking Member
Committee on Ways and Means
1139E Longworth HOB
Washington, DC 20515

Re: Sustainable Water Infrastructure Act of 2009 – H.R. 537

Dear Chairman Rangel and Ranking Member Camp:

With increased environmental costs and more stringent clean water regulations on the horizon, cities, towns and utilities face major challenges over the next several decades replacing aging and deteriorating water infrastructure. Obtaining capital for such projects is difficult. On behalf of the National Association of Regulatory Utility Commissioners (NARUC), we urge your support for legislation sponsored by Representative Pascrell (H.R. 537), that would lift the State volume caps on qualified water and wastewater project private activity bonds (PABs) to assure access to capital for needed infrastructure upgrades.

NARUC represents the public service commissions in all 50 states and U.S. protectorates that regulate the utilities that provide essential services such as water, energy, telecommunications and transportation.

PABs are one of the most useful avenues for utilities to fund long-term capital-intensive infrastructure projects. They allow a private utility to issue tax exempt bonds using a State, county, or municipal government as the issuing entity. However, the use of PABs for water and wastewater is extremely limited because of a federally-mandated annual State volume cap limit that essentially funnels most of the limited funds raised through PABs towards more politically attractive, short-term projects. In 2007, only 1.3% of all PABs went towards water and wastewater projects.¹ This problem is compounded by the fact that most water infrastructure projects are spread over several years. Under current law, using PABs can require the utility to obtain approval from the State or other issuing entity over a long period of time, which adds complexity and unpredictability to financing the project.

The Congressional Budget Office and the United States Environmental Protection Agency (EPA) have estimated the cost of replacing outdated water infrastructure to be hundreds of billions of dollars. This legislation could leverage as much as \$5 billion or more per year to address the water infrastructure challenge, yet last year the Treasury Department scored this bill at a mere \$214 million over ten years. PABs can be a viable and fiscally responsible source of

¹ “Study on Private Activity Bonds and Water Utilities”, American Water Works Association, March 2009, p.8.

funding for the financing of these vital water and wastewater infrastructure projects if the annualized State volume caps are removed.

Because of the growing critical need for capital to fund long-term water projects, NARUC's Board of Directors adopted a resolution on July 18, 2007, outlining our concerns that the congressionally mandated State volume cap limits are hindering utilities' efforts to renovate the debilitated U.S. water infrastructure. The resolution stresses the need to remove water and wastewater utility projects from the restrictive State volume caps on the qualified project Private Activity Bonds.

NARUC is committed to working with Members of Congress, water companies, and other interested parties to ensure that sufficient funding is available for vital upgrades and replacement of aging and deteriorating water and wastewater infrastructure. We look forward to working with you and hope you will support passage of H.R. 537 to remove water and wastewater projects from under the federally mandated State volume caps on these private activity bond projects. If you have any questions please contact NARUC's Legislative Director – Water, Brian O'Hara, at 202-898-2205, bohara@naruc.org.

Sincerely,



Fred F. Butler
NARUC President



David King
Chairman, NARUC Committee on Water

CC: Members of the Committee

Resolution on Water and Wastewater Private Activity Bonds

WHEREAS, Cities, towns and utilities face a major challenge over the next several decades replacing their aging and deteriorated water infrastructure. The Congressional Budget Office and the U.S. Environmental Protection Agency (EPA) have estimated the cost will be in the hundreds of billions of dollars; *and*

WHEREAS, In addition to infrastructure replacement, cities, towns, and utilities are facing increased environmental costs associated with more stringent regulations from the Safe Drinking Water Act, the Clean Water Act, and other important health and environment federal and State statutes; *and*

WHEREAS, Utilities must take the lead in addressing these challenges by using the many organizational, managerial, operations and financial tools at their disposal to keep costs under control and demonstrate to their customers that they are following the most effective, cost-efficient path possible; *and*

WHEREAS, Private Activity Bonds (PABs) are a form of financing whereby a private utility issues tax exempt bonds using State, county or municipal government as the issuing entity; *and*

WHEREAS, PABs are subject to annual State volume cap limits under Congressional mandated rules governing PABs. Various projects must compete against one another for the limited funds under the volume cap. In most States, the vast majority of PABs are earmarked for projects other than those related to infrastructure remediation, such as education and housing projects. Water and wastewater infrastructure projects, often seen as less politically attractive, are often not being financed with PABs. According to EPA, eliminating State volume cap requirements for qualified water projects can potentially leverage as much as \$6 billion dollars in private capital every year; *and*

WHEREAS, With PABs, the bond issuer pays a lower interest rate, thus lowering the costs of projects financed with PABs, resulting in savings which are passed on to water utility ratepayers through lower rates; *and*

WHEREAS, Under current law, the total dollar amount of PABs that can be approved by a State is annualized, which works against PABs being used in expensive, multi-year water and wastewater projects. Under current law, using PABs in such utility projects can require getting approval from the State over several years. This introduces complexity and uncertainty to the financing of the project, which alone serves as a disincentive to use PABs. Removing water and wastewater projects from the annualized cap eliminates this impediment for multi-year projects; *and*

WHEREAS, Depending on the specific project, bringing water and wastewater projects out from under the PAB State volume cap will result in lower cost project financing, allowing for lower costs reflected in water and wastewater bills throughout the country and have no effect on a municipalities' tax-exempt bond rating, freeing up traditional tax exempt municipal bonds for other uses; and facilitate more multi-year water projects; *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its July 2007 Summer Meetings in New York, New York, supports legislation to aid utilities in the challenge of replacing and upgrading water and wastewater infrastructure by bringing water and wastewater utility projects out from under the federally mandated State volume caps on these qualified project Private Activity Bonds.

Sponsored by the Committee on Water

Adopted by the NARUC Board of Directors, July 18, 2007