



NACo Analysis:
**H.R. 7575, the Water Resources
Development Act of 2020**

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U.S. HOUSE TAKES ACTION TO REAUTHORIZE THE WATER RESOURCES DEVELOPMENT ACT (WRDA)

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Introduction

The Water Resources Development Act (WRDA) legislation authorizes water resource studies and projects and sets policies for navigation, flood control, hydropower, recreation, water supply and emergency management for the U.S. Army Corps of Engineers (Army Corps). Since 2014, this legislation has been passed on a biennial basis and addresses county interests related to ports, inland waterways, levees, dams, wetlands, watershed and coastal restoration. Each of the 2014, 2016 and 2018 water resources bill were enacted into law on a bipartisan basis, and lawmakers are expected to consider and pass a WRDA bill this year in the same bipartisan fashion. The most recent water resources law [P.L. 115-270](#), the *America's Water Infrastructure Act of 2018* (AWIA 2018), is set to expire on September 30, 2020. The [Continuing Resolution](#) passed by the U.S. House of Representatives on September 22 did not extend the authorizations in the underlying law.

As major owners, users and regulators of water resources and systems with the responsibility for funding 95 percent of all local public water infrastructure needs, counties are directly impacted by the policies and funding authorized under WRDA for the Army Corps. To achieve our shared goals, counties often partner with the Army Corps to improve local water infrastructure. Additionally, counties invest \$134 billion annually in the construction of infrastructure and the maintenance and operation of public works, including public water systems and water infrastructure projects.

The National Association of Counties (NACo) and the 3,069 counties we represent appreciate the leadership of Chairman DeFazio (D-Ore.), Ranking Member Graves (R-Mo.) and all U.S. House Committee on Transportation and Infrastructure (T&I) members for their work to consistently pass two-year water authorizations. Counties rely on the consistency and certainty of these biennial authorizations and look forward to continuing our work with lawmakers to ensure county water priorities are addressed in a final WRDA package.

On July 15, T&I unanimously passed bipartisan water legislation, [H.R. 7575](#), the *Water Resources Development Act of 2020*. T&I's WRDA proposal is limited in scope and solely focuses on the Army Corps. View NACo's letter to T&I that outlines our WRDA priorities [here](#).

On May 6, 2020, the U.S. Senate Committee on Environment and Public Works (EPW) unanimously passed its bipartisan water infrastructure legislation. EPW considered two different bills, [S. 3590](#), the *Drinking Water Infrastructure Act of 2020* and [S. 3591](#), the *America's Water Infrastructure Act of 2020*. View NACo's comprehensive analysis of Senate EPW's actions on WRDA and clean drinking water [here](#).

The critical difference between H.R. 7575 and S. 3590 is the House version would fully unlock the Harbor Maintenance Trust Fund. The Senate EPW bill differs by reducing red tape and reauthorizing U.S. Environmental Protection (EPA) programs, such as the Water Infrastructure Finance Innovation Act program, Clean Water State Revolving Loan Fund and a Wastewater Infrastructure Discretionary Grant Program. The House T&I bill focuses more on providing funding to economically disadvantaged communities, building an inventory of per- and polyfluoroalkyl substances (PFAS) used at Army Corps sites and strengthening resilient communities.

The House unanimously passed H.R. 7575 on July 29, 2020. At this time, we do not expect the Senate to consider S. 3590 and S. 3591 on the Senate floor. Instead, both Chambers will enter into an informal conference to negotiate the final bill.

Key Legislative Highlights

WRDA 2020 would authorize an estimated \$8.6 billion in federal funds to help finance the construction of 34 projects. For comparison, EPW's WRDA legislation would authorize \$5.1 billion for 26 Army Corps projects. The current law (P.L. 115-270/WRDA 2018) authorized \$3.7 billion for 12 projects.

The House bill would also authorize 30 feasibility studies for water resources development projects. WRDA 2020 would direct the Army Corps to complete five comprehensive river basin studies for the Great Lakes, the Upper Mississippi River, the Lower Mississippi River, the Lower Missouri River Basin and the Sacramento River. Finally, the bill would direct the Army Corps to expedite the completion of 32 feasibility studies currently underway. Notably, the dollar amounts provided in WRDA 2020 are authorizing numbers only and are subject to U.S. House and Senate appropriations.

WRDA 2020 fully unlocks the Harbor Maintenance Trust Fund, providing the Army Corps access to the fund's \$10 billion balance to be used for dredging and other harbor maintenance activities. Counties partner with the Corps to strengthen local water infrastructure that facilitates trade and economic growth for entire regions.

Fully unlocks the Harbor Maintenance Trust Fund (HMTF): WRDA 2020 would fully unlock the HMTF and direct the Army Corps to equitably allocate harbor maintenance expenditures. For the funding of HMTF operation and maintenance (O&M) activities, WRDA 2020 stipulates that at least 20 percent of funds would be for eligible emerging harbors; at least 12 percent for

projects within the Great Lakes system; 10 percent for expanded use of activities at donor ports; and the remaining funds could be used for O&M activities at any harbor, including those inland. Senate EPW's WRDA bill would not unlock the fund beyond what was done in the CARES Act, which provided the Army Corps access to the HMTF's yearly receipts by exempting the fund's annual revenues from discretionary spending caps established under the Budget Control Act ([P.L. 112-25](#)). This provision allowed more of the fund's revenues to be utilized by the Army Corps for port projects.

WRDA 2020 would invest additional federal resources for the construction of inland waterways projects. It would also authorize a modification to the cost share of construction or major rehabilitation of inland waterways projects to 65 percent from the general fund of the Treasury and 35 percent from the Inland Waterways Trust Fund until fiscal year 2027. Inland waterways projects that initiate construction during this time would carry the modified cost share through project completion. This is an increase from the current Inland Waterways Trust Fund as the status quo pays for 50 percent of construction and major rehabilitation costs on the nation's inland waterways through a \$0.20 cent per gallon diesel tax on users.

