

NACo Legislative Bulletin

Executive Director: Larry E. Naake, Legislative Director: Edwin Rosado

May 6, 2011

- [– NACo makes waves in Washington, D.C.](#)
- [– Waters of the U. S. Guidance Released](#)
- [– Final Regulations from Treasury on Three Percent Withholding Coming Soon](#)
- [– House Votes to Repeal Parts of the Affordable Care Act](#)
- [– NACo Seeks Examples of Regulatory Hurdles, Hindrances](#)
- [– Treasury Outlines Initial Measures to Address Inaction on Debt Limit](#)
- [– Hearing on the Transparency and Funding of State and Local Pension Plans](#)
- [– ETA Announces Release of "Early Implementation of the ARRA . . ."](#)
- [– Economic Development Challenge Announced](#)
- [– Farm to School Rule Announced](#)
- [– DOL Releases TEGL Outlining PY 2011 WIA State Allotments](#)

NACo Makes Waves in Washington, D.C.

The week of May 2 was indeed "historic" for NACo and our counties: ninety county representatives spent five hours at the White House engaging with President Obama, Vice President Biden, five cabinet members and a dozen Senior White House and Administration officials on matters affecting county governments. County members had a meaningful dialogue with these high ranking officials, and got the recognition from them that counties and county officials deserve.

This was followed by a successful Large Urban Counties Caucus (LUCC) meeting, highlighted by a Capitol Hill NACo press conference opposing cuts to the Medicaid program. Seven United States Senators: Senator Rockefeller, Wyden, Merkley, Sanders, Franken, Bingaman and Blumenthal spoke in support of NACo's position on Medicaid. LUCC also visited more than two dozen congressional offices to advocate on behalf of NACo's legislative priorities.

Contact: [Ed Rosado](#) • 202/942-4271

Waters of the U. S. Guidance Released

The Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) have released draft "waters of the U.S." guidance that broadens the scope of jurisdictional waters under the Clean Water Act. This guidance was published in the Federal Register on May 2, 2011. There is a 60 day comment period, ending July 1, 2011.

The guidance discusses when federal jurisdiction is triggered for: traditional navigable waters; interstate waters; significant nexus analysis; tributaries; adjacent wetlands; and other waters (i.e. intrastate, isolated, non-navigable waters and wetlands).

This guidance will impact all CWA program including section 303 the water quality standards and total maximum daily load programs, section 311 oil spill program, section 401 State water quality certification process, section 402 National Pollutant Discharge Elimination System (NPDES) permit program, and section 404 discharges of dredged or fill material.

Under the guidance a man-made or man-altered ditch, such as a roadside ditch or flood channel, is considered a tributary. A tributary (or a tributary of a tributary) will be federally regulated if it meets certain conditions – it has a defined bed/bank and a ordinary high water mark (OHWM). Non-navigable tributaries can be regulated if they connect directly (or indirectly) through other tributaries, to a downstream navigable water and there is a "seasonal" flow. Jurisdictional waters may include perennial, intermittent and ephemeral waters.

While this guidance is to guide Agency field staff, it is generally understood that each jurisdictional determination will have to be made on a case-by-case basis considering the facts and circumstances of each situation. Once finalized, the guidance will supersede the 2003 and 2008 guidances.



CONTACTS

[Larry Naake](#)
NACo Executive Director
202-942-4201

[Edwin Rosado](#)
Legislative Director
202-942-4271

[Jeffrey D. Arnold](#)
Deputy Legislative Director
Telecommunications & Technology
202-942-4286

[Paul Beddoe](#)
Associate Legislative Director
Health
202-942-4234

[Michael Belarmino](#)
Associate Legislative Director
Finance and Intergovernmental Affairs
202-942-4254

[Daria Daniel](#)
Associate Legislative Director
Community and Economic Development
202-942-4212

[Bob Fogel](#)
Senior Legislative Director
Transportation
202-942-4217

[Deseree Gardner](#)
Associate Legislative Director
Labor & Employment
202-942-4204

[Dalen A. Harris](#)
Associate Legislative Director
Justice and Public Affairs
Homeland Security and Large Urban County Caucus
202-942-4236

[Erik Johnston](#)
Associate Legislative Director

To read the Federal Register notice: [click here](#)

NACo plans to submit comments. We would also like to hear from our counties on how this change in jurisdiction will impact counties. Please contact Julie Ufner with your feedback.

Contact: [Julie Ufner](#) • 202/942-4269

Final Regulations from Treasury on Three Percent Withholding Coming Soon

The highly anticipated final regulations on three percent withholding from the Treasury Department are expected to be published early next week in the Federal Register. The final regulations adopted most of the provisions included in the proposed regulation published in late 2008. One major difference, however, is that the final regulations provide for an additional one-year extension from the revised statutory effective date of payments made after December 31, 2011. Therefore, under the final regulations, the withholding requirements now apply to payments made after December 31, 2012.

