



**SENATE DRINKING WATER
AND WASTEWATER
INFRASTRUCTURE ACT**

April 2021

Legislative Analysis for Counties: Drinking Water and Wastewater Infrastructure Act



OVERVIEW

On March 24, 2021, the U.S. Senate Committee on Environment and Public Works unanimously advanced S. 914, the Drinking Water and Wastewater Infrastructure Act of 2021 (DWWIA). DWWIA currently has twelve bipartisan cosponsors and includes \$35 billion in funding for water development projects across the country with a focus on upgrading aging infrastructure, addressing the threat of climate change, investing in new technologies, and aiding marginalized communities. The programs in the bill are authorized at the U.S. Environmental Protection Agency (EPA).

On March 23, 2021, NACo sent a [joint letter](#) with the National League of Cities and the U.S. Conference of Mayors supporting this legislation.

With broad bipartisan support, we expect this bill to pass the Senate this year. With President Biden’s recent announcement of his [American Jobs Plan](#), we expect Congress to use DWWIA as a framework for the water infrastructure title of the bill that Congress uses to try and pass the American Jobs Plan. The House introduced [similar legislation](#) to address our nation’s water infrastructure needs.

This analysis highlights key provisions for county governments.

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DRINKING WATER PROVISIONS

Sec. 101 – Technical Assistance and Grants for Emergencies Affecting Public Water Systems. This section would provide resources to communities that face a public water system emergency. The fund would help mitigate drinking water threats to public health and is amended to expand the definition of emergency situations to include an intrusion of lead into the drinking water supply. The fund would be authorized at \$35 million for each of the fiscal years from 2022 through 2026.

Counties support minimum guidelines for monitoring, site selection, and construction of public water systems.

Sec. 102 – Drinking Water State Revolving Loan Funds. The Drinking Water State Revolving Loan Fund (DWSRF) would be amended by increasing the minimum percentage of funds that must go to disadvantaged communities from 6 percent to 12 percent. The amendments made to the DWSRF in this section would include a “Buy America” requirement for upgrades made with this money. The DWSRF would be authorized at \$2.4 billion for fiscal year 2022, \$2.75 billion for fiscal year 2023, \$3 billion in fiscal year 2024, and \$3.25 billion for fiscal years 2025 and 2026.

Counties support the DWSRF program as a supplement to, not a substitute for, federal grants program. Grants and technical assistance should be made available to those small, rural, disadvantaged communities that are unable to meet their needs solely with loans. States should provide adequate funds to match federal grants to the DWSRF program and assure flexibility in the administration of such loans.

Sec. 103 – Source Water Petition Program. The Source Water Petition Program would be amended to allow states to designate a county to act on behalf of an unincorporated area in the petition, should the unincorporated area choose to enter such a partnership, solely for the purpose of pursuing a source water petition for a specific matter. This program would be authorized through fiscal year 2026 at the current funding level of \$5 million annually.

Counties support programs that call for reliable, long-term, and substantially increased federal investment in water infrastructure, watershed protection, and the protection of water resources and facilities.

Sec. 104 – Assistance for Small and Disadvantaged Communities. The Assistance for Small and Disadvantaged Communities program would provide grants to disadvantaged communities or communities with a population of under 10,000 that lack household drinking water or wastewater services or that are served by a public water system that violates or exceeds a requirement of the national primary drinking water regulations. The amendments made to the program would allow for the use of funds to purchase filters that remove contaminants of concern from public drinking water systems and for providing information regarding proper filtration use and maintenance. Further, the section would change the required non-federal cost match for the grant from 45 percent to 10 percent and allows that 10 percent to be waived at the discretion of the EPA if it is determined the eligible entity is unable to pay. This program would be

authorized at \$60 million in fiscal year 2022, \$80 million in fiscal year 2023, \$100 million in fiscal year 2024, \$120 million in fiscal year 2025 and \$140 million in fiscal year 2026.

Counties support grants and technical assistance that are made available to small, rural, disadvantaged communities that are unable to meet their needs solely with loans. States should provide adequate funds to match federal grants to various programs and assure flexibility in the administration of such loans.

