

AMENDED IN ASSEMBLY MAY 5, 2011
AMENDED IN ASSEMBLY MARCH 31, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 983

Introduced by Assembly Member Perea

February 18, 2011

An act to amend Sections 116760.20, 116760.40, 116760.70, 116761.24, and 116761.50 of the Health and Safety Code, relating to public health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 983, as amended, Perea. Safe Drinking Water State Revolving Fund.

Existing law, the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adopting and enforcing regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.

Existing law establishes the Safe Drinking Water State Revolving Fund, which is continuously appropriated to the department for the provision of grants and revolving fund loans to provide for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards. Existing law requires the department to establish criteria for projects to be eligible for the grant and loan program.

This bill would authorize the department to take specified actions to improve access to financial assistance for projects serving small *community* water systems, as defined. The bill would require the department to give priority in funding to projects that include consolidation with a small *community* water system and that will enable that system to meet drinking water standards, without regard to the project proponent.

Under existing law, not less than 15% of the fund is required to be expended for providing loans and grants to eligible projects by public water systems that regularly serve fewer than 10,000 persons.

This bill would authorize the department to fund up to 100% of the project costs for small *community* water systems serving severely disadvantaged communities, as defined, in the form of ~~principle~~ *principal* forgiveness or grant, if needed to ensure affordable water rates.

Existing law authorizes the department to enter into contracts with applicants for loans, the term of which may not exceed the useful life of the project or 20 years, whichever is shorter.

This bill would authorize the department to agree to extend the term of a loan to a disadvantaged community, as defined, beyond 20 years, but not beyond the life of the project, in order to improve affordability. By authorizing additional uses for moneys in a continuously appropriated fund, this bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 116760.20 of the Health and Safety Code
- 2 is amended to read:
- 3 116760.20. Unless the context otherwise requires, the following
- 4 definitions govern the construction of this chapter:
- 5 (a) “Cost-effective project” means a project that provides
- 6 long-term access to safe drinking water at a reasonable cost, which
- 7 shall be calculated based upon the capital costs and long-term
- 8 viability of the project as well as the affordability of continuing
- 9 operation and maintenance charges to ratepayers.
- 10 (b) “Department” means the State Department of Public Health.

1 (c) “Disadvantaged community” means a community that meets
2 the definition provided in Section ~~75005~~ of the ~~Public Resources~~
3 ~~79505.5~~ of the *Water Code*.

4 (d) “Federal Safe Drinking Water Act” or “federal act” means
5 the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.)
6 and acts amendatory thereof or supplemental thereto.

7 (e) “Fund” means the Safe Drinking Water State Revolving
8 Fund created by Section 116760.30.

9 (f) “Funding” means a loan or grant, or both, awarded under
10 this chapter.

11 (g) “Matching funds” means state money that equals that
12 percentage of federal contributions required by the federal act to
13 be matched with state funds.

14 (h) “Project” means proposed facilities for the construction,
15 improvement, or rehabilitation of a public water system, and may
16 include all items set forth in Section 116761 as necessary to carry
17 out the purposes of this chapter. It also may include refinancing
18 loans, annexation or consolidation of water systems, source water
19 assessments, source water protection, and other activities specified
20 under the federal act.

21 (i) “Public agency” means any city, county, city and county,
22 whether general law or chartered, district, joint powers authority,
23 or other political subdivision of the state, that owns or operates a
24 public water system.

25 (j) “Public water system” or “public water supply system” means
26 a system for the provision to the public of water for human
27 consumption, as defined in Chapter 4 (commencing with Section
28 116270), as it may be amended from time to time.

29 (k) “Reasonable amount of growth” means an increase in growth
30 not to exceed 10 percent of the design capacity needed, based on
31 peak flow, to serve the water and fire flow demand in existence at
32 the time plans and specifications for the project are approved by
33 the department, over the 20-year useful life of a project. For
34 projects other than the construction of treatment plants including,
35 but not limited to, storage facilities, pipes, pumps, and similar
36 equipment, where the 10-percent allowable growth cannot be
37 adhered to due to the sizes of equipment or materials available,
38 the project shall be limited to the next available larger size.

1 (l) “Safe drinking water standards” means those standards
2 established pursuant to Chapter 4 (commencing with Section
3 116270), as they may now or hereafter be amended.

4 (m) ~~“Small water system” means a public water system, as
5 defined in subdivision (j), that serves 3,300 or fewer connections
6 or a population of 10,000 or fewer.~~

7 (m) “Small community water system” has the same meaning as
8 set forth in subdivision (aa) of Section 116275.

9 (n) “Supplier” means any person, partnership, corporation,
10 association, public agency, or other entity that owns or operates a
11 public water system.

12 SEC. 2. Section 116760.40 of the Health and Safety Code is
13 amended to read:

14 116760.40. The department may undertake any of the following
15 actions to implement the Safe Drinking Water State Revolving
16 Fund:

17 (a) Enter into agreements with the federal government for federal
18 contributions to the fund.

19 (b) Accept federal contributions to the fund.

