

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

July 12, 2017

To: Subcommittee on Environment Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Markup of “H.R. __, Drinking Water System Improvement Act”

On **Thursday, July 13, 2017, at 10:00 a.m. in room 2123 of the Rayburn House Office Building**, the Subcommittee on Environment will markup the discussion draft circulated by Subcommittee Chairman John Shimkus entitled, “H.R. __, Drinking Water System Improvement Act”. This discussion draft has changed modestly from the discussion draft previously considered at a legislative hearing on May 19, 2017. A brief summary of the draft’s provisions follows.

I. H.R. __, DRINKING WATER SYSTEM IMPROVEMENT ACT

Section 1. Short Title.

Section 2. Contractual Agreements. This section, unchanged from the previous discussion draft, broadens slightly the types of restructuring that can qualify a water system for a safe harbor from enforcement actions. The section does not introduce new incentives or requirements for restructuring.

Section 3. Improved Accuracy and Availability of Compliance Monitoring Data. This section, added since the previous discussion draft, would require the Environmental Protection Agency (EPA) Administrator to develop a strategic plan for improving the accuracy and availability of compliance monitoring data submitted by public water systems and states. This section responds to concerns raised by Democratic members at the legislative hearing.

Section 4. Asset Management. The draft adds references to asset management in a section of the Safe Drinking Water Act (SDWA) on state capacity development strategies, which

already exist. In response to questions for the record of the legislative hearing, the EPA stated that this section would not require states to amend those strategies to reflect the changes, but that some states might do so.

The draft also requires EPA to review and update its guidance on asset management every five years.

Section 5. Authorization for Grants for State Programs. The discussion draft authorizes \$150 million for each of fiscal years 2018 through 2022 for Public Water System Supervision grants. This is an increase over the prior authorization level of \$100 million annually from 1997 to 2003. The authorization amount was bracketed in the previous draft.

Section 6. State Revolving Loan Funds. This section combines several sections from the previous discussion draft as well as several new provisions. :

Subsection (a) Use of Funds. This subsection, added since the previous discussion draft, expands the use of state revolving loan funds (SRF) to include replacing or rehabilitating aging treatment, storage and distribution facilities. It also reflects changes included in the AQUA Act and the Safe Drinking Water Act Amendments of 2017.

Subsection (b) American Iron and Steel Products. This subsection, added since the previous discussion draft, requires the use of American iron and steel products on all SRF projects for the duration of the bill's authorization. It also reflects changes included in the AQUA Act and the Safe Drinking Water Act Amendments of 2017.

Subsection (c) Evaluation. This subsection, added since the previous discussion draft, would block large water systems from receiving SRF loans, unless they certify that they have considered the costs and effectiveness of their planned projects. This language mirrors changes made to the Clean Water SRF in 2014.

Subsection (d) Assistance For Disadvantaged Communities. This subsection, unchanged from the previous draft, increases the amount of loan subsidies states can provide to disadvantaged communities from 30 to 35 percent, but does not include a minimum funding level for assisting these communities.

Subsection (e) Types of Assistance. This subsection, unchanged from the previous discussion draft, increases the time period over which principal and interest payments on a loan can be deferred, from 12 to 18 months, and extends the deadline by which the loan must be paid back in full, from 30 to 35 years. This deadline is extended further to 40 years for disadvantaged communities.

Subsection (f) Other Authorized Activities. This subsection, amended since the previous discussion draft, reauthorizes a provision in SDWA that allows states to use a portion of their SRF capitalization grants to assess source water protection. A limitation to block the use of funds for activities that could promote compliance with the Clean Water Act has been removed from the current discussion draft.

Subsection (g) Authorization for Capitalization Grants to States for State Drinking Water Treatment Revolving Loan Funds. This subsection authorizes funding for SRF capitalization grants at a total of \$8 billion over fiscal years 2018 through 2022. Authorization levels were not specified in the previous draft.

Subsection (h) Best Practices For Administration of State Revolving Loan Funds. This subsection, added since the previous discussion draft, requires the Administrator to collect and disseminate information on best practices for administration of SRF programs. This includes efforts to streamline the process of applying for loans, programs to assist with completion of application, incentives for partnerships with small public water systems, and practices that promote the timely use and effective management of SRF funds. This section reflects changes included in the AQUA Act and the Safe Drinking Water Act Amendments of 2017.

Subsection (i) Demonstration of Compliance with Federal Cross-Cutting Requirements. This subsection, narrowed slightly from the previous discussion draft, creates loopholes to environmental laws, including the National Environmental Policy Act and the Endangered Species Act, for SRF loan recipients.

Section 7. Authorization for Source Water Petition Programs. This section, added since the previous discussion draft, authorizes \$5 million for each of fiscal years 2018 through 2022 for the Source Water Petition Program. This program allows public water systems to submit petitions to enter into partnership with their State to assist in source water quality protection, but is limited to contaminants with national drinking water standards.

Section 8. Review of Technologies. This section, added since the previous discussion draft, requires the Administrator to review available methods and technologies for water system maintenance and operation, including corrosion control technologies. The section authorizes \$10 million in fiscal year 2018 for this review. This section reflects provisions included in the AQUA Act and the Safe Drinking Water Act Amendments of 2017.

Section 9. Source Water. This section amends the Emergency Planning and Community Right-to-Know Act of 1986 to require notification to community water systems following a chemical release into their source water. No information would be provided for planning purposes, before a release occurs. This section has been added since the previous discussion draft.