Additionally, the final regulations attempt to clarify the small entity exception (local governments and instrumentalities making less than \$100 million of payments for property or services annually) for situations where a small entity may experience unusually high expenditures in a given year that would subject it to the requirement.

Contact: [Mike Belarmino](#) • 202/942.4254

House Votes to Repeal Parts of the Affordable Care Act

Continuing its efforts to repeal or de-fund the Affordable Care Act (ACA), the House voted May 3 to repeal funding for the new state-based health insurance exchanges and school-based clinics which had been included in the ACA. On a largely party-line vote of 238-183 they passed H.R. 1213, which would repeal the mandatory funding for states to establish American Health Benefit Exchanges. Similarly, H.R. 1214, the measure to repeal the funding for school-based health clinics, passed 235-191. Neither measure is likely to be taken up in the Senate.

Measures to repeal the ACA's Medicaid maintenance of effort (MOE) requirement (S. 868 and H.R. 1683) were introduced in both chambers on May 3. The MOE requires states to maintain the Medicaid eligibility rules until 2014 when the exchanges are fully functional. States facing difficult budget decisions have asked to be released from the MOE. There is considerable risk for cost shifting to counties if the MOE were lifted and states were to reduce their Medicaid rolls.

Contact: [Paul Beddoe](#) • 202/942-4234

NACo Seeks Examples of Regulatory Hurdles, Hindrances

If you have been bothered and befuddled by federal regulations that add expense and headaches to your projects or operations, now's your time to let NACo know. NACo is collecting information to forward to the Obama administration in conjunction with a White House initiative to find ways to design cost-effective, evidence-based regulations. [Click here](#) for more information.

Contact: [Mike Belarmino](#) • 202/942.4254

Treasury Outlines Initial Measures to Address Inaction on Statutory Debt Limit

In a letter to Congress earlier this week, Secretary Tim Geithner announced initial measures that the Treasury Department will employ in anticipation that Congress will not act by the date that the debt limit will be reached, May 16. These "extraordinary" measures will be used to extend temporarily, Treasury's ability to meet the country's obligations. Of the measures, the first will go into effect May 6, and will add to a host of issues that state and local governments are already dealing with.

As of Friday, until further notice, Treasury will suspend the issuance of State and Local Government Series (SLGS) Treasury securities. These bonds are specifically tailored for state and local governments and essentially help them pay for their debts. Although temporarily losing SLGS will not be devastating, it takes an important tool away in already challenging times for state and local governments to manage their outstanding debt expenses.

Contact: [Mike Belarmino](#) • 202/942.4254

Hearing on the Transparency and Funding of State and Local Pension Plans

On May 5 the House Ways and Means Subcommittee on Oversight held a hearing titled "Transparency and Funding of State and Local Pension Plans." The hearing focused on the measurement and transparency of funding levels of State and local pension plans and explored whether improvements to those plans' actuarial assumptions – and enhanced transparency in the reporting of the financial health of those plans – are warranted. Among the approaches to the issues that the Subcommittee will review is H.R. 567, the Public Employee Pension Transparency Act.

*Agriculture and Rural Affairs
and Rural Action Caucus
202-942-4230*

[Marilina Sanz](#)
*Associate Legislative Director
Human Services and Education
202-942-4260*

[Julie Ufner](#)
*Associate Legislative Director
Environment, Energy and Land
Use
202-942-4269*

[Ryan Yates](#)
*Associate Legislative Director
Public Lands
202-942-4207*

[Matthew Fellows](#)
*Legislative Grassroots
Coordinator
202-942-4205*

The legislation amends the Internal Revenue Code of 1986 to impose federal reporting requirements on state and local public employee retirement pension plans. Failure to comply could result in the loss of Federal tax-exempt status for any new bonds issued by governmental plan sponsor, as well as to all jurisdictions whose employees are covered by the plan that is found to be out of compliance with the legislation's reporting requirements. NACo opposes this legislation as a costly unfunded mandate on state and local governments. The legislation also sets a precedent for federal intervention into areas that have historically been regulated by, the state and/or localities.

NACo, along with the National League of Cities, the United States Conference of Mayors, the International City/County Management Association, the National Association of State Auditors Comptrollers and Treasurers, the International Public Management Association for Human Resources, the National Council on Teacher Retirement, and the National Association of State Retirement Administrators submitted a statement for the record.

