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WRDA Sails through the Senate

On May 15, the Senate passed the Water Resources Development Act (WRDA) of 2013 ([S. 601](#)), 83-14, after overcoming various hurdles during the legislative process. Despite breezing through committee by a unanimous vote, bill supporters were forced to deal with hundreds of amendments and opposition by lawmakers who do not understand the value of water infrastructure investment. The bill now heads for what is expected to be a long, arduous battle in the House.

The legislation, which authorizes important Army Corps of Engineers projects that will create jobs, spur economic growth, and enhance the nation's economic competitiveness, was a top priority for Senate Environment & Public Works Chairman Barbara Boxer, D-Calif., and Ranking Member David Vitter, R-La.

According to a Congressional Budget Office (CBO) [cost estimate](#), over the next five years the government would authorize approximately \$3.4 billion for waterway and watershed management projects, including the construction of locks and dams. The bill would inject \$443 million during that time for the development of a levee safety program to strengthen the country's flood preparedness in the case of natural disasters. The CBO also concluded WRDA would invest \$235 million through 2018 to implement provisions related to harbor maintenance.

Finally, the legislation would set aside \$40 million for a pilot project seeking to lower the cost of capital and increase private investment in water and wastewater infrastructure. Modeled after the Transportation Infrastructure Finance & Innovation Act, the program would provide credit assistance in the form of direct loans and loan guarantees to finance water projects of national significance.

The association has long been an ardent supporter of this much-needed legislation. Most recently, ACPPA sent a [letter](#) to Senate leadership on May 8 urging WRDA's passage to create jobs and spur economic growth. Visit ACPPA-action.org today to press your lawmakers to invest in our nation's crumbling water infrastructure.

SWIC Leader: Getting PAB Legislation over the Finish Line

Actionline recently sat down with Bruce Morgan, principal at Water Policy Associates and a key leader with the [Sustainable Water Infrastructure Coalition](#) (SWIC), to learn about how the alliance of like-minded industry groups plans to achieve its legislative goals. ACPPA serves on SWIC's steering committee.

Actionline: Bruce, what is SWIC's top legislative priority for the 113th Congress?



*Bruce Morgan, principal at
Water Policy Associates, and
the Sustainable Water
Infrastructure Council*

Morgan: The top legislative priority for SWIC is to remove water and wastewater projects from restrictive PAB state volume caps. We look forward to the reintroduction of the Sustainable Water Infrastructure Investment Act in the U.S. House of Representatives and the U.S. Senate in the coming weeks.

Actionline: We came so close to removing the cap on private activity bonds (PABs) for water infrastructure projects last Congress. What do you see as the best opportunity to get the proposal over the finish line in the near future?

Morgan: Yes, the PAB legislation advanced to a House/Senate Conference last Congress, one of the final steps in the legislative process. This Congress, SWIC is aiming for enactment of the legislation. In the near term, the best opportunity to advance the PAB measure is to attach the legislation to the Water Resources Development Act that recently passed the U.S. Senate and is

pending House action. Members of the SWIC Steering Committee, including ACPPA, have been in discussions with key congressional leaders to help facilitate that action.

Actionline: Recently, municipal bonds have come under fire by many on Capitol Hill and in the administration. How does this impact the push to remove the cap on PABs for water infrastructure projects and what is SWIC doing to make the case that tax-exempt bonds are vital to finance infrastructure projects in local communities?

Morgan: The recent discussion to limit or eliminate municipal bonds greatly affects the efforts to remove the PAB bond cap water and wastewater projects. However, qualified private activity bonds provide advantages over the use of general revenue bonds. For example, when a municipality collaborates with a private company and issues a private activity bond, the risk and debt transfer to the private partner and have little or no impact on the long-term debt of the municipality. In regards to making the case to Congress, SWIC members have already started to educate members of Congress about the importance of all municipal bonds, especially qualified private activity bonds for water and wastewater projects. PABs have been issued to reduce the cost of financing for a wide range of projects across the nation – from a small \$6.6 million issuance to economically extend water service to underserved areas in Appalachia, to a large \$530 million issuance for a desalination facility that will provide a source of water to millions of residents in California.

Actionline: Where do you see the Water Infrastructure Finance and Innovation Act (WIFIA) – an element of the Senate’s WRDA bill – fitting into the water infrastructure financing scheme? Does SWIC have a position on WIFIA?

Morgan: WIFIA will be an important financial tool and is another top priority for SWIC. Last Congress, ACPPA and other SWIC members met with congressional leaders and participated in legislative

discussions that resulted in a combined WIFIA/PAB draft bill. We have continued discussions this Congress and hope to simplify the WIFIA legislation and include the PAB bill once again.

