

GRASSROOTS RURAL AND SMALL COMMUNITY WATER
 SYSTEMS ASSISTANCE ACT

NOVEMBER 19, 2015.—Committed to the Committee of the Whole House on the
 State of the Union and ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce,
 submitted the following

R E P O R T

[To accompany S. 611]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred
 the bill (S. 611) to amend the Safe Drinking Water Act to reauthor-
 ize technical assistance to small public water systems, and for
 other purposes, having considered the same, report favorably there-
 on without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of S. 611 is to amend the Safe Drinking Water Act to reauthorize technical assistance to small public water systems, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

According to the Census Bureau, approximately twenty-seven percent of the U.S. population lives in a rural area.¹ The smallest water systems (serving fewer than 3,300 persons, many serving small clusters of homes) account for seventy-seven percent of all systems and have a similarly high percentage of systems in significant noncompliance with drinking water regulations.²

Many of these smaller and rural communities—with populations of 10,000 or less—face significant challenges in maintaining, replacing, or upgrading aging and obsolete drinking water and wastewater infrastructure.³ Unlike water systems in larger urban markets, these same small and rural communities do not have the rate base to fund the cost of some projects and still maintain affordable rates. Many small and rural communities have limited access to financial markets, restricting their ability to issue bonds to raise capital.⁴ As a result, these communities depend heavily on Federal and State grants and subsidized loan programs to finance their needs.

A major source of financial stress for small and rural drinking water supply systems is compliance with a number of drinking water regulations issued by the Environmental Protection Agency (EPA) under the Safe Drinking Water Act (SDWA), including system monitoring, treatment to remove certain contaminants, and reporting. While EPA estimates that regulatory compliance will protect the health of millions of people, these communities may need technical assistance to help find the most cost-effective way to meet these new standards. In addition, financial constraints on small and rural public water systems make repair and replacement of equipment challenging. Technical assistance enables small public water systems to identify affordable repair and replacement options for their systems.

Since many small and rural public water systems lack the resources or access to certain technical professionals, SDWA section 1442(e) provides EPA authority to provide technical assistance to “small public water systems” to enable these systems to achieve and maintain compliance with applicable Federal drinking water regulations and to help small public water systems respond to environmental stressors, including through “circuit-rider and multi-state regional technical assistance programs, training, and preliminary engineering evaluations.” As an example, in 2012 the Government Accountability Office found that preparing additional engineering reports could cost from \$5,000 to \$50,000 and that the cost

¹ <http://www.crs.gov/pages/Reports.aspx?PRODCODE=98-64&Source=search>.

² Id.

³ http://gao.gov/products/GAO-13-279SP#mt=e-report&f=/ereport/GAO-13-279SP/data_center/Science_and_the_environment/14._Rural_Water_Infrastructure&f=0.

⁴ Id.

of a typical environmental analysis could add as little as \$500 to a community's costs or as much as \$15,000.⁵

HEARINGS

The Subcommittee on Environment and the Economy held a hearing on S. 611 on October 22, 2015. The Subcommittee received testimony from:

- Kirby Mayfield, Executive Director, Mississippi Rural Water Association, on behalf of the National Rural Water Association;
- Robert B. Stewart, Executive Director, Rural Community Assistance Partnership, Inc.; and
- The U.S. Environmental Protection Agency (EPAs testimony was submitted in writing for the hearing record).

COMMITTEE CONSIDERATION

On Wednesday, October 28, 2015, the Subcommittee on Environment and the Economy met in open markup session and forwarded S. 611 to the full Committee, without amendment, by a voice vote. On November 17 and 18, 2015, the full Committee on Energy and Commerce met in open markup session and ordered S. 611 reported to the House, without amendment, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering S. 611 reported.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Subcommittee on Environment and the Economy held hearings on February 27, 2015 and October 22, 2015, and made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goals and objectives of S. 611 are to amend the Safe Drinking Water Act to reauthorize technical assistance to small public water systems, and for other purposes.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that S. 611, would result in no new or limited increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that S.

⁵ http://gao.gov/products/GAO-13-279SP#mt=e-report&f=/ereport/GAO-13-279SP/data_center/Science_and_the_environment/14._Rural_Water_Infrastructure&ft=1.

611 contains no earmarks, limited tax benefits, or limited tariff benefits.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available. However, a cost estimate was prepared for S. 611, as ordered reported by the Senate Committee on Environment and Public Works on April 29, 2015, and is provided below. The bill, as ordered reported by the House Committee on Energy and Commerce on November 19, 2015, has not been amended since the April 29 cost estimate.

