

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: Am. Sub. H.B. 321 DATE: June 25, 1997
STATUS: As Reported by Senate Energy, Natural Resources and Environment SPONSOR: Rep. Householder
LOCAL IMPACT STATEMENT REQUIRED: No Federal Mandate
CONTENTS: Creation of the Drinking Water Assistance Fund

State Fiscal Highlights

STATE FUND	FY 1997	FY 1998	FUTURE YEARS
Environmental Protection Agency – Fund 4K5, Drinking Water Protection			
Revenues	- 0 -	Indeterminate effect	Indeterminate effect
Expenditures	- 0 -	- 0 -	- 0 -

- The bill authorizes the EPA to annually calculate and assess an administrative service fee to entities that self-certify their plan submissions that relate to public water systems and disposal systems and adds investor owned public utilities as entities that may also self-certify. This fee replaces the current fee requirement and allows EPA to annually adjust the fee to cover the cost of processing plan approvals. An indeterminate gain in revenue to Fund 4K5 may occur with the addition of investor-owned public utilities allowed to self-certify. Additionally, the bill reduces the per survey fee assessed by the EPA for determining the qualitative characteristics of water: (1) from \$4,500 to \$3,500 for organic chemical and (2) from \$1,500 to \$1,000 for limited chemistry. With both increases and decreases, these changes produce an indeterminate effect on the revenues of Fund 4K5.
- The Drinking Water Protection Fund may also receive revenues from the assessment and collection of administrative penalties.
- The Drinking Water Assistance Fund is required to be held in trust by the Ohio Water Development Authority, and the moneys in the fund are to be kept separate and apart from and not a part of the state treasury. Therefore, there is no state appropriation made to the new fund.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
Counties and Municipalities			
Revenues	- 0 -	Potential gain	Potential gain
Expenditures	- 0 -	Potential increase	Potential increase

- This bill establishes a loan fund for financial and technical assistance associated with complying with the Safe Drinking Water Act. To the extent that local governments are in the business of supplying drinking water to communities, this bill will provide revenues to those governments, if they meet certain requirements, with the stipulation that the loans will be paid back over time.



- Local government costs could be affected by the provision authorizing the Director of EPA to annually calculate the administrative service fee charged to water systems that self-certify their plan submissions. This fee is less than the one assessed currently; therefore costs to local governments may decrease.
- The bill authorizes the Director of EPA to adopt rules for the assessment and collection of administrative penalties. For public water systems serving populations of more than 10,000, the penalty would be not less than \$1,000 for each day of violation, but in no case shall the total penalty exceed \$10,000 per violation. For public water systems serving populations of 10,000 or fewer, the penalty would be based on a methodology established under the rules, but in no case shall the total penalty exceed \$2,500 per violation. The federal Safe Drinking Water Act requires the state to establish penalties.
- The bill also specifies that after October 1, 1999, community water systems and non-community water systems serving a nontransient population are required to demonstrate the technical, managerial, and financial capability of the system to comply with the safe drinking water law. While the likelihood that local governments will initiate a new water system after October 1, 1999 is low, if it does occur, it is likely the costs associated with this provision would be incorporated into entire cost of initiating the system. Nevertheless this provision could involve an increased cost for a local government to establish a water system. The federal Safe Drinking Water Act requires the state to enforce that these water systems demonstrate technical, managerial, and financial capability of their systems.

Detailed Fiscal Analysis

This bill establishes the Drinking Water Assistance Fund (DWAF) as well as two accounts within this fund: the Drinking Water Assistance Fund Administrative Account and the Water Supply Revolving Loan Account.

Drinking Water Assistance Fund

The DWAF is to provide financial and technical assistance for the purposes of protecting public health and achieving and maintaining compliance with the federal Safe Drinking Water act. The DWAF is to be administered by the Ohio Environmental Protection Agency (EPA) and the moneys in the fund are to be held in trust by the Ohio Water Development Authority (OWDA). The moneys in the fund are to be kept separate and apart from and not a part of the state treasury. Therefore, there is no appropriation made by the state to the fund. The DWAF will contain moneys credited to it from all capitalization grants received by the state from the USEPA. Additionally, moneys from non-federal sources such as the proceeds of state bonds or notes issued for the benefit of the DWAF, all payments of principal and interest on loans made from the DWAF and all investment earnings on money held within the DWAF, are deposited into the fund. When a capitalization grant is made, the state must provide matching moneys of at least 20 percent to be credited to the DWAF. A portion of the moneys may be used to enter into contracts with organizations to provide statewide on-site technical assistance to small public water systems.

