

**ASSEMBLY BILL**

**No. 2738**

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**Introduced by Committee on Environmental Safety and Toxic Materials (Assembly Members Alejo (Chair), Bloom, Stone, and Ting)**

February 26, 2014

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An act to amend Sections 116760.40, 116760.44, and 116761.70 of the Health and Safety Code, relating to drinking water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2738, as introduced, Committee on Environmental Safety and Toxic Materials. Safe Drinking Water State Revolving Fund: accounts.

Existing law, the Safe Drinking Water State Revolving Fund Law of 1997, authorizes the State Department of Public Health to administer the Safe Drinking Water State Revolving Fund, which is established in the State Treasury and continuously appropriated to the department to provide grants or revolving fund loans for the design and construction of projects for public water systems, as defined, to enable compliance with safe drinking water standards. Existing law authorizes the department to enter into an agreement with the federal government for matching federal contributions into the fund. Existing law requires federal funds to be deposited in the special accounts that are continuously appropriated to the department.

This bill would, in addition, establish the fees and charges account within the fund for deposit of prescribed administrative fees to be expended for administrative costs of providing assistance under these provisions, to the extent consistent with federal law.

Existing law authorizes the department to establish a reasonable fee schedule of administrative fees for loans to be paid by grant applicants, not to exceed 4% of the capitation grant.

This bill would, instead, authorize the administrative fees to include an applicant fee to reimburse the department for the costs of reviewing and approving applications, and a loan disbursement fee to reimburse the department for all other costs. The bill would authorize the department to annually adjust the fee schedule.

Existing law requires payment of charges incurred by the Attorney General in protection of the state’s interest in the use of funds under these provisions, not to exceed ½ of 1% of the fund, to be paid as program expenses rather than administrative costs.

This bill would delete this requirement.

By changing the purposes for which continuously appropriated funds may be expended, 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 116760.40 of the Health and Safety Code
- 2 is amended to read:
- 3 116760.40. The department may undertake any of the following
- 4 actions to implement the Safe Drinking Water State Revolving
- 5 Fund:
- 6 (a) Enter into agreements with the federal government for federal
- 7 contributions to the fund.
- 8 (b) Accept federal contributions to the fund.
- 9 (c) Use moneys in the fund for the purposes permitted by the
- 10 federal act.
- 11 (d) Provide for the deposit of matching funds and other available
- 12 and necessary moneys into the fund.
- 13 (e) Make requests, on behalf of the state, for deposit into the
- 14 fund of available federal moneys under the federal act.
- 15 (f) Determine, on behalf of the state, that public water systems
- 16 that receive financial assistance from the fund will meet the
- 17 requirements of, and otherwise be treated as required by, the federal
- 18 act.
- 19 (g) Provide for appropriate audit, accounting, and fiscal
- 20 management services, plans, and reports relative to the fund.

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

3 (i) Enter into an agreement with, and accept matching funds  
4 from, a public water system. A public water system that seeks to  
5 enter into an agreement with the department and provide matching  
6 funds pursuant to this subdivision shall provide to the department  
7 evidence of the availability of those funds in the form of a written  
8 resolution, or equivalent document, from the public water system  
9 before it requests a preliminary loan commitment.

10 (j) Charge public water systems that elect to provide matching  
11 funds a fee to cover the actual cost of obtaining the federal funds  
12 pursuant to Section 1452(e) of the federal act (42 U.S.C. Sec.  
13 300j-12) and to process the loan application. The fee shall be  
14 waived by the department if sufficient funds to cover those costs  
15 are available from other sources.

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

20 (l) Establish separate accounts or subaccounts as required or  
21 allowed in the federal act and related guidance, for funds to be  
22 used for administration of the fund and other purposes. Within the  
23 fund the department shall establish the following accounts,  
24 including, but not limited to:

25 (1) A fund administration account for state expenses related to  
26 administration of the fund pursuant to Section 1452(g)(2) of the  
27 federal act.

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

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

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

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

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

39 (7) *A fees and charges account for state expenses in providing*  
40 *assistance under this chapter.*

1 (m) Deposit federal funds for administration and other purposes  
2 into separate accounts or subaccounts as allowed by the federal  
3 act.

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

8 (o) To the extent permitted under federal law, including, but  
9 not limited to, Section 1452(a)(2) and (f)(4) of the federal Safe  
10 Drinking Water Act (42 U.S.C. Sec. 300j-12(a)(2) and (f)(4)), use  
11 any and all amounts deposited in the fund, including, but not  
12 limited to, loan repayments and interest earned on the loans, as a  
13 source of reserve and security for the payment of principal and  
14 interest on revenue bonds, the proceeds of which are deposited in  
15 the fund.

