

August 9, 2021

Massive bill with \$48.4 billion in drinking water and wastewater funding moves toward passage

August 9, 2021 at 5:00 AM

The U.S. Senate worked into the weekend on a massive infrastructure bill that promises to spend an additional \$550 billion on infrastructure over five years, including \$48.4 billion focused on drinking water and wastewater programs at EPA. As of last Friday, the measure appeared on track for passage over the weekend or early this week at the latest.

Unveiled by a bipartisan coalition of senators last week, the legislation (https://www.epw.senate.gov/public/_cache/files/e/a/ea1eb2e4-56bd-45f1-a260-9d6ee951bc96/F8A7C77D69BE09151F210EB4DFE872CD.edw21a09.pdf), newly dubbed the Infrastructure Investment and Jobs Act, is the end product of what has been months of negotiations. New EPA water infrastructure spending promised by the bill over the next five years (FY22-26) includes:

- \$11.713 billion each to the Drinking Water (DW) and Clean Water State Revolving Funds (SRFs), with states required to award 49 percent of their funds as grants or full principal forgiveness loans;
- \$15 billion through the DWSRF to support lead service line replacement projects, again with 49 percent of funds required to be distributed by states as grants or principal forgiveness loans; and
- A total of \$10 billion to help drinking water and wastewater systems address emerging contaminants like PFAS, including \$4 billion through the DWSRF as grants that would be available to drinking water systems of all sizes.

While senators offered hundreds of amendments to the bill, Senate staff indicated that few changes were expected to the drinking water portions. One notable amendment (<https://www.congress.gov/amendment/117th-congress/senate-amendment/2514>) was proposed by Sen. Jeff Merkley (D-Ore.), who sought to require states to distribute at least 50 percent of their extra SRF funds as grants and 100 percent as grants in the case of the lead service line funds. AMWA joined a coalition of eight water and municipal organizations

in expressing (<https://www.amwa.net/letter/letter-support-merkley-inhofe-infrastructure-funding-amendment>) support for the proposal, but as of late last week, the amendment appeared unlikely to receive a vote due to opposition from leading Republicans.

The legislation also includes the full text of S. 914, the Drinking Water and Wastewater Infrastructure Act of 2021, which the Senate originally passed (<https://www.amwa.net/article/senate-approval-water-infrastructure-bill-sets-stage-further-action>) with AMWA's support in April. While this legislation includes numerous provisions AMWA has championed, including a new climate resilience program for drinking water systems and a low-income water ratepayer assistance pilot program, it also carries drinking water cybersecurity provisions that AMWA has criticized (<https://www.amwa.net/article/amwa-offers-outline-effective-water-sector-cybersecurity-policies>). Last week Senate staff said the bipartisan agreement on the larger bill prevented consideration of changes at this time but pledged to work with the association to modify the provisions through future legislation.

Once the infrastructure legislation is complete, the Senate is expected to immediately move on to consideration of a budget reconciliation bill. That measure would clear a path for Democrats to spend as much as an additional \$3.5 trillion on additional priorities, while avoiding the threat of a Republican filibuster. But subsequent legislation to finalize the details of that package would not be written until the fall, after the House and Senate return from their respective August breaks.

Western water funds, cyber grants, and new Buy America rules all tucked into infrastructure bill

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In addition to the drinking water provisions found within the 2,702 pages (https://www.epw.senate.gov/public/_cache/files/e/a/ea1eb2e4-56bd-45f1-a260-9d6ee951bc96/F8A7C77D69BE09151F210EB4DFE872CD.edw21a09.pdf) of the Infrastructure Investment and Jobs Act under consideration in the Senate (see related article (<https://www.amwa.net/article/massive-bill-484-billion-drinking-water-and-wastewater-funding-moves-toward-passage>)), there are also numerous new policies that could impact drinking water systems, with both positive and negative ramifications.

On the positive side, the legislation would provide significant funding for Western water infrastructure, including the promotion of water reuse and recycling activities. The bill would

appropriate \$8.3 billion in new funding for the Bureau of Reclamation, including \$450 million for a new competitive grant program for large-scale water recycling and reuse projects that are expected to cost more than \$500 million. Funds from the program could be used to pay for up to 25 percent of the cost of such projects.

