

## S 1005

### Water Infrastructure Financing Act

**Congress:** 111 (2009–2011, Ended)

**Chamber:** Senate

**Policy Area:** Environmental Protection

**Introduced:** May 7, 2009

**Current Status:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 109.

**Latest Action:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 109. (Jul 15, 2009)

**Official Text:** <https://www.congress.gov/bill/111th-congress/senate-bill/1005>

## Sponsor

**Name:** Sen. Cardin, Benjamin L. [D-MD]

**Party:** Democratic • **State:** MD • **Chamber:** Senate

## Cosponsors (6 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Boxer, Barbara [D-CA]	D · CA		May 7, 2009
Sen. Crapo, Mike [R-ID]	R · ID		May 7, 2009
Sen. Inhofe, James M. [R-OK]	R · OK		May 7, 2009
Sen. Feinstein, Dianne [D-CA]	D · CA		Jul 24, 2009
Sen. Mikulski, Barbara A. [D-MD]	D · MD		Jan 20, 2010
Sen. Sanders, Bernard [I-VT]	I · VT		Jun 21, 2010

## Committee Activity

Committee	Chamber	Activity	Date
Environment and Public Works Committee	Senate	Reported By	Jul 16, 2009

## Subjects & Policy Tags

### Policy Area:

Environmental Protection

## Related Bills

No related bills are listed.

Water Infrastructure Financing Act - Reauthorizes the Clean Water Act State Revolving Fund (SRF) and the Safe Drinking Water Act SRF.

**Title I: Water Pollution Infrastructure** - (Sec. 101) Amends the Federal Water Pollution Control Act (commonly known as the Clean Water Act [CWA]) to authorize the Administrator of the Environmental Protection Agency (EPA) to establish a competitive grant program to provide technical assistance to small and medium treatment works on wastewater and stormwater approaches. Authorizes appropriations for FY2010-FY2014.

Directs the Administrator to assist states in establishing simplified procedures for small systems (a system that serves a population of not more than 10,000 individuals) seeking technical assistance.

(Sec. 102) Directs the Administrator to ensure that each laborer and mechanic employed by contractors and subcontractors on construction projects financed by financial assistance provided under the CWA revolving funds are paid in accordance with prevailing wage rates as determined under the Davis-Bacon Act.

(Sec. 103) Expands the list of projects eligible for CWA SRF assistance.

(Sec. 104) Authorizes states to extend the repayment period for a CWA SRF loan from the current limit of 20 years to the lesser of 30 years or the design life of the project to be financed with the proceeds. Increases the state's allowable administrative costs.

Authorizes states to provide additional assistance, including loan forgiveness and loans with a negative interest, to disadvantaged communities (defined as communities with treatment works service areas or portions thereof that meet state affordability criteria). Limits the total loan subsidy to not more than 30% of the state's capitalization grant for the fiscal year. Authorizes the Administrator to publish information to assist states in establishing affordability criteria for purposes of identifying disadvantaged communities. Authorizes states, in providing a loan for a project, to forgive repayment of a portion of the loan amount up to the percentage of the project that is devoted to alternative approaches to wastewater and stormwater controls.

(Sec. 105) Sets forth a system for prioritizing projects eligible for CWA SRF assistance that requires states to: (1) take into consideration appropriate chemical, physical, and biological data relating to water quality; (2) ensure that funded projects are designed to achieve optimum water quality management; (3) provide for public notice and opportunity to comment on priority projects; and (4) provide biennially for the publication of summary descriptions of eligible projects.

Requires states to give greater weight to an application for assistance that contains: (1) utility management best practices; (2) approaches, other than a traditional wastewater approach, that treat or minimize sewage or urban stormwater discharges; (3) a demonstration of consistency with watershed plans, water conservation and efficiency plans, and integrated water resource management plans; (4) a proposal that demonstrates flexibility through alternative means to implement responsibilities; or (5) projects that address adverse environmental conditions.

(Sec. 106) Authorizes the governor of a state to: (1) reserve up to the greater of 33% of a CWA capitalization grant or 33% of a Safe Drinking Water Act (SDWA) capitalization grant; (2) add such reserved funds to any funds provided by an SDWA capitalization grant; (3) reserve for any year up to that amount from SDWA capitalization grants; and (4) add such reserved funds to any CWA funds provided to the state.

