

Assembly Bill No. 983

Passed the Assembly September 9, 2011

Chief Clerk of the Assembly

Passed the Senate September 9, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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.

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.

Appropriation: yes.

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

SECTION 1. Section 116760.20 of the Health and Safety Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

116760.39. In addition to the actions described in Section 116760.40, the department may, to implement the Safe Drinking Water State Revolving Fund, improve access to financial assistance for small community water systems and not-for-profit nontransient

noncommunity water systems serving severely disadvantaged communities by doing both of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved _____, 2011

Governor