20 (c) Use moneys in the fund for the purposes permitted by the
21 federal act.

22 (d) Provide for the deposit of matching funds and other available
23 and necessary moneys into the fund.

24 (e) Make requests, on behalf of the state, for deposit into the
25 fund of available federal moneys under the federal act.

26 (f) Determine, on behalf of the state, that public water systems
27 that receive financial assistance from the fund will meet the
28 requirements of, and otherwise be treated as required by, the federal
29 act.

30 (g) Provide for appropriate audit, accounting, and fiscal
31 management services, plans, and reports relative to the fund.

32 (h) Take additional incidental action as may be appropriate for
33 adequate administration and operation of the fund.

34 (i) Enter into an agreement with, and accept matching funds
35 from, a public water system. A public water system that seeks to
36 enter into an agreement with the department and provide matching
37 funds pursuant to this subdivision shall provide to the department
38 evidence of the availability of those funds in the form of a written
39 resolution, or equivalent document, from the public water system
40 before it requests a preliminary loan commitment.

1 (j) Charge public water systems that elect to provide matching
2 funds a fee to cover the actual cost of obtaining the federal funds
3 pursuant to Section 1452(e) of the federal act (42 U.S.C. Sec.
4 300j-12) and to process the loan application. The fee shall be
5 waived by the department if sufficient funds to cover those costs
6 are available from other sources.

7 (k) Use money returned to the fund under Section 116761.85
8 and any other source of matching funds, if not prohibited by statute,
9 as matching funds for the federal administrative allowance under
10 Section 1452(g) of the federal act (42 U.S.C. Sec. 300j-12).

11 (l) Establish separate accounts or subaccounts, as required or
12 allowed in the federal act and related guidance, for funds to be
13 used for the administration of the fund and other purposes. The
14 department shall establish the following accounts within the fund,
15 including, but not limited to:

16 (1) A fund administration account for state expenses related to
17 administration of the fund pursuant to Section 1452(g)(2) of the
18 federal act.

19 (2) A water system reliability account for department expenses
20 pursuant to Section 1452(g)(2)(A), (B), (C), or (D) of the federal
21 act.

22 (3) A source protection account for state expenses pursuant to
23 Section 1452(k) of the federal act.

24 (4) A small system technical assistance account for department
25 expenses pursuant to Section 1452(g)(2) of the federal act.

26 (5) A state revolving loan account pursuant to Section 1452(a)(2)
27 of the federal act.

28 (6) A wellhead protection account established pursuant to
29 Section 1452(a)(2) of the federal act.

30 (m) Deposit federal funds for administration and other purposes
31 into separate accounts or subaccounts, as allowed by the federal
32 act.

33 (n) Determine, on behalf of the state, whether sufficient progress
34 is being made toward compliance with the enforceable deadlines,
35 goals, and requirements of the federal act and the California Safe
36 Drinking Water Act, Chapter 4 (commencing with Section 116270).

37 (o) Improve access to financial assistance for projects serving
38 small *community* water systems by doing both of the following:

39 (1) Establishing a payment process pursuant to which the
40 recipient of financial assistance would receive funds within 30

1 days of the date on which the department receives a project
2 payment request, unless the department, within that 30-day period,
3 determines that the project payment would not be in accordance
4 with the terms of the program guidelines.

5 (2) Utilizing wire transfers or other appropriate payment
6 procedures to expedite project payments.

7 SEC. 3. Section 116760.70 of the Health and Safety Code is
8 amended to read:

9 116760.70. (a) The department, after public notice and hearing,
10 shall, from time to time, establish a priority list of proposed projects
11 to be considered for funding under this chapter. In doing so, the
12 department shall determine if improvement or rehabilitation of the
13 public water system is necessary to provide pure, wholesome, and
14 potable water in adequate quantity and at sufficient pressure for
15 health, cleanliness, and other domestic purposes. The department
16 shall establish criteria for placing public water systems on the
17 priority list for funding that shall include criteria for priority list
18 categories. Priority shall be given to projects that meet all of the
19 following requirements:

20 (1) Address the most serious risk to human health.

21 (2) Are necessary to ensure compliance with requirements of
22 Chapter 4 (commencing with Section 116270) including
23 requirements for filtration.

24 (3) Assist systems most in need on a per household basis
25 according to affordability criteria.

26 (b) The department may, in establishing a new priority list,
27 merge those proposed projects from the existing priority list into
28 the new priority list.

29 (c) In establishing the priority list, the department shall consider
30 the system's implementation of an ongoing source water protection
31 program or wellhead protection program.

32 (d) In establishing the priority list categories and the priority
33 for funding projects, the department shall carry out the intent of
34 the Legislature pursuant to subdivisions (e) and (f) of Section
35 116760.10 and do all of the following:

36 (1) Give priority to upgrade an existing system to meet drinking
37 water standards.

38 (2) After giving priority pursuant to paragraph (1), consider
39 whether the applicant has sought other funds when providing

1 funding for a project to upgrade an existing system and to
2 accommodate a reasonable amount of growth.