Actionline: Not only is ACPPA a member of SWIC, it sits on the steering committee. What is the value of ACPPA's leadership in the coalition and what does the association get in return?

Morgan: ACPPA has been instrumental in providing legislative strategy, direction, and advocacy in Washington, DC and in the members' home states and districts. As a SWIC Steering Committee member, ACPPA has been an industry and community leader for infrastructure investment, and the association continues to gain respect and recognition on Capitol Hill.

Actionline: What can water infrastructure advocates, like the members of ACPPA, do to convince lawmakers of the need to lift the cap on PABs for water infrastructure projects?

Morgan: Members of ACPPA should continue to lead efforts to increase investment in the nation's infrastructure. In regards to the PAB legislation, I would like to ask ACPPA members to reach out to their congressmen and senators and encourage them to sponsor the Sustainable Water Infrastructure Investment Act.

ACPPA would like to thank Bruce Morgan for taking the time to share his insights. To encourage your lawmakers to make investments in water infrastructure a top priority, be sure to visit ACPPA-action.org.

Lawmakers Unveil Bipartisan Effort to Rein in EPA

On May 13, Reps. Nick Rahall, D-W.Va., and John Mica, R-Fla., reintroduced legislation that would limit Environmental Protection Agency (EPA) overreach in the Clean Water Act (CWA) permitting process.

The Clean Water Cooperative Federalism Act of 2013 ([H.R. 1948](#)) would restrict the EPA's ability to veto dredge and fill permits previously issued by the Army Corps of Engineers, as the agency did with the Spruce Mine permit in 2011.

Specifically, the Rahall-Mica bill would:

- Amend the CWA to restore the long-standing balance between federal and state partners in regulating the nation's waters;
- Preserve the system of cooperative federalism established under the CWA, which gives states primary responsibility for water pollution control; and
- Prevent the EPA from second-guessing or delaying a state's CWA permitting and water quality certification decisions if the EPA already approved the state's program.

While the EPA recently used the CWA Sec. 402 and 404 permitting process to block coal mines in Appalachia, other entities could also be dealt a heavy hand. Quarries, farmers, and commercial, residential, and infrastructure construction projects receive CWA scrutiny and are potentially affected by EPA abuse.

In 2011, ACPPA signed onto an industry [letter](#) urging House passage of the [Clean Water Cooperative Federalism Act](#). While it passed the House in a rare moment of bipartisanship, the bill ultimately stalled in the Senate. Stay tuned as the association gears up to help Rahall and Mica's second attempt to enact this critical piece of legislation.

Federal Appeals Court Unpins NLRB Poster Rule

On May 7, the U.S. District Court of Appeals for the D.C. Circuit [reversed a lower court decision](#) and struck down a 2010 National Labor Relations Board (NLRB) [regulation](#) requiring most private-sector employers to post a government-drafted notice of employee rights.

The court found the NLRB rule would violate employers' first amendment rights by forcing the display of language that favors unionization. The court held:

“[T]he Board’s rule requires employers to disseminate such information, upon pain of being held to have committed an unfair labor practice. But that difference hardly ends the matter. The right to disseminate another’s speech necessarily includes the right to decide not to disseminate it.”

ACPPA joined its allies at the Coalition for a Democratic Workplace (CDW) in opposition of the NLRB rule, arguing it would require nearly six million businesses to post notices amounting to little more than advertisements for union membership.

The posting notice issue is far from settled. Another challenge to the rule is pending before the Fourth Circuit Court of Appeals, which is hearing an NLRB appeal from a South Carolina federal district court that also struck down the rule. Depending on the outcome, the Supreme Court may choose to take on the case. For now, however, employers are free from displaying this contentious poster against their will.

Bipartisan Bill Introduced to Boost State Revolving Funds

On May 10, House Transportation & Infrastructure members Nick Rahall, D-W.Va., and Don Young, R-Alaska, introduced legislation that invests in water infrastructure projects by providing funds to the Clean Water State Revolving Funds (SRFs) and other financing mechanisms.

The Water Quality Protection & Job Creation Act ([H.R. 1877](#)) authorizes \$13.8 billion over five years for the Clean Water SRF program, which provides low-interest loans and additional loan subsidizations to communities for wastewater infrastructure projects. The bill would also provide additional help, like principal forgiveness and negative interest loans, to states meeting certain criteria.

In addition, the Rahall-Young bill would create a Clean Water Trust Fund providing capitalization grants for Clean Water SRFs and the implementation of best water management practices.

Finally, the legislation would authorize a federal loan and loan guarantee program modeled after the Transportation Infrastructure Finance and Innovation Act in order to spur private investment in public

infrastructure. Such credit assistance could provide improved access to capital markets, flexible repayment terms, and potentially more favorable interest rates. It is unclear if, and when, H.R. 1877 will receive House action.