Sec. 105 – Reducing Lead in Drinking Water. This section would reauthorize EPA’s lead reduction projects grant program and would increase the authorization to \$100 million annually through fiscal year 2026.

Counties support programs and grants that create a cleaner water supply through the elimination of containments.

Sec. 106. Operational Sustainability of Small Public Water Systems. This section would establish an operational sustainability program under SDWA for small public water systems. The program would be designed to help improve the ability of these systems to respond to water infrastructure failures through asset management of drinking water systems, pumps, wells, valves, treatment systems and other pertinent activities. These activities would include, but are not limited to, identification and prevention of potable water loss due to leaks, breaks and other metering or infrastructure failures. It would also allow for the deployment of strategies, techniques, and technologies to enhance operational sustainability and effective use of water resources through water reuse.

This program would have a waivable non-federal share of 10 percent and would be authorized at \$50 million for each of fiscal years 2022 through 2026.

Counties support effective and adequate federal funding to small, rural communities for public water systems. If consolidation of small water systems is required to receive federal loan or grant assistance, county governments should be federally authorized to participate in the planning, management, and development of programs.

Sec. 107. Midsize and Large Drinking Water System Infrastructure Resilience and Sustainability Program. This section would create a grant program to assist midsize and large drinking water systems with increasing their resilience to natural hazards, cybersecurity vulnerabilities, and extreme weather events.

Funds would be used to promote water conservation, enhance water-efficiency, create desalination facilities, relocate or renovate existing

vulnerable water systems, enhance water supply, and implement measures to increase resiliency to natural hazards, cybersecurity vulnerabilities, or extreme weather events, including extreme weather events that are a result of climate change.

Of the funding provided, 50 percent would be used to provide grants to eligible entities serving a population of 10,000 to 100,000. The remaining 50 percent would be used for eligible entities that serves a population equal to or greater than 100,000.

This program would be authorized at \$50 million for each of fiscal years 2022 through 2026.

Counties support reliable, long-term, and substantially increased federal investment in midsize and large drinking water system infrastructure resilience and sustainability programs.

Sec. 108. Needs Assessment for Nationwide Rural and Urban Low-Income Community Water Assistance. This section would require the EPA to study the prevalence of low-income households in the United States that spend a disproportionate amount of household income on public drinking water services to meet household needs.

This section would authorize \$5 million, to remain available until expended, to conduct the study.

Counties support the federal funding of studies that lead to a more equitable amount of spending on public water services which meet household needs.

Sec. 109. Rural and Low-Income Drinking Water Assistance Pilot Program. This section would direct the EPA to establish a pilot program to address water affordability. The pilot program would award grants to eligible entities to develop and implement programs to assist low-income households with need in maintaining access to affordable and reliable drinking water and wastewater treatment.

Counties support programs and grants that lead to affordable and reliable drinking water for those in their communities.

Sec. 110. Lead Contamination in School Drinking Water. This section would amend the existing Voluntary School and Childcare Lead Testing Grant Program to make public water systems and eligible nonprofit organizations that service schools and childcare locations eligible grant recipients.

The program would be authorized for \$30 million for fiscal years 2022 through 2024, \$40 million for fiscal year 2025, and \$50 million for fiscal year 2026.

Counties support programs and grants that create a cleaner water supply through the elimination of contaminants.

Sec. 112. Advanced Drinking Water Technologies. This section would require the EPA to carry out a study to examine the state of existing and emerging technologies that could address cybersecurity vulnerabilities, or enhance or could enhance the treatment, monitoring, affordability, efficiency, and safety of drinking water and wastewater provided by public water systems.

This section would also create a grant program for public water systems that serve a population of 100,000 or fewer people or disadvantaged communities. The grant program would be designed to identify and/or deploy drinking water infrastructure technology that is new or emerging, but proven, to enhance the treatment, monitoring, affordability, efficiency, and safety of the drinking water provided. There would be a waivable 10 percent non-federal share and a single grant cannot exceed \$500,000.

This program would be authorized at \$10 million for each fiscal year 2022 through 2026.

Counties support coordinated and expanded environmental research efforts, in which the research process allows for input from state and local governments, private industry and the public.