S. 611—Grassroots Rural and Small Community Water Systems Assistance Act

Summary: S. 611 would authorize the appropriation of \$15 million annually over the 2016–2020 period for the Environmental Protection Agency’s program that provides technical assistance to small public water systems. The authorization for this program expired in 2003, but the program received an appropriation of \$13 million for fiscal year 2015. CBO estimates that implementing S. 611 would cost \$67 million over the next five years, assuming appropriation of the authorized amounts. Pay-as-you-go procedures do not apply to S. 611 because it would not affect direct spending or revenues.

S. 611 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 611 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	15	15	15	15	15	75
Estimated Outlays	8	14	15	15	15	67

Basis of estimate: For this estimate, CBO assumes that S. 611 will be enacted by the end of fiscal year 2015, that the specified amounts will be appropriated in each year starting in 2016, and that outlays will follow historical spending patterns for the technical assistance program. The legislation would authorize funding for nonprofit organizations to help small public water systems achieve and maintain compliance with national regulations and to support training and engineering evaluations of those water systems.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: S. 611 contains no intergovernmental or private-sector mandates as defined in UMRA. Activities authorized in the bill would assist public water systems to comply with national standards for primary drinking water.

Estimate prepared by: Federal costs: Susanne S. Mehlman; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: Theresa Gullo, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

DUPLICATION OF FEDERAL PROGRAMS

No provision of S. 611 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting S. 611 does not direct any rule makings within the meaning of 5 U.S.C. 551 to be completed.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that the Act may be cited as the Grassroots Rural and Small Community Water Systems Assistance Act.

Section 2. Findings

This section establishes findings related to the Safe Drinking Water Act's technical assistance program, including its positive impact on helping ease the burden of Federal requirements and responding to emergency situations in small and rural communities.

Section 3. Sense of Congress

This section states that it is the sense of Congress that the EPA should prioritize the types of technical assistance that are most

beneficial to the small and rural communities being served and that local support is key to successful assistance initiatives.

Section 4. Funding priorities

This section would amend SDWA section 1442(e) (42 U.S.C. 300j-1(e)) to reauthorize the EPA's program providing technical assistance to small public water systems.

Specifically, section 4(1) restructures SDWA section 1442(e) by making each sentence in the subsection into its own paragraph.

Next, section 4(2) maintains the existing statutory authorization in SDWA section 1442(e) of \$15 million annually (including three percent for technical assistance to public water systems owned or operated by Indian Tribes), but changes the new SDWA section 1442(e)(5) to cover funding for fiscal year 2015 through fiscal year 2020.

Finally, section 4(3) adds at the end of section 1442(e) a new paragraph (8), containing three subparagraphs.

First, new SDWA section 1442(e)(8)(A) authorizes EPA to use funding for SDWA section 1442 to provide grants or cooperative agreements to non-profit organizations to provide technical assistance under SDWA to small public water systems to help these systems achieve and maintain compliance with national primary drinking water regulations. In addition, this subparagraph clarifies that non-profit entities eligible for these grants or cooperative agreements provide small public water systems onsite technical assistance, circuit-rider technical assistance programs, onsite and regional training, assistance with implementing source water protection plans, and assistance with implementing monitoring plans, rules, regulations, and water security enhancements.

While the Committee recognizes that the purpose of SDWA section 1442(e) is to provide technical assistance under SDWA to small public water systems to help these systems achieve and maintain compliance with national primary drinking water regulations, it also understands that the list is not limited by concern addressed, but by the requirement that the activity be tied to achieving and maintaining a system's viability in providing safe drinking water. The Committee envisions that a range of technical assistance could be provided to small public water systems to help them address challenges that these systems experience, such as source water protection, system monitoring and efficiency, sustainability, and water security.

Second, new SDWA section 1442(e)(8)(B) requires preference in awarding grants to the non-profits identified in new SDWA section 1442(e)(8)(B) that the Administrator determines are most qualified and experienced in providing training and technical assistance to small public water systems and that small public water systems find most beneficial and effective. While effectiveness and expertise are not explicit statutory requirements for making a grant under S. 611, the Committee expects that the Agency will continue to make these a consideration in providing funding to non-profits that provide technical assistance. In addition, the Committee does not intend S. 611 to require EPA to conduct national surveys to determine which non-profits are most qualified and experienced and that small public water systems find most beneficial and effective. Instead, the Committee prefers that the Agency minimize the Ad-

ministrative burden on itself, the non-profits, and the eligible small and rural water public water systems in meeting the requirements of the law.

