

May 2021

MEMORANDUM

RE: Drinking Water, Wastewater, and Stormwater Infrastructure Proposals

**Summary**

The first few months of the 117<sup>th</sup> Congress have ushered in a suite of drinking water, wastewater, and stormwater infrastructure proposals. In the Senate, both wastewater and drinking water are under the jurisdiction of the Senate Committee on Environment and Public Works, while in the House, the Committee on Transportation & Infrastructure manages wastewater, while drinking water falls under the jurisdiction of the Committee on Energy & Commerce. Of all the following bills, the Water Quality Protection & Job Creation Act of 2021, H.R. 1915, authorizes the highest funding levels for the Clean Water State Revolving Fund program (\$40 billion over five years), and the LIFT Act, H.R. 1848, authorizes the highest funding levels for the Drinking Water State Revolving Fund program (\$23.6 billion). Meanwhile, the President’s American Jobs Act invests the most (\$10 billion) in remediating per-and polyfluoroalkyl substances (PFAS) and in the replacement of lead service lines (\$45 billion).

**White House**

**[The American Jobs Act](#)**

In April 2021, President Biden released his [American Jobs Act](#), a \$2.2 trillion infrastructure plan that invests an additional 1 percent of GDP per year over eight years to upgrade our nation’s infrastructure, revitalize manufacturing, invest in basic research and science, shore up supply chains, and solidify our care infrastructure. In particular, the proposal includes \$111 billion to rebuild drinking water infrastructure:

- Replace 100% of lead drinking water lines with a \$45 billion U.S. Environmental Protection Agency (EPA) investment through the Drinking Water State Revolving Fund program and Water Infrastructure Improvements for the National Act grants;
- \$10 billion to monitor and remediate per-and polyfluoroalkyl substances (PFAS); and
- \$56 billion in grants and loans to upgrade and modernize drinking water, wastewater and stormwater systems.

President Biden has been meeting with Congressional leaders over the past few weeks to find a bipartisan compromise. As we look ahead, it is important to note that Congress still needs to develop and introduce legislation, so the American Jobs Plan is a starting point and many still hope for bipartisan legislation. However, due to the proposed pay-fors, primarily a roll-back of the Trump era corporate tax cuts, many expect that Democrats will attempt to move the plan under budget reconciliation procedures to improve the chances of passage.

## Senate

### **Drinking Water and Wastewater Infrastructure Act of 2021, S. 914**

[ASCE has endorsed](#) the Drinking Water and Wastewater Infrastructure Act of 2021, [S. 914](#), which was introduced by Sen. Duckworth (D-IL), Sen. Capito (R-WV), Sen. Cardin (D-MD), Sen. Lummis (R-WY), Sen. Cramer (R-ND), and Sen. Carper (D-DE) in March 2021. In the Senate, drinking water and wastewater are both under the jurisdiction of the Committee on Environment & Public works. The legislation authorizes more than **\$35 billion** over five years for water resources development projects across the country with a focus on upgrading aging infrastructure, addressing the threat of climate change, investing in new technologies, and providing assistance to marginalized communities [S. 914 unanimously passed](#) the Senate Committee on Environment & Public Works and **then the full Senate (by a vote of 89 – 2)** in April 2021. This legislation:

- Reauthorizes the Clean Water State Revolving Fund (CWSRF) program and the Drinking Water State Revolving Fund (DWSRF) program each at \$12.25 billion over five years;
- Authorizes the Assistance for Small and Disadvantaged Communities Drinking Water Grant program, which helps public water systems in underserved communities, at \$510 million over five years;
- Authorizes \$10 million for a new Lead Inventorying Utilization Grant Pilot Program and \$200 million over five years to address lead in school drinking water systems;
- Authorizes \$50 million annually for the Drinking Water System Infrastructure Resilience and Sustainability grant program and creates a corresponding Clean Water Infrastructure Resiliency and Sustainability Program at \$25 million annually;
- Authorizes \$280 million annually for sanitary sewer overflows and stormwater reuse municipal grants, with requirements to allocate at least 25% of such funds towards systems serving rural or disadvantaged communities;
- Reauthorizes the Water Infrastructure Finance & Innovation Act (WIFIA) loan program at \$50 million annually;
- Requires that the U.S. Environmental Protection Agency (EPA) carries out studies examining topics including safe drinking water technologies and community needs; and
- Requires the EPA to facilitate sharing of information between stakeholders.