(Sec. 107) Denies assistance to the owner or operator of a publicly-owned treatment works that has been in significant noncompliance with CWA requirements.

(Sec. 108) Requires contracts that will be carried out using funds directly made available by a CWA capitalization grant for communities with populations of more than 10,000 individuals for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural or related services to be negotiated in the same manner as contracts for architectural and engineering services for public buildings or an equivalent state qualification-based requirement.

(Sec. 109) Provides for the allocation of federal funds to CWA SRFs for FY2010-FY2014. Requires the Administrator to allocate 1.5% of funding to Indian tribes.

(Sec. 110) Authorizes appropriations for CWA SRFs for FY2010-FY2014. Reserves specified funds for conducting needs surveys required by CWA.

(Sec. 111) Makes funded sewer overflow control grant projects subject to the same requirements as a project that receives assistance from a CWA SRF. Authorizes appropriations for such grants for FY2010-FY2014. Requires the Administrator, in selecting municipalities applying for grants, to give additional priority to projects that involve the use of: (1) nonstructural, low-impact development; (2) water conservation, efficiency, or reuse, or (3) other decentralized stormwater or wastewater approaches to minimize flows into the sewer system. Requires the Administrator to provide grants in accordance with a needs survey of treatment works constructed with funds from such grants.

(Sec. 112) Requires the Administrator to establish a grant program for watershed restoration through the protection or improvement of water quality. Sets forth criteria for project selection, distribution of funding, and cost sharing. Authorizes appropriations for FY2010-FY2014.

**Title II: Safe Drinking Water Infrastructure** - (Sec. 201) Amends the SDWA to require the Administrator, in providing technical assistance to small public water systems to achieve and maintain compliance with primary drinking water regulations, to give priority to small system organizations that are qualified and will be the most effective at assisting small systems. Requires the Administrator to provide grants to nonprofit organizations to provide technical assistance to communities and individuals regarding the design, operation, construction, and maintenance of household wells and small shared well-systems that provide drinking water. Authorizes appropriations for such grants for FY2010-FY2014.

(Sec. 202) Directs the Administrator to ensure that each laborer and mechanic employed by contractors and subcontractors on construction projects financed by SDWA SRFs are paid in accordance with prevailing wage rates as determined under the Davis-Bacon Act.

(Sec. 203) Permits the use of SDWA SRFs for: (1) planning, design, and preconstruction; and (2) replacement or rehabilitation of aging treatment, storage, or distribution facilities of public water systems or capital projects (excluding any expenditure for operations and maintenance) to upgrade the security of public water systems. Allows such funds to be used by a public water system as a source of revenue (restricted solely to interest earnings of the applicable fund) or security for payment of the principal and interest on revenue or general obligation bonds issued by the state to provide matching funds if the proceeds of the sale of the bonds will be deposited in the state loan fund.

(Sec. 204) Establishes a priority system for the use of such funds. Requires state intended use plans to provide that the state shall give greater weight to an application for assistance by a community water system that contains: (1) utility management best practices; (2) approaches, other than a traditional wastewater approach, that treat or minimize sewage

or urban stormwater discharges; (3) a demonstration of consistency with watershed plans; (4) a watershed conservation plan; and (5) approaches to improve the sustainability of the system.

Requires each state to update a list of SDWA SRF projects that are eligible for assistance at least biannually (currently, periodically).

(Sec. 205) Redefines "disadvantaged communities" for purposes of state subsidization to include portions of service areas of public water systems.

(Sec. 206) Revises requirements for SDWA SRFs to: (1) increase the state's allowable administrative costs; (2) eliminate matching fund requirements; (3) permit states to transfer up to 33% of funding into an SDWA SRF.

(Sec. 207) Allows the use of SDWA SRFs for implementation of source water protection plans.

(Sec. 208) Authorizes funding for FY2010-FY2014 for the capitalization of SDWA SRFs.

(Sec. 210) Requires the Administrator to establish a grant program to assist community water systems in meeting the requirements of the SDWA. Authorizes appropriations for FY2010-FY2014.

(Sec. 211) Requires the Administrator to establish a grant program to provide assistance to a community water system, a system located in an area governed by an Indian Tribe, a nontransient noncommunity water system, a qualified nonprofit organization, or a local government or state for projects that reduce the level of lead in water for human consumption by: (1) replacing publicly owned lead service lines; (2) testing, planning, or conducting other relevant activities to identify and address conditions (including corrosion control) that contribute to increased lead levels in water for human consumption; (3) providing assistance to low-income homeowners to replace privately owned service lines, pipes, fittings, or fixtures that contain lead; and (4) providing consumer education regarding measures to reduce exposure to lead from drinking water or other sources.