Last, new SDWA section 1442(e)(8)(C) prohibits grants and cooperative agreements awarded under SDWA section 1442(e) from being used to bring a citizen suit under SDWA.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

SAFE DRINKING WATER ACT

TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

SHORT TITLE

SEC. 1400. This title may be cited as the “Safe Drinking Water Act”.

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PART E—GENERAL PROVISIONS

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RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

SEC. 1442. (a)(1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

(B) improved methods to identify and measure the health effects of contaminants in drinking water;

(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

(E) improved methods of protecting underground water sources of public water systems from contamination.

(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this title, the Administrator is authorized to—

(A) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water, together with appropriate recommendations in connection with the information; and

(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this title.

(3) The Administrator shall carry out a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water, contamination of such sources by other substances known or suspected to be harmful to public health, the effects of such contamination, and means of removing, treating, or otherwise controlling such contamination. To assist in carrying out this paragraph, the Administrator is authorized to make grants to public agencies and private nonprofit institutions.

(4) The Administrator shall conduct a survey and study of—

(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

(B) means of control of such waste disposal.

Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after the date of enactment of this title, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

(10) The Administrator shall carry out a study of the reaction of chlorine and humic acids and the effects of the contaminants

which result from such reaction on public health and on the safety of drinking water, including any carcinogenic effect.

(b) The Administrator is authorized to provide technical assistance and to make grants to States, or publicly owned water systems to assist in responding to and alleviating any emergency situation affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. Grants provided under this subsection shall be used only to support those actions which (i) are necessary for preventing, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subparagraph as part of, and in accordance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagraph.

(c) The Administrator shall—

(1) provide training for, and make grants for training (including postgraduate training) of (A) personnel of State agencies which have primary enforcement responsibility and of agencies or units of local government to which enforcement responsibilities have been delegated by the State, and (B) personnel who manage or operate public water systems, and

(2) make grants for postgraduate training of individuals (including grants to educational institutions for traineeships) for purposes of qualifying such individuals to work as personnel referred to in paragraph (1).

Reasonable fees may be charged for training provided under paragraph (1)(B) to persons other than personnel of State or local agencies but such training shall be provided to personnel of State or local agencies without charge.

(d) There are authorized to be appropriated to carry out subsection (b) not more than \$35,000,000 for the fiscal year 2002 and such sums as may be necessary for each fiscal year thereafter.

(e) TECHNICAL ASSISTANCE.—(1) The Administrator may provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with applicable national primary drinking water regulations. (2) Such assistance may include circuit-rider and multi-State regional technical assistance programs, training, and preliminary engineering evaluations. (3) The Administrator shall ensure that technical assistance pursuant to this subsection is available in each State. (4) Each nonprofit organization receiving assistance under this subsection shall consult with the State in which the assistance is to be expended or otherwise made available before using assistance to undertake activities to carry out this subsection. (5) There are authorized to be appropriated to the Administrator to be used for such technical assistance \$15,000,000 for each of the fiscal years [1997 through 2003] 2015 through 2020. (6) No portion of any State loan fund established under section 1452 (relating to State loan funds) and no portion of any funds made available under this subsection may be used for lobbying expenses. (7) Of the total amount appropriated

under this subsection, 3 percent shall be used for technical assistance to public water systems owned or operated by Indian Tribes.

(8) NONPROFIT ORGANIZATIONS.—

(A) IN GENERAL.—The Administrator may use amounts made available to carry out this section to provide grants or cooperative agreements to nonprofit organizations that provide to small public water systems onsite technical assistance, circuit-rider technical assistance programs, multistate, regional technical assistance programs, onsite and regional training, assistance with implementing source water protection plans, and assistance with implementing monitoring plans, rules, regulations, and water security enhancements.

(B) PREFERENCE.—To ensure that technical assistance funding is used in a manner that is most beneficial to the small and rural communities of a State, the Administrator shall give preference under this paragraph to nonprofit organizations that, as determined by the Administrator, are the most qualified and experienced in providing training and technical assistance to small public water systems and that the small community water systems in that State find to be the most beneficial and effective.

(C) LIMITATION.—No grant or cooperative agreement provided or otherwise made available under this section may be used for litigation pursuant to section 1449.

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