DESCRIPTION OF THE WATER ASSISTANCE TRUST AND ENVIRONMENTAL RESTORATION (WATER) ACT

INTRODUCTION

On May 5th and July 15th, 2004, the Association of Metropolitan Sewage Agencies sponsored retreats to discuss ways to provide increased funding for the nation's water quality needs. Participants included representatives from national and regional resource management, conservation, and environmental organizations, as well as representatives from wastewater utilities and various infrastructure and utility-related associations.

After the July 15th meeting, AMSA developed a draft to serve as a focus for further discussion, in the hope that a broad range of groups could agree on legislation. During this process, the Water Infrastructure Network, especially its Legislative Committee, made important contributions. AMSA also worked with the Association of Metropolitan Water Agencies and the American Water Works Association to develop provisions important to the drinking water community.

On November 22, a draft bill was circulated to participants for comment. On December 2, a meeting was held to discuss the draft. Further written comments were invited, and many were received. This second draft incorporates many of the comments, as noted in the attached list of changes.

The bill continues to be an evolving project, subject to further review and modification.

SUMMARY

When Congress enacted the Water Pollution Control Act in 1972, it stated that "the lack of adequate funding of grants to assist States and localities in constructing sewage treatment plants is causing critical problems," and noted that "the need for Federal spending is rising rapidly." Similarly, when Congress amended the Safe Drinking Water Act in 1996, an important finding was that "the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements."

The necessary funding, however, has not been forthcoming. For example, many studies estimate a huge gap between our nation's water pollution control needs and the committed resources, with the Water Infrastructure Network estimating a gap of $23 billion a year over the next 20 years.

Facing similar gaps between needs and resources for critical national infrastructure, Congress has established trust funds supported by dedicated revenue sources. For example, Congress has established trust funds for transportation infrastructure ($35 billion/year) and airport infrastructure ($8 billion/year).

To address the dramatic and growing gap between needs and available funds, the Water Assistance Trust and Environmental Restoration Fund Act would make several important changes. First and foremost, it creates a new Water Assistance Trust and Environmental Restoration Fund, authorized at $45 billion over five years and funded largely from a dedicated revenue source. It also creates several new programs to address persistent problems, including grant programs to meet a wide range of water pollution and drinking water system needs; improvements in technology, management, and research; and increased attention to fisheries habitat.

TITLE I—WATER ASSISTANCE TRUST AND ENVIRONMENTAL RESTORATION FUND

To provide the funds necessary to meet water quality and drinking water safety needs, the bill creates the Water Assistance Trust and Environmental Restoration Fund, authorized at a total of $10 billion a year, or $50 billion for 2006-2010.

Trust Fund revenue comes from appropriations (assumed to provide a total of $10 billion over five years) and a fee of 6.6% on beverages ($25 billion). We are continuing to explore additional and alternative funding sources, including a clean and safe water restoration fee that applies to a broad range of activities.

Expenditures are made from the Trust Fund for the following purposes:

Clean Water Act Fund			
	Grants	$3.75 billion	
	Loans	$1.25 billion	
	Total		$5 billion
Safe Drinking Water Act Fund			
	Grants	$3 billion	
	Loans	$ 1 billion	
	Total		$4 billion
Technology Programs			
	Technology demo grants	$145 million	
	Utility Management	$ 5 million	
	Small/Rural Systems	$50 million	
	Research	$100 million	
	Total		$300 million
Fisheries Enhancement			$250 million
Nonpoint Source Controls (Section 319)			$200 million
Regional Programs			$250 million
TOTAL			$10 billion/year

TITLE II—AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT

Authorizations from the Water Assistance Trust and Environmental Restoration Fund

The bill amends the Clean Water Act to authorize the appropriation, from the new Water Assistance Trust and Environmental Restoration Fund, of funds for grants to state revolving funds under section 601 ($5 billion a year)[1] and for nonpoint source management program grants under section 319 ($200 million a year). To reduce the incentive to accumulate balances in the Trust Fund, the Fund is made "off-budget."

Expanded Eligibility/High Priority Water Pollution Control Projects

The bill clarifies and expands eligibility under the Clean Water Act SRF. Specifically, it amends section 603 to authorize the use of the SRF not only for the construction and rehabilitation of POTWs and for the nonpoint and estuary programs, but also for stormwater controls (including nonstructural controls), CSOs/SSOs, water conservation measures undertaken by public entities, the extension of sewer service to areas with failed septic systems, and water quality monitoring.

Further, to create an infusion of funding to address the most pressing water pollution control needs in each state, the bill provides that, each year, a state must use 75% of the funds that it receives under section 601 for grants for high priority water pollution control projects. A state has the flexibility to determine which projects eligible under section 603 will receive grants, pursuant to a public decision-making process. Grant recipients must provide a 35% match.

Program Improvements

The bill makes several improvements in the operation of the SRF program.

- The bill increases funding for state administration by allowing a state to recover state revolving loan funds to the extent of the greater of ½ percent of the current valuation of the fund or $400,000 (currently, States can use 4% of the amount of grants awarded to the fund).