Requires entities to: (1) notify customers of the replacement of any publicly owned portion of the lead service line; (2) offer to replace the privately owned portion of the lead service line at cost; (3) recommend measures to avoid exposure to short-term increases in lead levels following a partial lead service line replacement; and (4) demonstrate that the entity has considered multiple options for reducing lead in drinking water, including an evaluation of options for corrosion control.

**Title III: Miscellaneous** - (Sec. 302) Requires the Administrator to: (1) establish a grant program to provide grants to, and enter into contracts and cooperative agreements with, research institutions, institutions of higher education, National Laboratories, and other appropriate entities for research on, and development of the use of, innovative and alternative technologies to improve water quality, drinking water supply, or water use efficiency and conservation; (2) develop a strategic research plan for the grant program; (3) establish a nationwide demonstration grant program to promote innovations in technology and alternative approaches to water quality management or water supply or to reduce costs to municipalities of complying with the CWA and the SDWA; (4) facilitate the adoption of technologies and processes to promote water use efficiency and conservation; (5) collect and disseminate information regarding such technologies and processes; (6) report to specified congressional committees on the results of such demonstration program; and (7) enter into an arrangement with the National Academy of Sciences (NAS) to study innovative, effective, and systematic approaches for the management of water supply, wastewater, and stormwater. Authorizes appropriations for FY2010-FY2014. Authorizes the Administrator to provide extramural grants to institutions of higher education.

(Sec. 303) Directs the Administrator to provide capitalization grants to eligible states to establish an agricultural watershed sustainability technology state revolving fund. Requires states with a revolving fund to provide loans to agricultural producers to design and construct agricultural pollution control projects. Authorizes appropriations.

(Sec. 304) Requires the Administrator to: (1) identify and take necessary administrative actions to expedite and improve the application and review process for obtaining assistance from CWA and SDWA SRFs; and (2) evaluate, and submit recommendations to Congress to streamline and improve, the process used to develop and carry out the clean watershed needs survey.

(Sec. 305) Requires the Administrator to: (1) enter into an arrangement with NAS to study the means by which selected public water systems and treatment works meet the costs associated with operations, maintenance, capital replacement, and regulatory requirements; and (2) report to Congress and make the results of such study available to publicly-owned treatment works and public water systems for use in determining, on a voluntary basis, whether new approaches may be implemented. Authorizes appropriations for FY2010-FY2014.

(Sec. 306) Authorizes the Administrator to carry out training programs, provide technical assistance, and disseminate information regarding effective utility management strategies. Authorizes appropriations for FY2010-FY2014.

(Sec. 307) Establishes within EPA a WaterSense Program to identify and promote voluntary approaches to increase water efficiency in the United States to reduce the strain on water and wastewater infrastructure and conserve water resources for future generations through voluntary labeling, promotion, or other forms of communication regarding water efficient products, programs, processes, buildings, landscapes, facilities, and services that meet the highest water conservation and performance standards. Requires the Administrator to report on the program activities. Authorizes appropriations for FY2010-FY2014.

(Sec. 308) Requires the Administrator to offer to enter into an arrangement with NAS to study the presence of pharmaceuticals and personal care products in U.S. waters. Directs NAS to: (1) identify the sources of such products; and (2) evaluate the associated risks and the technical, economic, and legal feasibility of methods to control, limit, treat, or prevent such presence.

(Sec. 309) Requires the Administrator, for the purpose of updating the "Combined Sewer Overflows-Guidance for Financial Capability Assessment and Schedule Development," to: (1) collect and take into consideration information that can be used to assess the financial condition of permittees under the CWA; (2) consult with the affected states, municipalities, and other interested parties; and (3) conduct a public outreach process.

## **Actions Timeline**

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- **Jul 15, 2009:** Committee on Environment and Public Works. Reported by Senator Boxer with an amendment in the nature of a substitute. With written report No. 111-47. Additional views filed.
- **Jul 15, 2009:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 109.
- **May 14, 2009:** Committee on Environment and Public Works. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **May 7, 2009:** Introduced in Senate
- **May 7, 2009:** Read twice and referred to the Committee on Environment and Public Works.