### **Leading Infrastructure For Tomorrow's America (LIFT) Act, H.R. 1848**

The [Leading Infrastructure For Tomorrow's America \(LIFT\) Act, H.R. 1848](#) was introduced by all 32 Democratic members of the House Committee on Energy & Commerce in March 2021 and [had a legislative hearing](#) on it shortly after introduction. In the House, drinking water is under the jurisdiction of the House Committee on Energy & Commerce. The bill aims to modernize the nation's infrastructure and combat climate change and awaits a Committee markup. It includes the following drinking water provisions:

- Authorizes \$2.5 billion over five years for grants to combat PFAS contamination and directs the EPA to create a list of eligible treatment technologies that can remove all detectable amounts of PFAS from drinking water;
- Authorizes \$23.6 billion over five years for drinking water programs, including the DWSRF program; and

- Authorizes \$4.5 billion over five years to replace lead service lines, with priority for replacing lines in disadvantaged and environmental justice communities.

### **Water Quality Protection & Job Creation Act of 2021, H.R. 1915**

[ASCE has endorsed](#) the [Water Quality Protection & Job Creation Act of 2021, H.R. 1915](#), a bipartisan bill that was introduced in March 2021 by Rep. DeFazio (D-OR), Rep. Napolitano (D-CA), Rep. Fitzpatrick (R-PA). In the House, wastewater is under jurisdiction of the Committee on Transportation & Infrastructure. ASCE believes passage and implementation of this bill would help raise the nation’s “D+” [wastewater](#) grade. The bill authorizes \$50 billion in wastewater and stormwater infrastructure funding over five years and awaits a Committee markup. The bill:

- Reauthorizes the Clean Water State Revolving Fund (CWSRF) for \$40 billion over five years;
- Authorizes an additional \$2 billion for grants to municipalities to capture, treat, or reuse sewer overflows or stormwater;
- Authorizes \$2.5 billion in grants for States to implement State water pollution control programs;
- Provides \$1 billion for Clean Water pilot programs for watershed-based efforts to address wet weather discharges, to promote stormwater best practices, to undertake integrated water resource management, and to increase climate resiliency;
- Authorizes \$1 billion in grants for alternative water source projects, such as wastewater or stormwater reuse, to augment the existing water supplies;
- Provides \$1 billion in Clean Water Act grants to municipalities to implement treatment standards for PFAS and other emerging contaminants; and
- Provides \$2.5 billion in wastewater infrastructure assistance to address the backlog of critical needs for Indian Tribes.

### **Wastewater Infrastructure Improvement Act of 2021**

In May 2021, three Republican members of the House Committee on Transportation & Infrastructure, Rep. Rouzer (R-NC), Rep. Young (R-AK), and Rep. Graves (R-MO), introduced the [Wastewater Infrastructure Improvement Act of 2021](#). The bill awaits a markup by the full Committee. This legislation:

- Reauthorizes the Clean Water State Revolving Fund (CWSRF) program at \$14 billion over five years;
- Requires the EPA to issues a report to Congress on the current and future workforce needs of the wastewater sector;
- Reauthorizes Section 106 of the Clean Water Act for implementing state water quality improvement programs;
- Authorizes a new grant eligibility for public wastewater utilities to assess and address future risks posed by manmade or natural disasters;
- Expands the types of projects eligible for funding for pilot programs for alternative water source projects;
- Extends the National Pollutant Discharge Elimination System (NPDES) permits from 5 years to 10 years; and
- Authorizes EPA grants for planning, design, and construction of sewer overflow and stormwater management projects.

## **Background**

### **Clean Water and Drinking Water Infrastructure Systems**

Well-maintained public drinking water and wastewater infrastructure systems are critical for public health, strong businesses, and clean waters and aquifers, yet ASCE's *2021 Infrastructure Report Card* gave the nation's [drinking water infrastructure](#) a grade of "C-," while [wastewater infrastructure](#) received a grade of "D+." [Stormwater](#) was evaluated for the first time in the 2021 Report Card and debuted at a dismal "D."

Despite increased efficiency methods and sustainable practices, there is a growing gap between the capital needed to maintain wastewater and drinking water infrastructure and the actual investments that are made. By 2039, the disparity between needed and anticipated funding for drinking water and wastewater systems will be \$81 billion. If these trends continue, the funding gap will only widen, resulting in leaking pipes, source water pollution, and increases in the cost of O&M. America's drinking water, wastewater, and stormwater infrastructure provide a critical service, and it is crucial that sustained, significant, and strategic investments from all levels of government and the private sector are made to meet the growing demand.

