

AMENDED IN SENATE SEPTEMBER 8, 2011

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE JULY 1, 2011

AMENDED IN ASSEMBLY MAY 5, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 983**

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**Introduced by Assembly Member Perea**  
**(Coauthors: Assembly Members Eng, Fong, Mendoza,**  
**V. Manuel Pérez, and Solorio)**  
(Coauthor: Senator Volk)

February 18, 2011

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An act to amend Sections 116760.20, 116760.70, and 116761.23 of, and to add Section 116760.39 to, 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 small community water systems and not-for-profit nontransient noncommunity water systems serving severely disadvantaged communities, 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, as provided.~~

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 require small community water systems or nontransient noncommunity water systems, owned by a public agency or private not-for-profit water company, serving severely disadvantaged communities to be eligible to receive up to 100% of eligible project costs in the form of a grant, to the extent the system cannot afford a loan. By authorizing additional uses for moneys in a continuously appropriated fund, this bill would make an appropriation.

This bill would incorporate additional changes in Section 116761.23 of the Health and Safety Code proposed by AB 938, which would become operative only if AB 938 and this bill are both chaptered and become effective on or before January 1, 2012, and this bill is chaptered last.

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:

1 116760.20. Unless the context otherwise requires, the following  
2 definitions govern the construction of this chapter:

3 (a) “Acceptable result” means the project that, when constructed,  
4 solves the problem for which the project was placed on the project  
5 priority list established pursuant to Section 116760.70, ensures the  
6 owner and operator of the improved or restructured public water  
7 system shall have long-term technical, managerial, and financial  
8 capacity to operate and maintain the public water system in  
9 compliance with state and federal safe drinking water standards,  
10 can provide a dependable source of safe drinking water long-term,  
11 and is both short-term and long-term affordable, as determined by  
12 applicable regulations adopted by the department.

13 (b) “Cost-effective project” means a project that achieves an  
14 acceptable result at the most reasonable cost.

15 (c) “Department” means the State Department of Public Health.

16 (d) “Disadvantaged community” means a community that meets  
17 the definition provided in Section 116275.

18 (e) “Federal Safe Drinking Water Act” or “federal act” means  
19 the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.)  
20 and acts amendatory thereof or supplemental thereto.

21 (f) “Fund” means the Safe Drinking Water State Revolving  
22 Fund created by Section 116760.30.

23 (g) “Funding” means a loan or grant, or both, awarded under  
24 this chapter.

25 (h) “Matching funds” means state money that equals that  
26 percentage of federal contributions required by the federal act to  
27 be matched with state funds.

28 (i) “Project” means proposed facilities for the construction,  
29 improvement, or rehabilitation of a public water system, and may  
30 include all items set forth in Section 116761 as necessary to carry  
31 out the purposes of this chapter. It also may include refinancing  
32 loans, annexation or consolidation of water systems, source water  
33 assessments, source water protection, and other activities specified  
34 under the federal act.

35 (j) “Public agency” means any city, county, city and county,  
36 whether general law or chartered, district, joint powers authority,  
37 or other political subdivision of the state, that owns or operates a  
38 public water system.

39 (k) “Public water system” or “public water supply system”  
40 means a system for the provision to the public of water for human

1 consumption, as defined in Chapter 4 (commencing with Section  
2 116270), as it may be amended from time to time.

3 (l) “Reasonable amount of growth” means an increase in growth  
4 not to exceed 10 percent of the design capacity needed, based on  
5 peak flow, to serve the water and fire flow demand in existence at  
6 the time plans and specifications for the project are approved by  
7 the department, over the 20-year useful life of a project. For  
8 projects other than the construction of treatment plants including,  
9 but not limited to, storage facilities, pipes, pumps, and similar  
10 equipment, where the 10-percent allowable growth cannot be  
11 adhered to due to the sizes of equipment or materials available,  
12 the project shall be limited to the next available larger size.

13 (m) “Safe drinking water standards” means those standards  
14 established pursuant to Chapter 4 (commencing with Section  
15 116270), as they may now or hereafter be amended.