3 (3) Give priority to projects that include consolidation with a
4 small *community* water system and that will enable that system to
5 meet drinking water standards without regard to the project
6 proponent, provided that the proponent is an eligible entity as
7 defined in this chapter.

8 (e) Consideration of an applicant's eligibility for funding shall
9 initially be based on the priority list in effect at the time the
10 application is received and the project's ability to proceed. If a
11 new priority list is established during the time the application is
12 under consideration, but before the applicant receives a letter of
13 commitment, the department may consider the applicant's
14 eligibility for funding based on either the old or new priority list.

15 (f) The department may change the ranking of a specific project
16 on the priority lists at any time following the publication of the
17 list if information, that was not available at the time of the
18 publication of the list, is provided that justifies the change in the
19 ranking of the project.

20 (g) The department shall provide one or more public hearings
21 on the Intended Use Plan, the priority list, and the criteria for
22 placing public water systems on the priority list. The department
23 shall provide notice of the Intended Use Plan, criteria, and priority
24 list not less than 30 days before the public hearing. The Intended
25 Use Plan, criteria, and priority list shall not be subject to the
26 requirements of Chapter 3.5 (commencing with Section 11340) of
27 Part 1 of Division 3 of Title 2 of the Government Code. The
28 department shall conduct duly noticed public hearings and
29 workshops around the state to encourage the involvement and
30 active input of public and affected parties, including, but not limited
31 to, water utilities, local government, public interest, environmental,
32 and consumer groups, public health groups, land conservation
33 interests, health care providers, groups representing vulnerable
34 populations, groups representing business and agricultural interests,
35 and members of the general public, in the development and periodic
36 updating of the Intended Use Plan and the priority list.

37 (h) The requirements of this section do not constitute an
38 adjudicatory proceeding as defined in Section 11405.20 of the
39 Government Code and Section 11410.10 of the Government Code
40 is not applicable.

1 SEC. 4. Section 116761.24 of the Health and Safety Code is
2 amended to read:

3 116761.24. (a) Not less than 15 percent of the total amount
4 deposited in the fund shall be expended for providing loans and
5 grants to public water systems that regularly serve fewer than
6 10,000 persons to the extent those funds can be obligated for
7 eligible projects.

8 (b) Small *community* water systems serving severely
9 disadvantaged communities, as defined in Section 75005 of the
10 Public Resources Code, shall be eligible to receive up to 100
11 percent of their project costs in the form of ~~principle~~ *principal*
12 forgiveness or grant, if needed to ensure affordable water rates.

13 SEC. 5. Section 116761.50 of the Health and Safety Code is
14 amended to read:

15 116761.50. (a) The department may enter into contracts with
16 applicants for grants or loans for the purposes set forth in this
17 chapter. Any contract entered into pursuant to this section shall
18 include only terms and conditions consistent with this chapter and
19 the regulations established under this chapter.

20 (b) The contract shall include all of the following terms and
21 conditions that are applicable:

22 (1) An estimate of the reasonable cost of the project or study.

23 (2) An agreement by the department to loan or grant, or loan
24 and grant, the applicant an amount that equals the portion of the
25 costs found by the department to be eligible for a state loan or
26 grant. The agreement may provide for disbursement of funds during
27 the progress of the study or construction, or following completion
28 of the study or construction, as agreed by the parties.

29 (3) An agreement by the applicant to proceed expeditiously with
30 the project or study.

31 (4) An agreement by the applicant to commence operations of
32 the project upon completion of the project, and to properly operate
33 and maintain the project in accordance with the applicable
34 provisions of law.

35 (5) In the case of a loan, an agreement by the applicant to repay
36 the state, over a period not to exceed the useful life of the project
37 or 20 years, whichever is shorter, except as provided in the federal
38 act, or in the case of a study, over a period not to exceed five years,
39 all of the following:

40 (A) The amount of the loan.

1 (B) The administrative fee specified in subdivision (a) of Section
2 116761.70.

3 (C) Interest on the principal, which is the amount of the loan
4 plus the administrative fee.

5 (6) In the case of a grant, an agreement by the public agency or
6 private not-for-profit water company to operate and maintain the
7 water system for a period of 20 years, unless otherwise authorized
8 by the department.

9 (c) The contract may include any of the following terms and
10 conditions:

11 (1) An agreement by the supplier to adopt a fee structure that
12 provides for the proper maintenance and operations of the project
13 and includes a sinking fund for repair and replacement of the
14 facilities in cases where appropriate. The fee structure shall also
15 provide an acceptable dedicated source of revenue for the
16 repayment of the amount of the loan, and the payment of
17 administrative fees and interest.

18 (2) If the entire project is not funded pursuant to this chapter,
19 the department may include a provision requiring the applicant to
20 share the cost of the project or obtain funding from other sources.

21 (d) The department may require applicants to provide security
22 for loan contracts.

23 (e) The department may agree to extend the term of the loan
24 beyond 20 years, but shall not extend the term beyond the life of
25 the project, for disadvantaged communities in order to improve
26 the affordability of the project.