Contact: [Deseree Gardner](#) • 202/942-4204

ETA Announces Release of "Early Implementation of the American Recovery and Reinvestment Act: Workforce Development and Unemployment Insurance Provisions"

Employment and Training Administration (ETA) has now published the Recovery Act "Early Implementation Report", prepared by National Association of State Workforce Agencies, the report presents findings from the first round of site visits to 16 of the 20 states selected for the study and two local workforce investment areas within each state. The first rounds of site visits were made between December 2009 and August 2010, and included interviews at the state and local levels. The 20 states were selected purposely to provide diversity on factors such as population size, unemployment rate, the extent to which Wagner-Peyser services were provided in One-Stop Career Centers, TAA regions, UI reciprocity rate, and relative UI trust fund solvency. States visited were operating the new and old TAA programs simultaneously and half of the states had increases of 50 percent more in petitions and participants.

The interim report identifies major accomplishments by states to date and describes challenges encountered by the states. Findings regarding the UI provisions will be presented in the final Recovery Act report, but the last chapter of this interim report provides a progress report on the research plan for the UI provisions.

Training and Employment [Notice](#) provides a brief summary of these accomplishments and challenges, and offers additional background and "next steps."

Contact: [Deseree Gardner](#) • 202/942-4204

Economic Development Challenge Announced

The Obama Administration recently announced the Jobs and Innovation Accelerator Challenge, an initiative of 16 federal agencies and bureaus to accelerate innovation-fueled job creation and economic prosperity through public-private partnerships. The Challenge offers a combination of funding from three agencies and bureaus and technical assistance resources to support customized solutions for approximately 20 competitively selected industry clusters in urban and rural regions across all sectors. Subject to funding availability, total proposed funding for the Challenge is approximately \$33 million in direct federal support from funding agencies. Click here to [learn more](#).

Contacts: [Daria Daniel](#) • 202-942-4212 or [Erik Johnston](#) • 202-942-4230

Farm to School Rule Announced

On April 28, USDA announced plans to implement new rules designed to encourage the use of local farm products in school meals. The final rule, which is part of the Healthy, Hunger-Free Kids Act of 2010, will let schools and other providers give preference to unprocessed locally grown and locally raised agricultural products as they purchase food for the National School Lunch, School Breakfast, Special Milk, Child and Adult Care, Fresh Fruit and Vegetable, and Summer Food Service programs. USDA currently is sending teams out to select school districts to work on farm to school issues. Some of these programs also incorporate nutrition-based studies, as well as food-learning opportunities such as farm visits, gardening, cooking, and composting activities.

USDA expects consumer demand for locally grown food in the United States to rise from an estimated \$4 billion in 2002 to as much as \$7 billion by 2012. Additional information about the programs can be found on USDA's Farm to School initiative [website at](#).

Contact: [Erik Johnston](#) • 202-942-4230

DOL Releases Training and Employment Guidance Letter (TEGL) Outlining PY 2011 WIA State Allotments

The DOL released Training and Employment Guidance Letter (TEGL) – Fiscal Year 2011

Appropriations for Department of Labor (DOL), Employment and Training Administration, Training and Employment Services and Rescission to Program Year (PY) 2010 Funds for Workforce Investment Act (WIA) Adult and Dislocated Worker Programs which is now available on the ETA Advisory Web site.

The purpose of the TEGL is:

- to provide state and local areas with an overview of the FY 2011 appropriations (P.L. 112-10) for the following DOL-managed employment and training services: WIA Adult, Dislocated Worker, and Youth formula funds, Employment Service Grants to States, the Workforce Innovation Fund, Dislocated Worker National Reserve funds, YouthBuild, the Indian and Native American Program, the Migrant and Seasonal Farmworker Program, the Career Pathways Innovation Fund, the Green Jobs Innovation Fund, the Reintegration of Ex-Offenders, and the Community Service Employment for Older Americans (CSEOA) program, also known as the Senior Community Service Employment Program (SCSEP).
- to provide guidance on and the amount of FY 2011 Adult and Dislocated Worker Program formula funds for PY 2010 to be rescinded for each state as required by Public Law (P.L.) 112-10, Full-Year Continuing Appropriations Act, 2011.
Contact: [Deseree Gardner](#) • 202/942-4204



About NACo

National Association of Counties (NACo) is the only national organization that represents county governments in the U. S. NACo provides essential services to the nation's 3,068 counties. NACo advances issues with a unified voice before the federal government, improves the public's understanding of county government, assists counties in finding and sharing innovative solutions through education and research and provides value-added services to save counties and taxpayers money.

Executive Director: Larry E. Naake

National Association of Counties
25 Massachusetts Ave NW, Suite 500
Washington, DC 20001 | Phone: 202.393.6226

www.naco.org | [NACo Staff Contact List](#)
[County News Online](#) | [Media Center](#)

Click [here](#) to unsubscribe.

25 Massachusetts Avenue, NW, Suite 500, Washington, DC 20001