

June 29, 2016

Re: Federal Update:

- I. Invitation to Attend NLC Events at the Party Conventions
- II. Water Resources Bill Action Needed
- III. New Overtime Requirements Update
- IV. Interior-Environment Appropriations Bills Advance
- V. New HUD Broadband Plans for Low-Income Households
- VI. Net Neutrality Rules Upheld
- VII. Information on Zika Virus Prevention and Preparation
- VIII. Seminars Scheduled on Supreme Court Decisions

Dear Mayor:

Here is an update on some important matters of municipal concern that might merit your attention.

I. Going to the DNC or RNC Convention? Join NLC for Special Events!

To make national political leaders – and the Republican and Democratic nominees for president – aware of the issues important to local governments, the National League of Cities (NLC) is traveling to Cleveland and Philadelphia this July for the national political conventions. At both events, NLC will be hosting an infrastructure briefing and a networking reception for local officials. You are invited – and encouraged - to attend these events

If you're going to either convention, please fill out this form and you will be the first to know about NLC's activities and speaker announcements in the coming weeks!

For questions about NLC's activities at the Republican National Convention in Cleveland, please contact Angelina Panettieri at [panettieri@nlc.org](mailto:panettieri@nlc.org). For questions about the NLC's activities at the Democratic National Convention in Philadelphia, please contact Emma Lieberth at [lieberth@nlc.org](mailto:lieberth@nlc.org).

## II. NLC Urges Senate to Vote on Water Resources Bill

Meanwhile, in Washington, NLC urged Senate Majority Leader Mitch McConnell to bring the Water Resources Development Act (S. 2848, WRDA) up for a vote in the full Senate before the chamber breaks for its summer recess.

The Senate WRDA bill authorizes 25 flood protection, navigation, and ecosystem restoration projects under the U.S. Army Corps of Engineers (Army Corps) in 17 states. The \$9 billion bill passed the Senate Environment and Public Works Committee last month with overwhelming bipartisan support by a vote of 19-1.

Additionally, the Senate bill supports clean water and drinking water infrastructure for Flint and other communities, including provisions that would provide relief to communities struggling to comply with unfunded federal mandates. The bill would help local officials reduce public health risks posed by lead, offer aid to schools seeking to improve the quality of their drinking water, increase assistance for rural water and wastewater utilities, advance research to improve water treatment, reaffirm the value of the state revolving funds and jumpstart a new financing program for major water infrastructure projects.

Earlier this month, the House Transportation and Infrastructure Committee unanimously passed by a voice vote a more traditional Water Resources Development Act (H.R. 5303), authorizing 28 Army Corps projects, but without the additional clean water and drinking water infrastructure provisions. The timeframe for the House bill to hit the floor remains uncertain. NLC supports both the House and Senate versions of WRDA.

## III. Local Governments Prepare for New Overtime Rule

With the new overtime rule now set to go into effect December 1, 2016, the U.S. Department of Labor (DOL) is making available several resources to help local governments better understand the rule and get prepared. By nearly doubling the salary threshold under which an employee is entitled to overtime, the new rule extends overtime eligibility to more than 4 million additional public and private sector workers within the first year of implementation and boosts wages by \$12 billion over the next 10 years.

According to DOL guidance on the new rule, state and local government employers have discretion to choose between several options for complying with the new rule. These options include:

**Raise salaries:** For workers whose salaries are close to the new threshold and who pass the duties test, employers may choose to raise these workers' salaries to meet the new threshold and maintain their exempt status.

**Pay overtime above a salary:** State and local government employers also can continue to pay newly-eligible employees a salary and pay overtime, or provide comp time for overtime hours in excess of 40 hours per week. The law does not require that newly overtime-eligible workers be converted to hourly pay status.

**Evaluate and realign employee workload:** Employers can limit the need for employees to work overtime by ensuring that workloads are distributed to reduce overtime, that staffing levels are appropriate for the workload, and that workers are managing their time well.

**Utilize comp time:** State and local government employers - unlike private sector employers - can provide comp time rather than cash overtime payments in appropriate circumstances.

In addition to the guidance, DOL has also hosted several webinars to educate state and local governments on the new rule. To view an archived copy of the webinar, [click here](#).

#### IV. Interior-Environment Appropriations Bills Advance through Committee

Earlier this month, both the House and Senate Appropriations Committees passed their Fiscal Year (FY) 2017 Interior-Environment appropriations bills funding the U.S. Department of Interior and the U.S. Environmental Protection Agency (EPA). In each chamber, the bills were passed along party-line votes. While NLC continues to call for greater water infrastructure investment, overall funding in these bills is at least at the same level as in FY 2016 and in some cases higher.

Both the House and Senate bills include a number of policy riders, including prohibitions on EPA from making changes to the definition of "navigable waters" under the Clean Water Act (the Agency's Clean Water Rule). The House bill also blocks EPA from implementing new greenhouse gas regulations for new and existing power plants (the Agency's Clean Power Plan). While NLC has in the past supported legislation that requires EPA to develop a new "Waters of the U.S." rule, these riders do not instruct the agency to begin the rule development process again. They simply block implementation of the current rule, which is under a nationwide stay by the courts. The House bill also blocks EPA from implementing new greenhouse gas regulations for new and existing power plants, which NLC opposes.