The bill would also authorize \$1 billion for a new State and Local Cybersecurity Grant Program at DHS, through which state and tribal governments can receive funds to help address cybersecurity-related risks and threats to information systems owned or operated by state, local, or tribal governments. Conceivably, a state could use these grant funds to help boost the cybersecurity posture of publicly owned water systems in the state.

More problematic, the bill also includes an expansion of federal Buy America rules that apply to EPA's SRF and WIFIA programs. Currently, those programs' domestic preference requirements only apply to iron and steel products, but the legislation would expand this to include "manufactured products" as well. AMWA joined a letter (<https://www.amwa.net/letter/letter-buy-america-provisions-senate-infrastructure-legislation>) last week noting that the provision could lead to procurement challenges and administrative burdens for water systems that rely on certain technological products that are only produced overseas and requesting that the expansion be revisited before the legislation becomes law.

AMWA cautions against weakening ability of states to protect their waters under CWA

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Last week, AMWA submitted comments (<https://www.amwa.net/testimonycomments/amwas-comments-epa-its-noi-clean-water-act-section-401-certification-rule>) in response to EPA's Notice of Intention (<https://track.amwa.net/y.z?l=https%3A/www.epa.gov/cwa-401/notice-intention-reconsider-and-revise-clean-water-act-section-401-certification-rule&j=342911966&e=27&p=1&t=h>) to revise the 2020 Clean Water Act Section 401 Certification Rule to strengthen the authority of states and Tribes to protect their water resources. Section 401 (<https://www.epa.gov/cwa-401>) gives states and Tribes the authority to evaluate the potential water quality impacts of discharges from federally permitted or licensed projects that may affect waters of the United States within their borders.

AMWA's letter is similar to comments (<https://track.amwa.net/y.z?l=https%3A/www.amwa.net/article/amwa-cautions-epa-against-weakening-ability-states-protect-their-waters-under-cwa-section&j=342911966&e=27&p=1&t=h>) the association

submitted along with the American Water Works Association in October 2019 in response to the Trump-era proposal. The comments continued to support efforts to streamline or clarify existing regulatory procedures but cautioned against provisions that weaken states' abilities to protect the quality of their waters and, by proxy, the source waters for drinking water utilities.

Pair of webinars this week to explore new water ratepayer assistance program

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This week offers two opportunities for water utility officials to learn about the new Low-Income Household Water Assistance Program (LIHWAP) that the Department of Health and Human Services (HHS) is in the process of standing up.

On Thursday, August 12 from 3:00 to 4:00 p.m. ET, HHS will hold a LIHWAP Water Utility Introduction Webinar (<https://www.acf.hhs.gov/ocs/policy-guidance/lihwap-dcl-2021-11-water-utility-introduction-webinar-fy2021>) to clarify how the program will operate and provide information on requirements and participant expectations. Utility staff who wish to participate may register online (https://acf-hhs.gov.zoomgov.com/webinar/register/WN_vEKHHei4TPeP74NkS9Aclw).

Also, on August 12 from 1:00 to 2:15 p.m. ET, the Government Finance Officers Association and the Environmental Finance Center Network are hosting a webinar to provide an introduction to LIHWAP, as well as an Emergency Rental Assistance Program that will also offer funds to offset the water bills of low-income renters. Free registration is available online (https://estore.gfoa.org/imis15/Gfoamember/Events/Event_Display.aspx?EventKey=INT081221&WebsiteKey=6838007f-8557-46fb-83e1-ccc335664f34), but participants must first create an account.

Since establishing (<https://www.amwa.net/article/covid-19-relief-legislation-includes-water-rate-aid-low-income-households>) LIHWAP last December, Congress has provided HHS with \$1.1 billion to reduce water and wastewater arrearages of qualifying low-income households. The funding will be divided among the states, which will then allocate money to individual water utilities to offset the outstanding bills of eligible customers.

Recent utility openings listed on AMWA job

board

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General Manager
Cobb County Marietta Water Authority
Marietta, Georgia

Executive Director
Macon Water Authority
Macon, Georgia

Director
Geneva Lake Environmental Agency
Williams Bay, Wisconsin

Water Pollution Control Plant Division Manager
City of Sunnyvale
Sunnyvale, California

Capital Program Financial Manager (Accounting Supervisor)
City of Phoenix
Phoenix, Arizona

Senior Project Coordinator
The Birmingham Water Works Board
Birmingham, Alabama

New Services/Environmental Manager
Evergreen Metropolitan District
Evergreen, Colorado

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