16 (n) “Severely disadvantaged community” means a community  
17 with a median household income of less than 60 percent of the  
18 statewide average.

19 (o) “Supplier” means any person, partnership, corporation,  
20 association, public agency, or other entity that owns or operates a  
21 public water system.

22 SEC. 2. Section 116760.39 is added to the Health and Safety  
23 Code, to read:

24 116760.39. In addition to the actions described in Section  
25 116760.40, the department may, to implement the Safe Drinking  
26 Water State Revolving Fund, improve access to financial assistance  
27 for small community water systems and not-for-profit nontransient  
28 noncommunity water systems serving severely disadvantaged  
29 communities by doing both of the following:

30 (a) Working to establish a payment process pursuant to which  
31 the recipient of financial assistance would receive funds within 30  
32 days of the date on which the department receives a complete  
33 project payment request, unless the department, within that 30-day  
34 period, determines that the project payment would not be in  
35 accordance with the terms of the program guidelines.

36 (b) Investigating the use of wire transfers or other appropriate  
37 payment procedures to expedite project payments.

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

1 116760.70. (a) The department, after public notice and hearing,  
2 shall, from time to time, establish a priority list of proposed projects  
3 to be considered for funding under this chapter. In doing so, the  
4 department shall determine if improvement or rehabilitation of the  
5 public water system is necessary to provide pure, wholesome, and  
6 potable water in adequate quantity and at sufficient pressure for  
7 health, cleanliness, and other domestic purposes. The department  
8 shall establish criteria for placing public water systems on the  
9 priority list for funding that shall include criteria for priority list  
10 categories. Priority shall be given to projects that meet all of the  
11 following requirements:

12 (1) Address the most serious risk to human health.  
13 (2) Are necessary to ensure compliance with requirements of  
14 Chapter 4 (commencing with Section 116270) including  
15 requirements for filtration.

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

18 (b) The department may, in establishing a new priority list,  
19 merge those proposed projects from the existing priority list into  
20 the new priority list.

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

24 (d) In establishing the priority list categories and the priority  
25 for funding projects, the department shall carry out the intent of  
26 the Legislature pursuant to subdivisions (e) to (h), inclusive, of  
27 Section 116760.10 and do all of the following:

28 (1) Give priority to upgrade an existing system to meet drinking  
29 water standards.

30 (2) After giving priority pursuant to paragraph (1), consider  
31 whether the applicant has sought other funds when providing  
32 funding for a project to upgrade an existing system and to  
33 accommodate a reasonable amount of growth.

34 ~~(3) Give priority to projects that include consolidation with a~~  
35 ~~small community water system and that will enable that system to~~  
36 ~~meet drinking water standards without regard to the project~~  
37 ~~proponent, provided that the proponent is an eligible entity as~~  
38 ~~defined in this chapter.~~

39 (e) Consideration of an applicant's eligibility for funding shall  
40 initially be based on the priority list in effect at the time the

1 application is received and the project's ability to proceed. If a  
2 new priority list is established during the time the application is  
3 under consideration, but before the applicant receives a letter of  
4 commitment, the department may consider the applicant's  
5 eligibility for funding based on either the old or new priority list.

6 (f) The department may change the ranking of a specific project  
7 on the priority lists at any time following the publication of the  
8 list if information, that was not available at the time of the  
9 publication of the list, is provided that justifies the change in the  
10 ranking of the project.

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

28 (h) The requirements of this section do not constitute an  
29 adjudicatory proceeding as defined in Section 11405.20 of the  
30 Government Code and Section 11410.10 of the Government Code  
31 is not applicable.

32 SEC. 4. Section 116761.23 of the Health and Safety Code is  
33 amended to read:

34 116761.23. (a) The maximum amount of a planning grant  
35 permitted under this chapter for each participating public water  
36 system's share of the costs of the planning, engineering studies,  
37 environmental documentation, and design of a single project shall  
38 be no more than five hundred thousand dollars (\$500,000).