The Senate bill includes funding levels at:

\$2.37 billion for the Clean Water and Drinking Water State Revolving Funds (\$1.35 billion for clean water and \$1.02 billion for drinking water), a \$113 million funding increase over FY 2016;

\$30 million for the Water Infrastructure Finance and Innovation Act (first-time funding);

\$80 million for the brownfields program, representing level funding from FY 2016; and

\$1.1 billion for the Superfund program, representing a slight increase from FY 2016.

The House bill includes funding levels at:

\$2.1 billion for the Clean Water and Drinking Water State Revolving Funds (\$1 billion for clean water and \$1.1 billion for drinking water), a slight decrease for clean water and a slight increase for drinking water over FY 2016;

\$50 million for the Water Infrastructure Finance and Innovation Act (first-time funding);

\$80 million for the brownfields program, representing level funding from FY 2016; and

\$1.1 billion for the Superfund program, representing a slight increase from FY 2016.

It is unclear if or when the Interior-Environment appropriations bills will make it to the floor in either chamber for a vote.

#### V. HUD Proposes New Plans to Increase Broadband for Low-Income Households

The U.S. Department of Housing and Urban Development (HUD) proposed two new requirements that could increase access to broadband internet for low-income households. The first proposal would require all new or substantially reconstructed federally-subsidized multifamily rental housing to install broadband infrastructure. This could include cable infrastructure, fiber optic infrastructure, or even wireless broadband infrastructure, provided each unit would be able to access broadband at speeds currently designated by the FCC (25 Megabits per second (Mbps) download, 3 Mbps upload). As an advocate for increasing the availability of broadband in our communities, NLC plans to comment on this proposed rule.

The second proposal would add two new dimensions to state and local housing planning through HUD's Consolidated Plan process. Under the proposal, state and local governments participating in the Consolidated Plan process would need to consider how to address the need for broadband access for low- and moderate-income residents, and how to incorporate resilience to natural hazard risks. This proposal stems from the recommendations made by the President's State, Local, and Tribal Leaders Task Force on Climate Change Resilience and Preparedness, which among other recommendations, called on

federal agencies to modernize programs and policies to incorporate climate change and incentivize and remove barriers to community resilience.

NLC plans to examine the proposal's potential impact on municipalities. If you believe that your community would be substantially impacted by either of these proposals, please contact Angelina Panettieri at [panettieri@nlc.org](mailto:panettieri@nlc.org) and Jon Moran at [jmoran@njslom.org](mailto:jmoran@njslom.org)

Both of these proposals come as a part of HUD's contribution to the Broadband Opportunity Council, an interagency effort by the federal government to eliminate barriers and promote broadband investment and adoption throughout the country, which NLC supported. Comments on the proposed rules are due July 18, 2016.

## VI. Net Neutrality Rule Upheld

The D.C. Circuit Court has issued its decision to uphold the FCC's Open Internet Order in a 2-1 vote in *U.S. Telecom Association v. FCC*. This decision upholds the FCC's 2015 decision to regulate Internet service under Title II of the Telecommunications Act, which gives the FCC authority to regulate telecommunications. The regulation of Internet service under Title II allows the FCC to prohibit blocking content or dividing the Internet into "fast lanes" for companies who pay for prioritization and "slow lanes" for others, the concept known as net neutrality.

In addition, regulation of Internet service under Title II could allow local governments to collect telecommunications fees (but not taxes, which are now prohibited) on those services. This possibility is particularly important for local governments as more businesses and consumers shift from traditional phone and video service to services provided over the Internet.

The ruling is likely to be appealed and may proceed to the Supreme Court over the next year or two.

## VII. Zika Virus: What Municipalities Need to Know

Last week, the NLC and the U.S. Department of Health and Human Services (HHS) hosted a webinar on Zika virus. During the webinar, local leaders learned about the disease and the steps they can take to ensure their communities are educated and prepared. They also received an update from Anne Morris Reid, Counselor for Science and Public Health at HHS, on the federal government's response to Zika, the

current cases in the United States, and the emergency funding request currently being considered by Congress.

In case you missed it, [click here](#) to watch a recording of the webinar.

### VIII. Supreme Court Updates for Local Government Officials

The State and Local Legal Center will hold two upcoming events focused on current trends in the Supreme Court that matter to local governments:

#### SCOTUS Redistricting Cases

It is a banner year in the Supreme Court for redistricting cases! Aside from *Evenwel v. Abbott*, holding that states may redraw legislative districts based on total population, the Court decided three other redistricting cases that will be important for the 2020 redistricting cycle. Rick Hasen, University of California Irvine School of Law, will provide a brief overview of redistricting law as it relates to the cases. Bruce Adelson, Federal Compliance Consulting, and Mark Packman, Gilbert LLP, will discuss the cases and how they will affect redistricting.

Date: July 12, 2016

Time: 12:00 PM EDT

[Register for the webinar here.](#)

\*The webinar is free. Continuing legal education (CLE) credit is not offered.

#### Supreme Court Review for State and Local Governments

From immigration to abortion and bribery to retaliation, the Supreme Court's term has been interesting for state and local governments. Discuss where the Court landed on the big issues and what state and local government's need to do next with Erin Murphy, Bancroft, Quin Sorenson, Sidley Austin, and Brent Kendall, Wall Street Journal.

Date: July 19, 2016

Time: 1:00 PM EDT

Register for the webinar [here](#).

\*The webinar is free. Continuing legal education (CLE) credit is not offered.

If you have any questions contact Jon Moran at 609-695-3481, ext. 121 or [jmoran@njslom.org](mailto:jmoran@njslom.org)

Sincerely,

Michael Darcy, CAE

Executive Director