Drinking Water Assistance Fund Administrative Account

This bill creates the Drinking Water Assistance Fund Administrative Account within the DWAF. The director of EPA may establish and collect fees from applicants who request assistance, and deposit the money in this account. The money is to be used only for paying or defraying the costs of EPA's administrative duties. Furthermore, no state matching moneys deposited into this account shall be used for the purposes of paying or defraying EPA's administrative costs.

Water Supply Revolving Loan Account

This fund is also created within the DWAF. Moneys in this fund are to be used in the following ways: (1) to make loans to community water systems and nonprofit non-community water systems; (2) to allow for the purchase or refinancing of debt obligations; (3) to guarantee or purchase insurance for debt obligations that improves the borrower's access to credit or reduces interest on debt obligations; (4) as a source of revenue or security for the payment of principle or interest on state-issued revenue bonds or notes; (5) to provide subsidies to disadvantaged communities; and (6) to earn interest on moneys credited to the account. If financial assistance is to be provided from this account, the EPA must determine a myriad of criteria for the applicant to be eligible. If the financial assistance is a loan, and the payments of principal and interest are expected to be pledged to secure payment of bonds issued by the OWDA, the EPA must submit the application of the loan to OWDA for review and approval.

Other EPA Duties

The bill also describes other duties required of the EPA. These new requirements include: periodically preparing a drinking water assistance management plan, which must be made available for public review; entering agreements with applicants who apply for money from the DWAF; and rulemaking duties for the implementation and administration of the DWAF. According to a spokesperson from EPA, a certain percentage of the moneys in the DWAF will be used to carry out these duties.

Administrative Service Fee

Under current law, the EPA can enter into an agreement with a political subdivision, that owns or operates a public water system, to allow a qualified officer or employee of the political subdivision to review the plans for the proposed alterations to a public water system or disposal system to ensure that the plans comply with federal and state laws. Once the qualified employee certifies to the EPA that the plans comply with current laws, the EPA is required to approve the plans without further review, once the appropriate fee has been paid. This “self-certification” is extended in this bill to include investor-owned public utilities. The self-certification fee is replaced in this bill by an administrative service fee that is annually calculated by the EPA. The fee assessed by the EPA shall not exceed the minimum amount necessary to pay administrative costs that are directly attributed to processing plan approvals. Because these fees would extend to investor-owned public utilities, an indeterminate gain in revenue to Fund 4K5, Drinking Water Protection would occur. According to an EPA spokesperson, the administrative service fee is less than the current fee assessed. Therefore, it appears that the cost to local government will be less.

Assessment and Collection of Administrative Penalties

The bill authorizes the Director of EPA to adopt rules for the assessment and collection of administrative penalties for failure to comply with a safe drinking standard. For public water systems serving populations of more than 10,000, the penalty would be not less than \$1,000 for each day of violation, but in no case shall the total penalty exceed \$10,000 per violation. For public water systems serving populations of 10,000 or fewer, the penalty would be based on a methodology established under the rules, but in no case shall the total penalty exceed \$2,500 per violation. Thus, local governments operating water systems could be assessed penalties under this provision. Any moneys collected from these penalties would be deposited into the Drinking Water Protection Fund. The federal Safe Drinking Water Act requires that the state assess penalties in order to comply with the Act.

Technical, Managerial, and Financial Capability Requirements

The bill specifies that after October 1, 1999, a public water system that is a community water system, or that is not a community water system and serves a non-transient population is required to demonstrate the technical, managerial, and financial capability of the system to comply with the safe drinking water law. Furthermore, the EPA is required to adopt rules establishing the requirements governing the demonstration. According to a spokesperson from the EPA, it is not likely that local governments will be establishing new water systems. However, if it does occur, it may be assumed that the costs associated with this requirement will be incorporated into the total package of costs involved with a local government establishing a new water system. Nevertheless this provision could involve an increased cost for a local government to start a water system. The federal Safe Drinking Water Act requires the state to enforce that these water systems demonstrate the technical, managerial, and financial capability of their systems, in order to comply with the Act.

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