39 (b) Unless the department approves an increase pursuant to this  
40 subdivision, the maximum amount of a construction grant award

1 authorized under this chapter to each participating public water  
2 system for its share of the cost of the construction of a single  
3 project shall be no more than three million dollars (\$3,000,000).  
4 The department may approve an increase in the maximum amount  
5 for a construction grant award authorized under this chapter so  
6 that the maximum amount of the construction grant award does  
7 not exceed ten million dollars (\$10,000,000) only if the department  
8 makes all of the following findings:

9 (1) A public water system that serves a disadvantaged  
10 community has a defined project need that exceeds the maximum  
11 grant amount of three million dollars (\$3,000,000).

12 (2) The defined project has been bypassed in at least one funding  
13 cycle due to a lack of funds.

14 (3) The defined project is eligible for funding pursuant to the  
15 program regulations.

16 (4) The defined project represents the highest public health risk  
17 among unfunded projects, as determined by the department  
18 according to its standard criteria.

19 (c) Total funding under this article for planning, engineering  
20 studies, project design, and construction costs of a single project,  
21 whether in the form of a loan or a grant, or both, shall be  
22 determined by an assessment of affordability using criteria  
23 established by the department.

24 (d) Subject to all other limitations of this chapter, a small  
25 community water system or nontransient noncommunity water  
26 system, owned by a public agency or private not-for-profit water  
27 company, serving severely disadvantaged communities shall be  
28 eligible to receive up to 100 percent of eligible project costs in the  
29 form of a grant, to the extent the system cannot afford a loan as  
30 determined by the department pursuant to Section 116761.20.

31 SEC. 4.5. Section 116761.23 of the Health and Safety Code is  
32 amended to read:

33 116761.23. (a) The maximum amount of a planning grant  
34 permitted under this chapter for each participating public water  
35 system's share of the costs of the planning, engineering studies,  
36 environmental documentation, and design of a single project shall  
37 be no more than five hundred thousand dollars (\$500,000).

38 (b) Unless the department approves an increase pursuant to this  
39 subdivision, the maximum amount of a construction grant award  
40 authorized under this chapter to each participating public water

1 system for its share of the cost of the construction of a single  
2 project shall be no more than three million dollars (\$3,000,000).  
3 The department may approve an increase in the maximum amount  
4 for a construction grant award authorized under this chapter so  
5 that the maximum amount of the construction grant award does  
6 not exceed ten million dollars (\$10,000,000) only if the department  
7 makes all of the following findings:

8 (1) A public water system that serves a disadvantaged  
9 community has a defined project need that exceeds the maximum  
10 grant amount of three million dollars (\$3,000,000).

11 (2) The defined project has been bypassed in at least one funding  
12 cycle due to a lack of funds.

13 (3) The defined project is eligible for funding pursuant to the  
14 program regulations.

15 (4) The defined project represents the highest public health risk  
16 among unfunded projects, as determined by the department  
17 according to its standard criteria.

18 (c) Total funding under this article for planning, engineering  
19 studies, environmental documentation, project design, and  
20 construction costs of a single project, whether in the form of a loan  
21 or a grant, or both, shall be determined by an assessment of  
22 affordability using criteria established by the department.

23 (d) Subject to all other limitations of this chapter, a small  
24 community water system or nontransient noncommunity water  
25 system, owned by a public agency or private not-for-profit water  
26 company, serving severely disadvantaged communities shall be  
27 eligible to receive up to 100 percent of eligible project costs in the  
28 form of a grant, to the extent the system cannot afford a loan as  
29 determined by the department pursuant to Section 116761.20.

30 SEC. 5. Section 4.5 of this bill incorporates amendments to  
31 Section 116761.23 of the Health and Safety Code proposed by  
32 both this bill and Assembly Bill 938. It shall only become operative  
33 if (1) both bills are enacted and become effective on or before  
34 January 1, 2012, (2) each bill amends Section 116761.23 of the  
35 Health and Safety Code, and (3) this bill is enacted after Assembly  
36 Bill 938, in which case Section 4 of this bill shall not become  
37 operative.

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