Counties support the full expenditure of harbor maintenance trust fund collections on dredging and harbor maintenance, and providing equity for deep draft ports that contribute collections to the fund but do not have significant dredging needs by allowing them to utilize trust fund dollars for limited port-related uses other than dredging.

Guarantees full federal O&M funding for local improvement projects: WRDA 2020 would require the Army Corps to assume the associated O&M costs for an improvement project carried out by a county or other local/state entity on a federally authorized harbor, including those inland. In the case of improvements determined necessary by the Secretary of the Army to deviate from the national economic development plan, the Army Corps would be responsible for all O&M costs of such improvements, including costs in excess of the costs of the national economic development plan. This section would modify existing authorities under [33 U.S.C. 2232](#), which establishes the necessary responsibilities of non-Federal interests. The bill that passed out of EPW included similar provisions that would require the entity to submit a report to be eligible for O&M reimbursement and provide a waiver for projects less than \$200 million.

Builds more resilient communities: WRDA 2020 would direct the Army Corps to issue final agency procedures for its Principles, Requirements and Guidelines. "[Principles and Requirements](#)" are contained in the document prepared by the Council on Environmental Quality pursuant to [42 U.S.C. 1926-3](#) and dated March 2013. "[Guidelines](#)" refers to interagency guidelines contained in the document finalized by CEQ pursuant to 42 U.S.C. 1926-3 in December 2014, to implement the principles and requirements. The bill emphasizes the greater use of natural and nature-based projects and allow for the calculation of sea level rise benefits for Army Corps projects. The bill that passed out of EPW did not include broad natural infrastructure provisions, and instead, it modified certain projects to include more nature-based solutions.

WRDA 2020 would also authorize the Army Corps to study, design and construct water resources projects for communities that have been subjected to repetitive flooding events, renew Congressional support for water resources projects that promote the beneficial reuse of sediment and examine the Army Corps role in addressing the future water supply needs of communities. Additionally, the bill would direct the Army Corps to prioritize technical assistance to economically disadvantaged communities.

Counties support our federal partners strengthening their efforts to provide funding to state and local governments to make our national critical infrastructure and our national economy more resilient. Counties also urge Congress to provide appropriate financial assistance and support to local governments for coastal water level changes and increased storm surge related initiatives and projects that aim to develop adaptive solutions to these potentially devastating events.

Creates an active inventory of PFAS: WRDA 2020 would require the Army Corps to undertake an inventory of water resources development projects and associated properties that are, or may be, contaminated with PFAS. According to the EPA, PFAS are defined as “a group of man-made chemicals that includes PFOA, PFOS, GenX, and many other chemicals” with the potential to cause adverse health effects in humans. The bill that passed out of Senate EPW did not contain any PFAS provisions.

Counties support efforts by the U.S. Environmental Protection Agency (EPA) and other federal agencies to study the health and environmental impacts of PFAS compounds. Counties urge our federal partners to work closely with state and local governments throughout the rule-making and legislative process. Counties further urge the Army Corps to revise federal guidelines in coordination with local government authorities that operate water control projects to reduce downstream stormwater events.

Increases engagement with all communities: WRDA 2020 would require the Army Corps to complete its review on minority community and tribal consultation, as well as update Army Corps’ policies on environmental justice considerations and community engagement and consultation. The bill would expand the Army Corps’ consultation requirements with tribal and indigenous groups when working on, or adjacent to, tribal lands and seas.

The legislation would also require the Army Corps to actively engage with covered communities when carrying out a project in these areas. A covered community is defined in the legislation as a community of color; an economically disadvantaged community; a rural community; or a tribal community. It would further require the Army Corps to cooperate with local governments in carrying out projects in these communities.

Counties believe a strong intergovernmental partnership is key to advancing environmental and economic responsibility in all communities.

Creates a new demonstration program on Harmful Algal Blooms: WRDA 2020 would direct the Army Corps to carry out a demonstration program for detecting, treating, preventing and

eliminating harmful algal blooms. The bill would also direct the Army Corps to consult with federal and state agencies to maximize the use of existing data and programs.

Counties support the renewal of the Harmful Algal Bloom and Hypoxia Research and Control Act and encourage the EPA to collaborate with other federal agencies to identify nutrient strategies and scalable Harmful Algal Bloom mitigation processes.

Deauthorizes projects that lack local support: WRDA 2020 would deauthorize up to \$10 billion in outdated Army Corps projects, with the first criteria for doing so being “a lack of local support,” among others that include also allowing for more viable projects to proceed. It would additionally require the Army Corps to assess and update the economic and environmental impacts of antiquated projects before advancing them. To determine local support, the Army Corps would be required to solicit public comments in any state where a deauthorized project has been proposed for a period of 90 days. The bill that passed out of EPW deauthorized individual projects and did not include a new pathway to deauthorize several projects.

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ABOUT NACo

The National Association of Counties (NACo) strengthens America's counties, including nearly 40,000 county elected officials and 3.6 million county employees. Founded in 1935, NACo unites county officials to advocate for county government priorities in federal policymaking; promote exemplary county policies and practices; nurture leadership skills and expand knowledge networks; optimize county and taxpayer resources and cost savings; and enrich the public's understanding of county government.

Each year, NACo's Board of Directors, in consultation with over 1,400 county officials on 10 policy steering committees, adopt the association's federal policy priorities. These policy priorities help shape NACo's advocacy efforts on behalf of America's counties.

