

Innovative Financing

TAX-EXEMPT FINANCING OF WATER SUPPLY AND POLLUTION CONTROLS

As the population of Texas continues to grow, so does the demand for safe drinking water as shown in the State Water Plan. Much of the required infrastructure to meet this demand will come from private-public partnerships. This arrangement is common in financing desalination facilities that make sea water available for consumptive use as well as treating brackish ground water supplies. These types of facilities cannot be financed with the use of public-purpose (governmental) bonds because they cannot meet the public use test required by the International Revenue Code (IRC). Private activity bonds, tax credit bonds or other innovative financing tools are alternatives that will reduce capital costs and, in turn, reduce the cost of clean water to Texans.



State and local governments are also restricted in their ability to provide the tax-exempt financing subsidy to environmental projects, even though such projects may provide the greatest benefit. States and localities need to have the tools that were originally provided to them to assist industry in meeting ever-increasing environmental standards. Legislation to restore tax-exempt financing for air and water pollution control facilities would assist state and local governments in fulfilling their responsibility to fight global climate change and protect the health of the population. In addition, it is a mechanism by which industry is capable and willing to cover the costs. Tax-exempt financing for air and water pollution control facilities will enable industry to adopt the best available pollution control technology, in order to meet stringent environmental standards and reduce greenhouse gases for the common good of the public, while reducing capital requirements.

Extensive research of the Congressional record yields no reasoning for the elimination of these types of facilities, nor have they explained why airports, docks and wharfs, mass commuting facilities, facilities for the furnishing of water, sewage facilities, solid waste facilities, public water pollution control facilities, and many other environment and infrastructure measures remained eligible for tax-exempt financing. Over the past seven years, there has been a decrease in demand for these types of bonds due to fewer new sewage and solid waste facilities constructed for the private sector. We do not propose to change any provisions of Section 146 of the IRC which provides for state caps. These bonds would be issued pursuant to existing state caps; therefore, would not increase the total amount of private-activity state and local debt. They would, in fact, compete with sewage and solid waste facilities bonds for state caps. This legislation would also return the ability to finance certain water pollution control facilities to the private sector. It would provide another tool that could be used to ensure that discharges into the nation's lakes and streams are within the standards set by the Clean Water Act.



💧 SUPPORT: The Texas Water Conservation Association urges Congress to restore air and water pollution control facilities to Section 142 of the Internal Revenue Code that were included prior to the passage of the Tax Reform Act of 1986.

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TAX-CREDIT BONDS

There is a huge and growing need for new investments in water supply and treatment facilities projects as well as the rehabilitation of aging water infrastructure. Tax credit bonds can encourage the mobilization of private capital to assist in financing certain kinds of water related infrastructure, such as desalination, water recycling or groundwater clean-up facilities, without relying on congressionally appropriated dollars. Congress has authorized the issuance of tax credit bonds in three instances: in the mid-1990s for the construction of inner city schools and in 2005 for renewable energy projects and for Gulf Coast reconstruction after Hurricanes Katrina and Rita. This mechanism provides the not-for-profit agency or utility with interest free loans to finance qualified projects.



Proceeds from the sale of Clean Renewable Water Supply Bonds would result in an interest free loan to the issuing agency. Instead of the issuing agency having to make interest payments to the holders of the bonds, the federal government would provide the bond holders with a tax credit equal to what the interest payments would have been. The Treasury Department sets the rate of the tax credit on a daily basis and the bond holders are able to deduct the amount of the tax credit from their total income tax liability. The result is a deeper, up-front subsidy that is a critical factor for the agency or utility in deciding to use innovative technologies.

The benefits of CREWS bonds would not be limited to Texas and other arid western states. Droughts in the southeastern US show that even areas that typically have sufficient rainfall to sustain the water needs of their communities can have severe water shortages. Congress should embrace an opportunity to provide tax subsidies to finance innovative technologies that will provide substantial new sources of clean water.



◆ **SUMMARY:** The proposed legislation would authorize the use of clean renewable water supply (CREWS) bonds to finance innovative water supply facilities. These facilities include water-recycling facilities, projects to clean up and use impaired groundwater, and both seawater and brackish groundwater desalination projects. Public agencies could issue CREWS bonds in exactly the same way that they presently issue conventional tax-exempt municipal bonds. Based on data compiled by the New Water Supply Coalition, this bill would generate more than \$7.8 billion of capital dedicated to new water supply projects over the next 10 years.

◆ **SUPPORT:** Legislation to create Clean Renewable Water Supply Bonds. Anticipated legislation would amend the Internal Revenue Code of 1986 to allow a credit for clean renewable water supply bonds (we anticipate a bill being introduced in the near future).