CLEAN WATER PROVISIONS

Sec. 202. Wastewater Efficiency Grant Pilot Program. This section would create an EPA pilot program to assist with fifteen projects by publicly-owned treatment works to create or improve waste-to-energy systems. Grants may be awarded for sludge collection systems, anaerobic digesters, methane capture or transfer, and other emerging technologies that transform waste to energy. It would require the EPA to submit to Congress a report every two years regarding who received these grants, what activities these funds covered, and the impacts of these projects.

This section would authorize appropriations for the program of \$20 million for each of fiscal years 2022 through 2026.

Counties support legislation that provides direct grants to local governments and tax incentives for the construction of methane-to-CNG production and fuel delivery systems, as well as conversion and production of CNG fleet vehicles.

Sec. 203. Pilot Programs for Alternative Water Source Projects. This section would reauthorize an existing grant program for alternative water source projects. The grants may be used for engineering, design, construction, and final testing of alternative water source projects designed to meet critical water supply needs. Alternative water source projects include those projects that provide alternative sources of water through conserving, managing, reclaiming or reusing water, stormwater or wastewater.

The program would be authorized for \$25 million for each of fiscal years 2022 through 2026.

Counties support federal water conservation strategies that provide federal financial and technical assistance to state and local governments to design, implement, and evaluate appropriate water conservation measures including the rehabilitation of water supply systems.

Sec. 204 Sewer Overflow and Stormwater Reuse Municipal Grants.

This section would reauthorize the existing sewer overflow and stormwater reuse municipal grants program. These grants may be used for the planning, construction and design of treatment works for municipal combined sewer overflows, sanitary sewer overflows, or stormwater, and any measures to manage, reduce, or recapture stormwater or subsurface drainage.

In addition, the section would create a new 25 percent set-aside for projects in rural or financially distressed communities, to the extent there are sufficient applications. There would also be a waivable non-federal share of 10 percent for these projects. Of the 25-percent set-aside, to the extent there are sufficient applications, not less than 60 percent of the set-aside funding shall be used to carry out projects in rural communities.

The program would be authorized with increased funding of \$280 million for fiscal years 2022 through 2026.

Counties continue to support grants and technical assistance that are made available to small, rural, disadvantaged communities that are unable to meet their needs solely with loans.

Sec. 205. Clean Water Infrastructure Resiliency and Sustainability Program.

The section would establish a “Clean Water Infrastructure Resiliency and Sustainability Program,” to address rising threats to clean water infrastructure from climate change. An owner or operator of a publicly-owned treatment works can use the grants to assist in the planning, design, construction, implementation, operation, or maintenance of a program or project to increase the resiliency or adaptability of water systems to natural hazards, cybersecurity vulnerabilities, or extreme weather events, including those related to climate change. The section would establish two non-federal cost shares: a 10 percent non-federal cost-share for small or disadvantaged communities and a non-federal cost-share of 25 percent for all other communities.

The program would be authorized for \$25 million for fiscal years 2022 through 2026.

Counties support a reliable, long-term, and substantially increased federal investment in water infrastructure, watershed protection, and the protection of water resources and facilities from physical and chemical security threats.

Sec. 206. Small and Medium Publicly-Owned Treatment Works Circuit Rider Program. This section would create a circuit rider program that awards grants to provide on-site technical assistance to owners and operators of small and medium publicly-owned treatment works. The program was created as a result of a decrease in technical assistance grants to local, on-site technical assistance providers.

The section would require nonprofits that receive funding under this section to consult with the state in which the assistance is to be expended or otherwise made available before carrying out its planned activities.

This section would authorize appropriations for the program of \$10 million for each of fiscal years 2022 through 2026.

Counties support all levels of intergovernmental cooperation in the administration of environmentally sensitive and cost-effective strategies regarding the use of natural resources.

Sec. 207. Small Publicly-Owned Treatment Works Efficiency Grant Program. This section would create an EPA grant program, subject to appropriations, to assist small publicly-owned treatment works that serve fewer than 10,000 people, or a disadvantaged community, with replacing or repairing equipment to increase water efficiency or energy efficiency. It would also require that not less than 15 percent of funds made available under the program be used for grants to publicly owned treatment works that serve fewer than 3,300 people.

