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Groups Want Congress to Overturn Ban on Use of Bonds with WIFIA Program.

DALLAS - Water groups and state and local officials are already urging members of Congress to amend a new federal loan program for infrastructure projects to allow tax-exempt bonds to be used in conjunction with the financial assistance.

The Water Infrastructure Finance and Innovation Act, included in the Water Resources Reform and Development Act Congress passed that President Obama is expected to sign this week, provides \$350 million of low-cost loans and credit enhancement for ports, inland waterways, and water supply and treatment infrastructure projects in a five-year pilot program.

The bill limits WIFIA's contribution to no more than 49% of a project's cost and caps the overall federal share at 80%. Proceeds from tax-exempt municipal and private activity bonds cannot be used, directly or indirectly, for a project receiving WIFIA support.

Proponents of the WIFIA program hail it as an important new finance tool for funding large projects, while opponents say the prohibition of tax-free debt is a fundamental flaw that will lead to increased privatization of public infrastructure.

Conversations have begun with lawmakers on Capitol Hill in an attempt to amend the water bill in the remainder of this session of Congress or in 2015, said Tommy Holmes, legislative director at the American Water Works Association.

"We've already starting talking to Congress," Holmes said. "We'd like to get that 49% cap raised and be able to use tax-exempt bonds as part of the financing.

"It's going to be very difficult to get that bill amended this quickly, but it is not impossible," Holmes said. "If we can't, we'll take it up again when the new Congress comes in next year."

The ban on tax-exempt bond financing was part of the WIFIA proposal in the original Senate bill, and was included by the conference committee that reconciled the differences between Senate and House water bills that passed in 2013, Holmes said. The House bill did not contain any WIFIA program.

"It was a budget decision," he said. "They wanted to avoid a hit on the U.S. Treasury from reduced revenue due additional tax-exempt debt."

The National League of Cities, also said it was concerned about the ban on using tax-exempt bonds in conjunction with WIFIA assistance. "We vow to continue to work with Congress to improve this important provision in order to maximize its effectiveness for communities, NLC executive director Clarence Anthony said in a release.

The water bill, H.R. 3080, was approved by large margins in both chambers of Congress last week. The new WIFIA program is a significant breakthrough in confronting the water infrastructure, said

David LaFrance, chief executive officer at AWWA. A 2012 report from association put the price tag for maintaining and expanding drinking water systems at \$1 trillion over the next 25 years, with a similar amount for waste water systems.

“WIFIA will reduce the financing costs of critical infrastructure projects, allowing communities to fix and expand water systems at a lower cost to their customers,” LaFrance said.

However, the 49% limit and the ban on tax-exempt financing are mistakes that lawmakers should correct, LaFrance said.

“WIFIA will be most effective when communities can fund 100% of project costs, and any non-WIFIA share should be allowed to be financed with tax-exempt debt,” LaFrance said.

Saving just two percentage points on a 30-year loan can result in a savings of 25% of total borrowing costs, LaFrance said, which on a large project can amount to millions of dollars that would otherwise be absorbed through customer bills over many years.

Many utilities and communities won’t be able to take advantage of the low-interest WIFIA loans because of the ban on tax-exempt bonds as a funding method, said Diane VanDeHei, executive director of the Association of Metropolitan Water Agencies.

Utilities will have to issue taxable debt that carry higher interest rates than could be achieved with conventional government bonds or attract private investments to complete WIFIA projects, she said.

“The tax-exempt financing restriction was not conceived as a matter of policy, but was necessary to achieve a clean budget score,” VanDeHei said. “AMWA is confident that lawmakers who have consistently supported WIFIA will continue working with us to do so in the months ahead.”

The ban on tax-exempt debt for WIFIA projects is a “raw deal” and “a wolf in sheep’s clothing” for municipal water systems, said Wenonah Hauter, executive director of Food & Water Watch.

“WIFIA is anything but innovative,” she said.

“WIFIA will give low-interest loans primarily to private water corporations, compete with the state revolving funds for federal resources, and place inappropriate pressure on local governments to privatize their drinking water and wastewater systems,” Hauter said.

Water utilities have financed \$1.7 trillion of water infrastructure needs over the last decade with tax-exempt bonds, she said.

“Cities and towns will not be able to use tax-exempt bonds to cover the portion of an infrastructure project that WIFIA doesn’t fund,” Hauter said. “This effectively makes WIFIA useless for most municipalities.”

Strengthening federal support of state water revolving loan programs would be more effective than the enacted WIFIA legislation, she said.

Federal funding for local water and sewer systems has dropped 80%, adjusted for inflation, since 1980, Hauter said. The Environmental Protection Agency has estimated that \$384 billion is needed over 20 years to maintain deteriorating water systems, she said, but federal assistance over the last 16 years totals only \$15 billion.

The ban on tax-exempt bonds for WIFIA opens the door to more public-private partnerships in water

projects and more privatization of water suppliers, said Erin Diaz of watchdog group Corporate Accountability International.

“The privatization of water systems around the globe has often resulted in devastating results for the economy and people