16 (p) Request the Infrastructure and Economic Development Bank  
17 (I-Bank), established under Chapter 2 (commencing with Section  
18 63021) of Division 1 of Title 6.7 of the Government Code, to issue  
19 revenue bonds, enter into agreements with the I-Bank, and take  
20 all other actions necessary or convenient for the issuance and sale  
21 of revenue bonds pursuant to Article 6.3 (commencing with Section  
22 63048.55) of Chapter 2 of Division 1 of Title 6.7 of the  
23 Government Code. The purpose of the bonds is to augment the  
24 fund.

25 SEC. 2. Section 116760.44 of the Health and Safety Code is  
26 amended to read:

27 116760.44. (a) The department may deposit administrative  
28 fees and charges paid by public water systems and other available  
29 and necessary money into the administrative account of the fund.

30 (b) (1) *Notwithstanding subdivision (a), the department may*  
31 *deposit the following moneys into the fees and charges account:*

32 (A) *Administrative fees received pursuant to Section 116761.70.*

33 (B) *Notwithstanding Section 16475 of the Government Code,*  
34 *interest earned upon the moneys deposited into the fees and*  
35 *charges account.*

36 (2) *The department may expend moneys in the fees and charges*  
37 *account for administrative costs of providing assistance under this*  
38 *chapter, to the extent consistent with federal law and regulations.*

39 SEC. 3. Section 116761.70 of the Health and Safety Code is  
40 amended to read:

1 116761.70. (a) Not more than 4 percent of the capitalization  
2 grant may be used by the department for administering this chapter.  
3 The department may establish a reasonable schedule of  
4 administrative fees for loans, which shall be paid by the applicant  
5 *and recipient, as appropriate*, to reimburse the state for the costs  
6 of the state administration of this chapter.

7 ~~(b) Charges incurred by the Attorney General in protection of~~  
8 ~~the state's interest in the use of repayment of grant and loan funds~~  
9 ~~under this chapter shall be paid. These charges shall not be paid~~  
10 ~~from funds allocated for administrative purposes, but shall be~~  
11 ~~treated as a program expense not to exceed one-half of 1 percent~~  
12 ~~of the total amount deposited in the fund.~~

13 (b) *The fee schedule authorized pursuant to subdivision (a) shall*  
14 *be designed to generate total annual revenue in an amount that,*  
15 *as closely as practicable, approximates without exceeding, the*  
16 *total annual cost to the department for administration of this*  
17 *chapter, including, but not limited to, the costs of servicing loans*  
18 *made pursuant to this chapter.*

19 (c) *The fee schedule may contain, and the department may*  
20 *assess, both of the following administrative fees:*

21 (1) *An application fee, to be paid by all applicants, to reimburse*  
22 *the department for the costs of reviewing and approving the*  
23 *application. The application fee shall be collected at the time of*  
24 *submission of the application.*

25 (2) *A loan disbursal fee, to be paid by loan recipients, to pay*  
26 *all other costs of the department associated with administering*  
27 *this chapter, including, but not limited to, costs associated with*  
28 *servicing the loan. In total, the loan disbursal fee shall not exceed*  
29 *1 percent of the principal loan amount and may be assessed on,*  
30 *or at the time of, each disbursement of loan funds. The department*  
31 *may invoice the funding recipient for the loan disbursement fee.*  
32 *The fee shall be due and payable by the funding recipient within*  
33 *90 days following the date of the invoice. Loan disbursal fees shall*  
34 *not be deferred during project construction.*

35 (d) *Notwithstanding subdivision (a), (b), or (c), if a funding*  
36 *recipient demonstrates to the department that the assessment of*  
37 *administrative fees would make the costs of the loan unaffordable*  
38 *to a recipient, the department shall waive or reduce the fees, as*  
39 *appropriate.*

1     (e) *The department shall annually adjust the fee schedule of*  
2 *charges for loans to be issued in that fiscal year to set the fees at*  
3 *a rate that will generate total annual revenue in an amount that,*  
4 *as closely as practicable, approximates without exceeding, the*  
5 *total annual cost to the department for administration of this*  
6 *chapter during that fiscal year, including, but not limited to, the*  
7 *costs of servicing loans made pursuant to this chapter.*

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