

# Client Alert



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## Guide to the American Jobs Act for Local Governments

### *How could your community benefit?*

On Monday, September 12, President Obama sent the legislative language of the American Jobs Act (AJA) to Congress. In outlining his legislative proposal to a joint session of Congress last week, the President declared that this bill would “provide a jolt to an economy that has stalled” and repeatedly urged Congress to “pass this jobs bill.”

With an estimated price tag of \$447 billion, the AJA’s many provisions can be roughly split into three primary categories: tax cuts targeted towards spurring hiring and putting extra money into the pockets of workers, new federal spending designed to create or save jobs while maintaining vital public services and infrastructure, and an extension and reform of the federal unemployment insurance program. Although an important element of the overall package, the tax provisions – which include a cut in the payroll tax for both businesses and workers and new tax credits for businesses that hire unemployed veterans or long-term unemployed workers – would have limited direct impacts on the operations of tax-exempt local governments. Likewise, unemployment insurance programs are primarily implemented at the Federal and State levels and have largely indirect impacts on localities. As a result, this guide will focus primarily on the new spending proposals included in the AJA that would provide funding directly to local governments. Like the American Recovery and Reinvestment Act (ARRA) passed in 2009, the AJA does impose some limitations on these funds. A “Buy American” requirement applies to any iron, steel or manufactured goods used for an AJA-funded project on a public building or public work and to all transportation projects funded by the AJA. In addition, the legislation calls for laborers and mechanics working on AJA-funded projects to be paid Davis-Bacon prevailing wages.

Although Congress is unlikely to quickly pass the AJA in its entirety, several elements of the proposal have attracted preliminary support from House Republican leadership and it is possible that segments of the legislation will be considered by Congress in the coming months. The following guide will provide an overview of how new federal funding might flow to local governments if the AJA is enacted.

## **Transportation**

The AJA would provide \$50 billion in immediate funding for the Department of Transportation, all of which would be funded with a 100 percent Federal cost share. The funds would be distributed as follows:

- \$2 billion for Airport Improvement Program grants. These funds are to be allocated at the Secretary’s discretion because existing formulas and minimums do not apply.
- \$1 billion to advance the Next Generation air traffic control system.
- \$27 billion for highway restoration, repair, and construction projects. Much like with ARRA, of the \$27 billion, approximately \$17.5 billion would be distributed via traditional formulas to the States; \$7.8 billion would be sub-allocated by population areas; and \$783.4 million would be set aside for transportation enhancements, such as bike paths, greenways, etc.
- \$4 billion for projects to improve the Nation’s existing intercity passenger rail network and develop new high speed rail corridors.
- \$2 billion to Amtrak.
- \$3 billion for transit capital projects, particularly for the purchase of new buses and the repair and rehabilitation of existing rail and bus systems, including rolling stock. Of the \$3 billion, approximately \$2.4 billion would be directed to Section 5307 projects or those in urbanized areas with a population of at least 50,000; \$299 million to Section 5340, or “Growing States and High Density States;” and \$299 million to Section 5311, or non-urbanized areas with populations below 50,000. Funds apportioned to urbanized areas with a population of 50,000 to 200,000 might be eligible for both capital and operating assistance. Funds apportioned to non-urbanized areas would be eligible for operating assistance.
- \$6 billion for capital projects to modernize fixed guideway systems (~\$4.5 billion) and to replace and rehabilitate buses and bus facilities (~\$1.5 billion).
- \$5 billion for competitive funding – including the popular TIGER and TIFIA programs.

The bill also establishes a national infrastructure bank called the American Infrastructure Financing Authority (AIFA). AIFA would be a wholly-owned government corporation that would provide direct loans and loan guarantees to facilitate investment in economically-viable infrastructure projects of regional or national significance. Eligible projects include those from the transportation, water, and energy sectors. These sectors, in turn, include highways, roads, bridges, mass transit, inland waterways, commercial ports, airports, air traffic control systems, passenger rail, freight rail, water-waste treatment facilities, storm-water management systems, dams, solid-waste disposal facilities, levees, open-space management systems, pollution-reduced energy generation, transmission and distribution of energy, storage of energy, and energy-efficiency enhancements for buildings.

AIFA financing would be used for projects that exceed \$100 million, with the exception of rural projects whose minimum is \$25 million. The maximum amount of new direct loans and loan guarantees in AIFA's first two fiscal years is limited to \$10 billion each year. This increases to \$20 billion per year in years three through nine, and \$50 billion per year after year nine.

