111TH CONGRESS
2D SESSION

S. _____

To amend the Safe Drinking Water Act to prevent the enforcement of certain national primary drinking water regulations unless sufficient funding is available.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Safe Drinking Water Act to prevent the enforcement of certain national primary drinking water regulations unless sufficient funding is available.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small System Safe Drinking Water Act of 2010''.

SEC. 2. COMPLIANCE AND ENFORCEMENT.

(a) GUIDANCE.—Section 1412(b)(4)(E) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)(4)(E)) is amended by adding at the end the following:

"(vi) GUIDANCE.—As soon as practicable after the date of enactment of this clause, the Administrator shall—

"(I) convene a working group composed of representatives from States, small publicly owned water systems, and treatment manufacturers, which shall, not later than 180 days after the date of enactment of this clause, conduct a study of, and submit to Congress a report on, barriers to the use of point-of-use and point-of-entry treatment units, package plants (including water bottled by the public water system), and modular units;

"(II) develop a model guidance document based on recommendations received from the working group under subclause (I) and similar State guidance documents for distribution to States to assist States in regulating and promoting the treatment options described in subclause (I); and

"(III) distribute to small water systems—

"(aa) the model guidance document developed under subclause (II); and

"(bb) such other information relating to the treatment options described in subclause (I) as the Administrator considers to be appropriate.".

(b) ENFORCEMENT OF NATIONAL PRIMARY DRINKING WATER REGULATIONS.—

(1) VARIANCE TECHNOLOGIES.—Section 1412(b)(15)(A) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)(15)(A)) is amended—

(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting appropriately;

(B) by striking "(A) IN GENERAL.—At the" and inserting the following:

"(A) TECHNOLOGIES.—

"(i) IN GENERAL.—At the"; and

(C) by adding after the matter following subparagraph (A)(i)(III) (as redesignated by subparagraph (A)) the following:

"(ii) AFFORDABILITY.—In establishing affordability criteria under this subparagraph, the Administrator shall—

"(I) in determining whether a treatment technology or treatment technique is affordable, include consideration of costs associated with complying with all relevant regulations promulgated in accordance with this Act and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) with which a municipality or small public water system may be required to comply;

"(II) give extra weight to households the total income of which is below the poverty level, and to communities that meet the affordability criteria of a State established in accordance with section 1452(b)(3)(A)(iii), as determined by the Administrator; and

"(III) ensure that the affordability criteria are not more costly, on a per-capita basis, to a small public

water system than the cost, on a per-capita basis, to a large water system of acquiring feasible technology described in paragraph (4).''.

(2) STATE REVOLVING LOAN FUNDS.—Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) is amended—

(A) by redesignating subsections (n), (o), (p), (q), and (r) as subsection (o), (p), (q), (r), and (s) respectively; and

(B) by inserting after subsection (m) the following:

''(n) ENFORCEMENT.—Before initiating any enforcement action, the Administrator or the State shall ensure that sufficient funds have been made available under this title to assist each public water system that serves fewer than 10,000 individuals in meeting requirements under the regulation.''.

(c) RENEWAL OF EXEMPTION.—Section 1416(b)(2) of the Safe Drinking Water Act (42 U.S.C. 300g–5(b)(2)) is amended by striking subparagraph (C) and inserting the following:

''(C) In the case of a system that does not serve more than a population of 10,000 and that needs financial assistance for the necessary

improvements, an exemption granted under clause (i) or (ii) of subparagraph (B) may be renewed for such period as the State determines to be appropriate, if the system establishes that it is taking all practicable steps to meet the requirements of subparagraph (B).''.

(d) RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, AND TRAINING OF PERSONNEL.—Section 1442 of the Safe Drinking Water Act (42 U.S.C. 300j–1) is amended—

(1) in subsection (e)—

(A) in the first sentence, by striking ''The Administrator'' and inserting the following:

''(1) IN GENERAL.—The Administrator'';

(B) in the second sentence, by striking ''Such assistance'' and inserting the following:

''(2) TYPES OF ASSISTANCE.—Assistance provided under paragraph (1)'';

(C) in the third sentence, by striking ''The Administrator'' and inserting the following:

''(3) AVAILABILITY OF ASSISTANCE.—The Administrator'';

(D) in the fourth sentence, by striking ''Each nonprofit'' and inserting the following:

''(4) CONSULTATION WITH STATE.—Each nonprofit''; and

(E) by striking the fifth sentence and all that follows through the end of the subsection and inserting the following:

''(5) ASSISTANCE IN COMPLYING WITH RULES.—The Administrator shall ensure, to the maximum extent practicable, that each water system serving fewer than 10,000 individuals that is required to comply with Federal drinking water rules receives adequate technical assistance and training to meet the requirements of those final rules, including through assistance to be provided by qualified nonprofit associations with expertise in public water systems.

''(6) PRIORITY.—The Administrator shall give priority for assistance under this section to water systems that, as of the date of enactment of this paragraph, are not in compliance with, as determined by the Administrator—

''(A) the final rule entitled 'Disinfectants and Disinfection Byproducts' and published by the Administrator on December 16, 1998 (63 Fed. Reg. 69390);

''(B) the final rule entitled 'Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring' and published by the Administrator on January 22, 2001 (66 Fed. Reg. 6976);

''(C) the final rule entitled 'Stage 2 Disinfectants and Disinfection Byproducts Rule' and published by the Administrator on January 4, 2006 (71 Fed. Reg. 388); and

''(D) the final rule entitled 'Ground Water Rule' and published by the Administrator on November 8, 2006 (71 Fed. Reg. 65574).

''(7) ENFORCEMENT ACTION.—Before initiating any enforcement action, the Administrator or the State shall ensure that sufficient funds have been made available under this title to assist each public water system that serves fewer than 10,000 individuals in meeting requirements under the regulation.''; and

(2) by adding at the end the following:

''(f) RESEARCH AND DEVELOPMENT PILOT PROJECTS.—

''(1) IN GENERAL.—The Administrator shall establish a research pilot program (referred to in this subsection as the 'program') to explore new tech-

nologies or approaches that public water systems may use to comply with a public drinking water standard promulgated under this Act.

''(2) RESPONSIBILITIES OF ADMINISTRATOR.—In carrying out this subsection, the Administrator shall—

''(A) establish an application process that includes criteria that may be used to assess water systems applying for participation in the program;

''(B) based on applications received under subparagraph (A), select 20 communities with various populations and water sources in different regions of the United States for participation in the program;

''(C) fund projects that develop or implement new technologies or approaches for implementation of Federal drinking water standards; and

''(D) coordinate projects with the Arsenic Water Technology Partnership program of the Department of Energy.

''(3) TECHNOLOGY TRANSFER AND DISINFECTION STRATEGIES.—The Administrator shall carry out a pilot program to conduct research into tech-

nology transfer issues and disinfection strategies relating to drinking water, including risks associated with the migration to chloramines for the purpose of water disinfection.

''(4) FUNDING.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection and subsection (e) $15,000,000 for each of fiscal years 2010 through 2014.

''(B) LOBBYING EXPENSES.—No portion of any State revolving loan fund established under section 1452, and no portion of any funds made available under this subsection, may be used for lobbying expenses.

''(C) TRIBAL ASSISTANCE.—Of the amount made available under subparagraph (A) for a fiscal year, at least 3 percent shall be used for technical assistance to public water systems owned or operated by Indian Tribes.''.