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Senate Adopts Drinking Water and Wastewater Infrastructure Act

The U.S. Senate passed the Drinking Water and Wastewater Infrastructure Act of 2021 by a nearly unanimous vote in its first significant legislative step towards fulfilling the water infrastructure goals of the Biden administration's American Jobs Plan.

Drinking water, wastewater, and stormwater infrastructure in many areas across the United States has deteriorated while public investment has lagged to support routine maintenance and restoration, adoption of innovative water infrastructure technologies, and sustainable water resource management and water supply planning. The American Jobs Plan promises to invest \$111 billion in federal spending on water infrastructure priorities, including \$45 billion towards the replacement of lead pipes in water systems and \$56 billion towards other priorities, including addressing per- and polyfluoroalkyl substances (PFAS) in drinking water supplies and otherwise modernizing drinking water, wastewater, and stormwater systems. Translating these goals into policy will largely fall upon Congress.

Bipartisan federal legislation is already taking shape. By an 89-2 vote, the Senate passed the [Drinking Water and Wastewater Infrastructure Act of 2021 \(S. 914\)](#) to authorize \$35 billion in new investment in water infrastructure. The Act both reauthorizes existing funds and creates new programs to support drinking water and wastewater infrastructure projects. Most funds are allocated to the existing Environmental Protection Agency (EPA)-administered Drinking Water State Revolving Fund (DWSRF) and the Clean Water State Revolving Fund (CWSRF). A significant proportion of authorized funds specifically target the water systems and infrastructure needs of disadvantaged populations, including low-income communities, rural areas, and tribal lands.

If approved by the House and signed into law as expected, the Act would specifically authorize:

- **Commitments to State Revolving Loan Funds.** The Act authorizes funding for the existing Drinking Water and Clean Water State Revolving Funds, which together help water purveyors finance significant infrastructure projects for both potable and nonpotable uses. Funds are provided to each fund respectively in equal amounts of \$2.4 billion for FY2022; \$2.75 billion for FY2023; \$3 billion for FY2024; and \$3.25 billion for FY2025 and FY2026.
- **Drinking Water Assistance for Small and Disadvantaged Communities.** The Act authorizes funding for the existing Assistance for Small and Disadvantaged Communities Drinking Water Grant Program, which helps public water systems in underserved and disadvantaged communities meet Safe Drinking Water Act requirements, in the amounts of \$70 million for FY2022; \$80 million for FY2023; \$100 million for FY2024; \$120 million for FY2025; and \$140 million for FY2026.
- **Addressing Lead in Drinking Water.** The Act facilitates initiatives to reduce lead in drinking water infrastructure, including a new \$10 million Lead Inventorying Utilization Grant Pilot Program and authorization of funding to address lead in school drinking water systems in the amounts of \$30 million for FY2022; \$35 million for FY2023; \$40 million for FY2024; \$45 million for FY2025; and \$50 million for FY2026.
- **Resiliency and Sustainability-Tied Grants.** The Act authorizes funding for the Drinking Water System Infrastructure Resiliency and Sustainability grant program and creates a corresponding Clean Water Infrastructure Resiliency and Sustainability Program, both of which would provide financing for resiliency projects, including conservation and supply augmentation projects. The Act authorizes \$50 million annually for the drinking water program and \$25 million for the clean water program, respectively, through FY2026.

- **Addressing Sanitary Sewer Overflows and Stormwater Reuse.** The Act authorizes funding for sanitary sewer overflow and stormwater reuse municipal grants at \$280 million annually for FY2022 through FY2026, with requirements to allocate at least 25% of such funds towards systems serving rural or otherwise disadvantaged communities
- **Reauthorization and/or Creation of Additional Grant and Loan Programs.** The Act authorizes and funds a number of other specific grant and loan programs, including, (1) \$50 million annually through FY2026 for the Water Infrastructure Finance and Innovation Act (WIFIA) loan program, which provides low-cost loans for a variety of water infrastructure projects; (2) technical assistance funding and emergency grants to public water systems at \$35 million annually for FY2022 through FY2026, with an additional \$15 million annually earmarked for technical assistance to small public water systems; (3) creation of the Wastewater Efficiency Grant Pilot Program for projects by publicly owned treatment works (POTWs) that seek to improve waste-to-energy systems, with authorization for \$20 million from FY2022 through FY2026, with individual grants capped at \$4 million; and (4) reauthorization of an existing pilot program for alternative water source projects, including water potable reuse, wastewater and stormwater capture and treatment, and groundwater recharge projects, authorized for \$25 million annually for FY2022 through FY2026.
- **Research Into Water Infrastructure Technologies and Community Needs.** The Act requires the EPA to carry out studies examining topics including safe drinking water technologies and community needs in the year following enactment. It further provides \$75 million annually through FY2026 for research, investigations, training, and informational grants authorized under Section 104 of the Clean Water Act.
- **Information Sharing.** The Act further requires the U.S. EPA to facilitate sharing of information between stakeholders, including by (1) creating a water data sharing pilot program and (2) directing EPA to create a Water Reuse Interagency Working Group.

A companion bill in the House, the Water Quality Protection and Job Creation Act of 2021 (H.R. 1915), would authorize \$40 billion in investment in wastewater infrastructure over five years through the Clean Water State Revolving Fund. The House bill, introduced mid-March, would authorize an additional \$10 billion in other federal grant assistance to improve water quality and local wastewater infrastructure, including specific outlays for assistance to state and local governments with respect to sewer overflows, stormwater capture, climate resiliency, treatment of emerging contaminants in drinking water including PFAS, and tribal water infrastructure needs.

It remains to be determined how Congress will account for differences between the Senate and the House bills. However, bipartisan support for the water infrastructure policies and programs that would be financed through these bills suggests that states, municipalities, water utilities, and communities can expect significant federal investment in water infrastructure to come soon.

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