## **Public Safety**

The President's plan includes a total of \$5 billion in grant funding to support the hiring and retention of public safety and first responder personnel in order to keep communities safe from crime and able to maintain critical emergency response capabilities. Of the \$5 billion in competitive grant funding, \$4 billion would be allocated for the COPS Hiring Grant program through the Department of Justice and \$1 billion would be for the Department of Homeland Security's Staffing for Adequate Fire & Emergency Response (SAFER) grant program.

The AJA would also implement a National Wireless Initiative first introduced by the President in his State of the Union address back in February. The National Wireless Initiative proposal included in the AJA expands upon that original proposal and mirrors the bipartisan legislation (S. 911) introduced by Senators Rockefeller (D-WV) and Hutchison (R-TX).

Specifically, the AJA would authorize the auction of unused TV broadcast spectrum. Broadcasters would not be forced to hand over spectrum for auction, but instead would be offered incentives to participate, such as sharing in the proceeds. The remaining proceeds would go to the government to help pay down federal debt.

The authors of the AJA project that the federal government can raise close to \$28 billion over the next decade by auctioning off wireless spectrum. Under the President's proposal, roughly \$18 billion would go towards paying down the nation's deficit. The remaining \$10 billion would be used to develop and deploy a nationwide, interoperable wireless network for public safety. The plan includes reallocating the D Block for public safety (at a cost of \$3 billion) and \$7 billion to support the deployment of a national network and technological development to tailor the network to meet public safety requirements.

This is part of a broader wireless initiative that would free up public and private spectrum to enable the private sector to deploy high-speed wireless services to at least 98 percent of Americans, including those in more remote rural communities.

## **Education**

The AJA provides \$60 billion in funding for education, with the vast majority provided to Local Educational Agencies (LEAs). A total of \$25 billion is reserved to pay the salary and benefits of school teachers and other school service providers and can be used to either retain or hire employees. This funding is scheduled to be distributed to States, who would in turn allocate the funds to LEAs according to a needs-based formula. In addition to funding directed to hiring and

retaining teachers, the AJA would provide \$25 billion for modernization, renovation and repair of public school buildings. This funding would be distributed by formula to the 100 LEAs with the greatest number of children living in poverty and to States, who would in turn have to distribute at least 50% of their funding by the Elementary and Secondary Education Act (ESEA) Title I, Part A formula to LEAs. Any funding that a State elects not to distribute by formula may be subgranted to LEAs through a competitive process, so long as that process provides preference to rural LEAs. In addition to this funding for elementary and secondary schools, the AJA also provides \$5 billion for community colleges. All of the community college funds are set to be allocated directly to States and can only be used to modernize, renovate or repair existing college facilities.

### **Project Rebuild**

Based upon the Neighborhood Stabilization Program (NSP) funded by ARRA, Project Rebuild is a new proposed initiative that would provide funding for the redevelopment of abandoned and foreclosed-upon properties. Unlike the NSP, which only funded the redevelopment of residential properties, Project Rebuild funding would allow grantees to conduct work on both residential and commercial properties. A total of \$15 billion is proposed in the AJA, two-thirds of which would be allocated by a needs-based formula to States and local governments. The Department of Housing and Urban Development (HUD) would award the remainder competitively to States, localities, nonprofit organizations and for-profit businesses. All Project Rebuild funding must be obligated by HUD within 150 days of the legislation's enactment, and grantees would have a maximum of three years after award to expend all grant funds.

### **Pathways Back to Work**

The President's proposal includes a number of specific protections for unemployed Americans as well as incentives for businesses to hire unemployed workers, including an extension of unemployment insurance and a tax credit of up to \$4,000 for hiring workers who have been unemployed for more than six months. Importantly for localities, the AJA also includes a \$5 billion community-based initiative titled "Pathways Back to Work," which would provide subsidized employment and on-the-job training for youth and unemployed adults. Of the \$5 billion included in this program, \$1.5 billion would be used to subsidize summer jobs and year-round employment for low-income youth, \$2 billion would be used to subsidize the employment of low-income, unemployed adults and \$1.5 billion would be used to provide work-based training for both low-income youths and unemployed adults. All of this funding would be administered through the Department of Labor, which would allocate it to States using a needs-based formula. The State would have the option of suballocating its funding to either local entities responsible for implementing Workforce Investment Act (WIA) adult programs, to local entities responsible for Temporary Assistance for Needy Families (TANF) funding, or to a combination of both entities. If any State declines to accept its allocation or its application to utilize these funds is rejected, then the Department of Labor would hold a competition for local WIA or TANF agencies to apply for these funds.