



**ASSOCIATION OF  
METROPOLITAN  
WATER AGENCIES**

Testimony of

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On Behalf of the  
Association of Metropolitan Water Agencies

Before the  
U.S. House of Representatives  
Energy and Commerce Committee  
Environment Subcommittee

Hearing on the  
Drinking Water System Improvement Act of 2017

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### **Summary of the Testimony of Scott Potter**

- The Drinking Water State Revolving Fund has provided nearly \$32.5 billion in funding assistance to communities across the nation through 12,827 individual assistance agreements over the past twenty years, but Congress has never reauthorized the program. The time to do so is now.
- The Drinking Water System Improvement Act would make a number of targeted updates to the DWSRF program to ensure maximum efficiency and flexibility for community water systems.
- AMWA supports provisions in the legislation that would reauthorize DWSRF appropriations, encourage states to promote asset management planning, reduce duplicative regulatory requirements, and facilitate cooperative partnerships to help public water systems maintain compliance with SDWA standards.
- AMWA encourages the subcommittee to explore additional revisions to the DWSRF program, such as expanding the definition of “disadvantaged community” in the statute to include portions of service areas, and to codify the ability of community water systems to use DWSRF funds for facility security enhancements.
- AMWA stands ready to work with the subcommittee and all members of Congress to advance legislation that renews the federal commitment to investing in our nation’s drinking water infrastructure.

Chairman Shimkus, Ranking Member Tonko, and members of the subcommittee: the Association of Metropolitan Water Agencies (AMWA) appreciates the opportunity to offer our thoughts today on the Drinking Water System Improvement Act of 2017.

I am Scott Potter, Director of Nashville Metro Water Services in Nashville, Tennessee. Metro Water Services provides quality drinking water to more than 190,000 households and more than 200,000 sewer accounts in Nashville and Davidson County, Tennessee. Our two drinking water treatment plants have a combined capacity of 180 million gallons of water per day. The drinking water is conveyed by a distribution system consisting of more than 3,000 miles of water main, and our largest pipe is five feet in diameter.

I also serve as president of AMWA's Board of Directors, a position I have held since 2015. AMWA is an organization representing the nation's largest publicly owned drinking water utilities, which collectively serve more than 130 million Americans with quality drinking water. Our members support reauthorization of the Drinking Water State Revolving Fund, and we appreciate that the legislation before the subcommittee today would do so for the first time in the program's history.

My colleague Rudy Chow of the Baltimore City Department of Public Works testified on behalf of AMWA during the subcommittee's March hearing on reinvestment and rehabilitation of drinking water systems, so the scale of our nation's water infrastructure challenge is well documented. By now the subcommittee is well aware that EPA data shows that our country's drinking water infrastructure requires \$384.2 billion worth of investment over the next two decades just to maintain current levels of service. Members of the subcommittee also know that AMWA and the National Association of

Clean Water Agencies have projected that water and wastewater utilities could spend nearly \$1 trillion over the coming 40 years as they adapt to changing hydrological conditions such as extreme drought, more frequent intense storms, and rising sea levels. These startling figures are some of the strongest arguments we have in favor of ongoing federal support for the nation's drinking water infrastructure.

For these reasons, AMWA is pleased to see the subcommittee consider this discussion draft of the Drinking Water System Improvement Act. Most importantly, the bill would formally reauthorize funding for the Drinking Water State Revolving Fund for the first time since the program's creation in 1996. Since that time the DWSRF has delivered nearly \$32.5 billion in funding assistance to communities across the nation through 12,827 individual assistance agreements – but it has been more than a decade since the program's original congressional authorization expired. Given that Congress made several reforms to the Clean Water SRF in 2014, and also authorized the Water Infrastructure Finance and Innovation Act (WIFIA) pilot program, the time is right for Congress to renew its commitment to the Drinking Water SRF as well.

While AMWA supports reauthorization of the DWSRF, the organization does not believe that the program, or the Safe Drinking Water Act as a whole, is in need of a top-to-bottom overhaul. Both programs work well in their current forms, though both would benefit from a number of targeted updates to ensure maximum efficiency and flexibility for community water systems. We are pleased that the Drinking Water System Improvement Act begins that process.