### **ASCE Position**

#### **Lead in Drinking Water**

[ASCE supports](#) funding programs that will help utilities address lead in drinking water. Many of our nation's cities contain lead lines, and it is widely recognized that any level of exposure to lead can have detrimental health impacts. Last year, ASCE [submitted public comments](#) to the EPA's proposed Lead & Copper rule, which includes a recommendation that Congress identify new funding streams such as the ones created under the American Jobs Act and the LIFT Act, H.R. 1848.

### **Drinking Water and Clean Water State Revolving Fund Programs (CWSRF and DWSRF)**

The CWSRF and the DWSRF play a vital role in providing states and localities with a critical source of funding for water infrastructure projects through low-interest loans since their original authorizations in 1987 and 1996, respectively. These programs provide low-interest loans for drinking, wastewater, and stormwater projects. States, in turn, must provide a 20% match, and each state is able to make funding decisions based on its unique environmental and economic priorities. The repayment of the loan's principal and interest earnings are then recycled back into the individual state CWSRF or DWSRF program to fund new projects, allowing the fund to "revolve" at the state level over time. [In our letters to congressional appropriations with our FY22 requests](#), we urged the House and Senate Appropriations Committees to renew the federal government's commitment to drinking water and wastewater by tripling the amount of annual appropriations so that the CWSRF receives \$5 billion and the DWSRF receives \$3.3 billion. ASCE supports the efforts being made in the above bills to increase the amount of funding for these critical programs.

### **Water Infrastructure Finance & Innovation Act (WIFIA) Program**

In 2014, Congress authorized WIFIA (P.L. 113 – 121, Sec. 5021), a new mechanism to primarily fund large water infrastructure projects over \$20 million. This program offers the sponsors of large projects a new

tool to leverage limited federal resources, stimulate additional investment in our nation's infrastructure, and encourage greater private sector participation in meeting the nation's clean water needs. The EPA estimates that a \$20 billion annual level of appropriations will result in approximately \$1 billion in loans supporting approximately \$2 billion in drinking water and wastewater infrastructure investments. As of 2019, prospective borrowers have submitted letters of interest for 156 projects, requesting over \$21 billion in WIFIA loans, including \$3.9 billion in requests for drinking water projects. Recognizing the program's success, Congress doubled the program's funding in FY20 compared to FY17. The additional support increased the program's lending capacity from \$2.5 billion in 2017 to \$6 billion in 2019. [In our letters to Congressional appropriators with our FY22 requests](#), we asked the House and Senate Appropriations Committees to provide no less than the FY21 enacted level of \$63 million, which is higher than the \$50 million authorization in the Drinking Water and Wastewater Infrastructure Act of 2021, S. 914.

### **Per-and Polyfluoroalkyl Substances (PFAS)**

ASCE supports the inclusion of funding in the American Jobs Act, the LIFT Act, and the Water Quality Protection & Job Creation Act to address PFAS in drinking water. The Society [supports](#) continued research on emerging pathogens and pollutants and into improved methods governing the disinfection of drinking water to protect public health from any harmful byproducts. In 2019, ASCE [submitted public comments](#) to the EPA's draft interim recommendations to address groundwater contaminated with PFAS.

### **Further Action**

While the Senate has passed S. 914, the Drinking Water and Wastewater Infrastructure Act of 2021, we await action in the House on its suite of wastewater and drinking water bills – both through the appropriate committee markups, and then ultimately by receiving votes on the House floor. We anticipate the bipartisan H.R. 1915, the Water Quality Protection & Job Creation Act, to receive a House Committee on Transportation & Infrastructure markup in the near future, while the House Republican's Wastewater Infrastructure Improvements Act of 2021, has a lower chance of success. Meanwhile, the partisan LIFT Act could see certain provisions included in a broader infrastructure package, but likely will not move as a standalone bill. However, if the House does pass H.R. 1915 as a standalone bill, it could conference that water bill with the Senate's bill. Since the Senate bill already includes language on the DWSRF, House negotiators could rely on language in the LIFT Act related to the DWSRF as their initial counter offer.

The upcoming weeks and months will be critical as Congress debates these individual drinking water and wastewater bills, as well as a potential larger infrastructure package. ASCE looks forward to working with both the Administration and Members of Congress on this critical issue.

*For questions, please contact the ASCE Government Relations team.*

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