Owners or operators of small publicly owned treatment works and nonprofit organizations that seek to assist small public owned treatment works are eligible to receive funding under this program.

Counties support the crafting and uniform application of Clean Water Act regulations and permits such that Publicly Owned Treatment Works can operate their facilities in the manner in which they were designed and permitted, including the use of peak wet weather flow management techniques such as blending.

Sec. 209. Connection to Publicly-Owned Treatment Works. This section would create a grant program that allows the EPA to provide grants to publicly-owned treatment works or nonprofit organizations to cover the costs incurred from connecting a household to a municipal or private wastewater system.

This section would authorize appropriations for the program of \$40 million for each of fiscal years 2022 through 2026.

Counties support investments in decentralized wastewater systems as well as funds for constructing, repairing and replacing treatment works.

Sec. 210. Clean Water State Revolving Loan Fund. This section would reauthorize the Clean Water State Revolving Loan Fund (CWSRF). It also amends the CWA to require, to the extent there are sufficient applications, a minimum of 10 percent of a state's CWSRF to be used for grants, negative interest loans, and loan forgiveness, or to buy, refinance or restructure debt for disadvantaged communities as determined by the state. The amount for additional subsidies may not exceed 30 percent.

The CWSRF would be authorized at \$2.4 billion in fiscal year 2022, \$2.75 billion in fiscal year 2023, \$3 billion in fiscal year 2024, and \$3.25 billion for fiscal year 2025 and 2026.

Counties support the Clean Water State Revolving Loan Fund (CWSRF), as a supplement to, not a substitute for, federal grants programs. Grants and technical assistance should be made available to those small, rural, disadvantaged communities that are unable to meet their needs solely with loans. States should provide adequate funds to match federal grants to the SRF program and assure flexibility in the administration of such loans.

Sec. 211. Innovative Water Infrastructure Workforce Development Program. This section would reauthorize an existing competitive grant program to promote workforce development in the water utility sector. The section modifies the program to make public works departments and agencies eligible for these grants in addition to schools. It also amends the program to align water and wastewater utility workforce recruitment efforts, including the promotion of diversity, training programs, retention efforts, and community resources with water and wastewater utilities.

This section would also direct the EPA to create a federal interagency working group to address recruitment, training and retention challenges in the water and wastewater utility workforce. In carrying out the duties of the working group, the working group would be required to consult with State operator certification programs.

This section would increase the grant program's authorization to \$5 million for fiscal years 2022 through 2026.

Counties support the use of loans or grants that are flexible and tailored to the specific needs and capacity of each county.

Sec. 214. Final Rating Opinion Letters. This section would change the Water Infrastructure Financing and Innovation Act (WIFIA) requirement that mandates each WIFIA project applicant must provide two final

agency rating opinion letters. Under this section, project applicants would only need to provide one final agency rating opinion letter, similar to the requirements of other federal loan programs, prior to final acceptance and financing of the project.

Sec. 215. Water Infrastructure Financing Reauthorization. This section would reauthorize WIFIA through 2026 at the current funding level of \$50 million annually. This section would also clarify existing law that projects eligible for WIFIA assistance that are also eligible for scoring under the Federal Credit Reform Act (as defined in the 1990 law) are non-federal and eligible for non-cash budgetary scoring. This section would also reauthorize “SWIFIA” or SRF WIN, which allows smaller water infrastructure projects to bundle their projects into one WIFIA application.

Sec. 220. Clean Watersheds Needs Survey. This section would require the Administrator to conduct and complete an assessment of wastewater system capital improvement needs of all treatment works in the United States that are eligible for assistance from State water pollution control revolving funds established under the CWA. The report must be completed not later than 18 months after the date of enactment of this Act, and not less frequently than once every four years thereafter.

This section would authorize \$5 million, to remain available until expended, to carry out the initial needs survey.

Counties support national and state policies tailored to meet the needs of local communities with goals and performance standards and goals being set to accomplish outcomes and give local governments the flexibility to select among alternative means to achieve them.

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