The following are AMWA's comments on specific components of the draft legislation.

## **Section 2: Contractual Agreements**

Section two would improve drinking water quality and public health by encouraging knowledge sharing and collaboration between utilities. The provision would build on the Safe Drinking Water Act's existing consolidation incentive to allow state regulators or EPA to temporarily suspend enforcement actions for specific violations at a water system when another utility submits a plan to enter into a contractual agreement to take over significant management or administrative functions of that system. This section will encourage AMWA members and other large water systems, which often have extensive operational and institutional knowledge at their disposal, to contract with nearby smaller systems to correct violations while enjoying the same temporary suspension of enforcement that the statute already allows in cases where one out-of-compliance utility is fully consolidated with or acquired by another water system. As is the case with SDWA's existing consolidation incentives, any such contractual agreement undertaken pursuant to this section must be approved by the state or EPA in order for the enforcement relief to apply.

## **Section 3: Asset Management**

AMWA strongly supports efforts to encourage public water systems to complete asset management plans, which we define as “an integrated set of processes to minimize the life-cycle costs of infrastructure assets, at an acceptable level of risk, while continuously delivering established levels of service.”

Section three recognizes the importance of asset management by directing states to include as part of their capacity development strategies a description of how the state is encouraging water systems to adopt best asset management practices, and assisting local

utilities in training their staff to implement asset management plans. The section also requires EPA to periodically update handbooks and training materials made available to public water system operators to reflect the latest thinking on the best practices for asset management strategies in the water sector.

AMWA supports these provisions because they will encourage states and EPA to promote effective asset management as broadly as possible, but we also believe that more can be done to incentivize the adoption of asset management methods by individual utilities. As AMWA testified in March, the association supports amending the DWSRF program to give public water systems that have completed qualifying asset management plans a degree of additional preference when they apply for DWSRF assistance. The idea is not to exclude systems without asset management plans from receiving SRF funding, but instead to encourage all public water systems that seek SRF dollars to use asset management planning to think holistically about the life-cycle costs of their infrastructure.

#### **Section 4: Authorization for Grants for State Programs**

This section would reauthorize expired funding for EPA to make grants to states to carry out public water system supervision programs. As AMWA and other water sector organizations wrote in an April 25, 2017 letter to congressional appropriators, public water system supervision programs “ensure that water utilities have the information, technology, and capabilities to meet their mandated regulatory responsibilities.” AMWA supports this reauthorization.

#### **Section 5: State Revolving Loan Funds**

This section includes several updates to the DWSRF that should make the program even more appealing to public water systems that seek funding. One change

would allow states to provide loan subsidies of up to 35 percent to support projects in disadvantaged communities that meet the state's affordability criteria, up from the current statutory cap of 30 percent. This will provide useful additional assistance to communities in need, but unfortunately the impact of this change is limited by the statute's existing definition of a "disadvantaged community" as "the service area of a public water system" that meets the state's affordability criteria. The requirement that the entirety of a utility's service area must meet the affordability criteria is difficult to achieve for large metropolitan water systems, which typically serve diverse populations that have both areas of affluence and areas with concentrations of people in need. This diversity of the ability to pay of households throughout the whole community often prevents disadvantaged community assistance from reaching pockets of utility service areas that, if they were served by their own water system, would easily qualify as disadvantaged under their state's criteria. AMWA therefore supports amending the statute's definition of "disadvantaged community" to include both entire water system service areas as well as portions of service areas. With this change, more in-need neighborhoods served by America's largest water systems would become eligible for the same type of additional subsidization to support necessary drinking water infrastructure projects as is already available to many small cities and towns throughout the country.

Section five of the discussion draft would also ease DWSRF repayment terms, allowing principal and interest payments to begin 18 months after completion of the project (up from one year under current law), and extending the amortization term to up to 30 years after substantial completion of the project, up from the current limit of 20 years. Additionally the section would allow 40-year amortization periods for projects

carried out in disadvantaged communities. AMWA supports these changes and the increased flexibility they will bring, though we again note that expanding the definition of “disadvantaged community” to include a portion of a utility service area would ensure that this new flexibility is accessible to the greatest number of low-income communities nationwide.

