

AMENDED IN SENATE JULY 13, 2009

AMENDED IN SENATE JUNE 26, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1438**

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**Introduced by Assembly Member Conway  
(Coauthor: Assembly Member Jones)**

February 27, 2009

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An act to amend Sections 116760.20, 116760.40, and 116761.23 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1438, as amended, Conway. 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, adoption of enforcement 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, 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. The department may establish specified separate accounts or subaccounts within the fund.

This bill would allow the department to establish a wellhead protection account within the fund, as specified.

Under existing law, the funding for grants for the planning and preliminary engineering studies, and design and construction of a single project is set at a maximum of \$1,000,000.

~~This bill would require the department to set and publish, as specified, revise this maximum so that the maximum grant amounts amount for the planning, engineering studies, environmental documentation, and design, or construction of each community's share of a single project would be \$500,000 and the maximum grant would be \$3,000,000, unless the department has made specified findings, in which case the maximum amount of a construction grant would be \$10,000,000.~~

Existing law requires the department to establish a priority list of proposed projects, including consideration of whether the applicant has sought other funds when providing funding for a project to upgrade an existing system to accommodate a reasonable amount of growth. Existing law defines "reasonable amount of growth," in part, to mean an increase in growth not to exceed 10% of the design capacity needed, based on peak flow, to serve the water demand in existence at the time the plans and specifications are approved by the department.

This bill would include fire flow as part of the water demand in the definition of reasonable amount of growth.

Vote: majority. Appropriation: no. 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 achieves an
- 6 acceptable result at the most reasonable cost.
- 7 (b) "Department" means the State Department of Public Health.
- 8 (c) "Federal Safe Drinking Water Act" or "federal act" means
- 9 the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.)
- 10 and acts amendatory thereof or supplemental thereto.

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

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

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

(g) “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.

(h) “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.

(i) “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.

(j) “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.

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

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

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

1 116760.40. The department may undertake any of the following  
2 actions to implement the Safe Drinking Water State Revolving  
3 Fund:

4 (a) Enter into agreements with the federal government for federal  
5 contributions to the fund.

6 (b) Accept federal contributions to the fund.

7 (c) Use moneys in the fund for the purposes permitted by the  
8 federal act.

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

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

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

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

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

21 (i) Enter into an agreement with, and accept matching funds  
22 from, a public water system. A public water system that seeks to  
23 enter into an agreement with the department and provide matching  
24 funds pursuant to this subdivision shall provide to the department  
25 evidence of the availability of those funds in the form of a written  
26 resolution, or equivalent document, from the public water system  
27 before it requests a preliminary loan commitment.

28 (j) Charge public water systems that elect to provide matching  
29 funds a fee to cover the actual cost of obtaining the federal funds  
30 pursuant to Section 1452(e) of the federal act (42 U.S.C. Sec.  
31 300j-12) and to process the loan application. The fee shall be  
32 waived by the department if sufficient funds to cover those costs  
33 are available from other sources.

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

38 (l) Establish separate accounts or subaccounts as required or  
39 allowed in the federal act and related guidance, for funds to be  
40 used for administration of the fund and other purposes. Within the

fund the department shall establish the following accounts, including, but not limited to:

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

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

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

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

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

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

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

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

SEC. 3. 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 the planning, engineering studies, environmental documentation, ~~construction, or and~~ design of each community's share of a single project shall be ~~established by the department and published in the Intended Use Plan submitted annually to the federal Environmental Protection Agency; 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 for the construction of each community's share 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*

1 (\$10,000,000) only if the department makes all of the following  
2 findings:

3 (1) A disadvantaged community has a defined project need that  
4 exceeds the maximum grant amount of three million dollars  
5 (\$3,000,000).

6 (2) The disadvantaged community has been bypassed in at least  
7 one funding cycle due to a lack of funds.

8 (3) The disadvantaged community meets all criteria for  
9 eligibility pursuant to the program regulations.

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

13 ~~(b)~~

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