

NAST SUPPORTS PRESERVATION OF THE TOWER AMENDMENT

The National Association of State Treasurers seeks to provide advocacy and support that enables member states to pursue and administer sound financial policies and programs benefiting the citizens of the nation. Membership is composed of all state treasurers or state finance officials with comparable responsibilities from the United States, its commonwealths, territories, and the District of Columbia and through a Corporate Affiliate Program established to build professional relationships and foster cooperation between the public and private sectors. The association serves its members through educational conferences and webinars, a variety of working groups, policy advocacy and publications that provide information about developments in public finance.

A History of the Tower Amendment

- The Tower Amendment “recognized the constitutional prerogatives of state and local governments, and was crafted to balance those prerogatives with the perceived need for additional market regulation.”
- The “Tower Amendment” to the Securities Act of 1933 was enacted in 1975 as part of legislation creating the Municipal Securities Rulemaking Board (“MSRB”).
- The Tower Amendment prohibits direct or indirect federal regulation of municipal issuers. State and local government issuers are subject to state securities laws pertaining to the issuance of municipal securities. Each state’s securities laws specify whether municipal securities issuers must disclose any information at all, and if so, what type of information must be provided.

SEC and Congressional Action Regarding the Tower Amendment

- In July 2012, the Securities and Exchange Commission (“SEC”) issued a report on the municipal securities market that included recommendations for potential changes to laws, regulations and business practices.
- The report did not recommend repeal of the Tower Amendment but provided several other legislative and regulatory recommendations.
- The Dodd-Frank Act required the GAO to study and review municipal securities disclosure and issue possible recommendations for municipal issuer disclosures and whether to repeal or retain the Tower Amendment.
- A U.S. Government Accountability Office (GAO) report indicated that some market participants suggested that Congress repeal the Tower Amendment, but that the SEC and MSRB did not believe it would have an effect on what they could require municipal issuers to disclose since the Securities Act exempts municipal issuers from SEC registration requirements.

Changing the Tower Amendment will Increase Costs and Could Result in Preemption of State Law

- Repeal or amendment of the Tower Amendment would lead to increases in the issuance costs for state and local governments.
- Repeal or modification of the Tower Amendment would result in the federal government: dictating to issuers the timing, form, and content of Official Statements and annual financial reports; requiring federal review and approval of bond issues; dictating state and local accounting standards and practices; and preempting state oversight of the debt issuance process.

The National Association of State Treasurers opposes revision or repeal of the Tower Amendment or enactment of legislation to subject state and local government issuers to federal disclosure laws while supporting the self-regulatory structure of the municipal market, and the commitment of all issuers of municipal securities to provide annual financial, operating, and other information in timely manner consistent with federal and state laws and Securities and Exchange Commission rules.