#### **Section 6: Other Authorized Activities**

This section would allow states to use set-aside DWSRF funds to update source water assessments that were previously mandated by the Safe Drinking Water Act. Given that one of the most effective ways to protect drinking water quality is to prevent contaminants from entering source waters in the first place, AMWA believes this provision is a valuable update to the existing statute.

#### **Section 7: Authorization for Capitalization Grants to States for State Drinking Water Treatment Revolving Loan Funds**

This section represents the first funding reauthorization in the history of the DWSRF, and AMWA strongly supports renewing this commitment to the program. However, as the specific authorization levels remain undefined in the discussion draft, AMWA urges the subcommittee to insert in the final legislation figures that may serve as a point of aspiration for a congress that has, in recent years, allowed DWSRF funding amounts to level off.

As I previously stated, the nationwide drinking water infrastructure investment needs have been well documented, by EPA and others. Most recently in March the Environmental Council of States released an inventory of all fifty states top “ready to go” water and wastewater infrastructure projects that could benefit from SRF loans. The

document showed \$14.2 billion worth of water and wastewater projects nationwide that could move forward today with an infusion of SRF dollars – a figure that is more than five times the total amount of Drinking Water and Clean Water SRF funding that was appropriated by Congress for the 2017 fiscal year.

Against this backdrop of well-documented need, any new five-year DWSRF reauthorization established through this legislation must not inadvertently constrain Congress' ability to fund the program at a level that appropriately responds to these needs. For example, even though the final FY17 omnibus appropriations bill left DWSRF funding level at \$863 million, earlier in the budget process House and Senate appropriators each approved versions of FY17 EPA funding bills that would have provided more than \$1 billion for the DWSRF this year. Given the nation's infrastructure needs and the apparent willingness of appropriators to provide this level of investment in the DWSRF, this subcommittee should authorize a funding level comfortably in excess of this figure.

The subcommittee should also avoid constraining future DWSRF appropriations by making sure that the annual authorization level does not fall below the highest regular annual funding level that Congress has actually appropriated to the program in recent history. This mark came during the 2010 fiscal year when the DWSRF received \$1.387 billion, so the annual authorization amount should exceed this figure as well.

AMWA notes that as a candidate last fall, President Trump called for tripling funding for both SRF programs at EPA. While his initial FY18 budget blueprint falls short of this goal, AMWA and other water sector stakeholders have endorsed calls to

double DWSRF funding to roughly \$1.8 billion. An annual figure in this vicinity could serve as a reasonable starting point for a reauthorized DWSRF.

### **Section 8: Demonstration of Compliance with Federal Cross-Cutting Requirements**

This section has the potential to make the DWSRF even more attractive as a water infrastructure funding mechanism by allowing EPA to waive requirements that a funding recipient achieve and document compliance with a certain cross-cutting federal laws if the recipient is able to demonstrate compliance with an equivalent state or local statute. For example, several states have their own environmental review laws that apply to water infrastructure projects. If EPA were to determine that a state's requirements are at least equivalent to the standards of the federal National Environmental Policy Act, then a public water system applying for DWSRF assistance could demonstrate its compliance with the state-level law rather than documenting its adherence to the federal statute. This has the potential to reduce the paperwork burden on DWSRF applicants and help projects move more expeditiously through the application process. AMWA is eager to explore the degree of cost and time savings that could be achieved as a result of this provision.

### **Conclusion**

Again, AMWA supports many of the DWSRF reforms that are included in this legislation, and we appreciate that the bill wisely avoids amending the Safe Drinking Water Act to modify the contaminant regulatory process or to insert artificial standard-setting deadlines into the statute. Conversely, we would suggest other provisions for inclusion, such as codifying the ability of public water systems to use DWSRF funds for water facility security enhancements, thus putting the program on par with the Clean Water SRF, which was amended in 2014 to allow the use of funds for security

improvements at treatment works. Above all, we recommend a robust funding authorization level that will allow DWSRF investments to grow unimpeded in the coming years.

AMWA believes the Drinking Water System Improvement Act is a strong bill that makes meaningful progress toward solidifying the Drinking Water State Revolving Fund for success in the coming years. AMWA looks forward to continuing to work with members of the subcommittee on this legislation.

Thank you again for the opportunity to testify, and I would be happy to answer any questions you may have.