- The bill requires that all engineering and architecture contracts be awarded in compliance with the Brooks Act, (Public Law 92-582), which establishes the procurement process by which architects and engineers are selected for design contracts with federal agencies.

[1] Under section 513 of the Clean Water Act, the labor standards of the Davis-Bacon Act would apply to projects undertaken pursuant to the new high priority projects grant program.

- The bill authorizes states to provide additional forms of financial assistance, including extended repayment periods, principal subsidization, and loan guarantees.

Critical Regional Waters

The bill provides an authorization of $250 million, from the Trust Fund, for the funding of programs to restore and protect four critical regional waters--Chesapeake Bay, the Great Lakes, Long Island Sound, and the Gulf of Mexico (through the Hypoxia Action Plan). The EPA Administrator has the flexibility to allocate funding among the programs and also can allocate funding to other programs that will restore and protect critical regional waters.

TITLE III—AMENDMENTS TO THE SAFE DRINKING WATER ACT

Authorizations from the Water Assistance Trust and Environmental Restoration Fund

The bill authorizes the appropriation of $4 billion a year, from the Trust Fund, for grants to states under section 1452 of the Safe Drinking Water Act.

Eligibility/High Priority Drinking Water Safety Projects

The bill makes several additional activities eligible for assistance under the Safe Drinking Water Act SRF: replacing aging transmission and distribution systems, making security improvements, rehabilitating and constructing storage facilities, developing alternative drinking water supplies, undertaking water conservation projects, and replacing lead service lines. [2]

Further, to create an infusion of funding to address the most pressing drinking water safety needs in each state, the bill provides that, each year, a state must use 75% of the funds that it receives under section 1452 to make grants to water systems for high priority projects. A state has the flexibility to determine which projects eligible under section 1452 will receive grants, pursuant to its intended use plan. Grant recipients must provide a 35% match.

Program Improvements

The bill makes several improvements in the operation of the Safe Drinking Water Act program.

[2] Under section 1450(e) of the Safe Drinking Water Act, the labor standards of the Davis-Bacon Act would apply to projects undertaken pursuant to the new high priority projects grant program.

- The bill makes clear that wellhead protection programs qualify as source water protection programs.

- The bill requires that all engineering and architecture contracts be awarded in compliance with the Brooks Act, (Public Law 92-582), which establishes the procurement process by which architects and engineers are selected for design contracts with federal agencies.

- The bill authorizes states to provide additional forms of financial assistance, including extended repayment periods and loan guarantees.

- The bill modifies the definition of disadvantaged communities to include portions of a community.

- The bill requires that states allocate funds for the rehabilitation and replacement of aging drinking water systems on the basis of need (as determined by the Needs Survey).

TITLE IV—TECHNOLOGY AND MANAGEMENT

National Water Infrastructure Technology Development Program

To address the lack of sufficient investment in the development of new wastewater and drinking water technologies, the bill directs the EPA Administrator to implement a nationwide technology demonstration program. Each year, the Administrator is to make ten grants to test projects that have the potential to advance innovative or alternative approaches to meet any of the following goals: reducing nutrient pollution; improving the safety and purity of source waters; improving methods for water conservation and safe re-use; improving tools and technologies to rehabilitate and replace water supplies; improving monitoring and data analysis; reducing nonpoint source water pollution; reducing municipal stormwater pollution; reducing sanitary sewer overflows and combined sewer overflows; minimizing the contamination of water supplies by naturally occurring constituents of concern; reducing erosion, scouring, and siltation; developing more effective approaches to water treatment, distribution, and collection; developing more effective methods for collecting and treating wastewater (including system design and nonstructural alternatives); improving methods for identifying and obtaining potable water supplies; and developing more effective filtration methods.

The program is authorized at $145 million a year, from the Trust Fund.

National Center for Utility Management

Wastewater and drinking water utilities can benefit from greater use of various management tools, such as comprehensive asset management, improved worker training, and improved financial reporting. Accordingly, the bill directs the Administrator to

establish the National Center for Utility Management, which is responsible for developing and promoting best practices for utility management.

The program is authorized at $5 million a year, from the Trust Fund.

Technical Assistance for Small Communities

Although several existing programs are aimed at helping small rural systems maintain and upgrade their wastewater and drinking water systems, there continues to be a need for targeted assistance, including with predevelopment costs. Accordingly, the bill authorizes the Administrator to provide grants to qualified nonprofit technical assistance providers to assist small rural utilities (no more than 10,000 users/located in a rural area) in four ways:

- Planning, developing, and obtaining financing for eligible projects
- Technical assistance and training
- Disseminating information with respect to planning, design, construction, and operation of wastewater and drinking water systems
- Capitalizing revolving loan funds for predevelopment costs and related activities

The program is authorized at $50 million a year, from the Trust Fund.

Research

To restore a significant federal research program, the bill provides funding, from the Trust Fund, for two key research programs. It reauthorizes the research program under section 104 of the Clean Water Act, and authorizes appropriations of $50 million a year; and it authorizes appropriations of $50 million a year under the drinking water research program.

TITLE V—FISHERIES HABITAT PROTECTION, RESTORATION, AND ENHANCEMENT

To increase the resources devoted to restoring and protecting fisheries, the bill creates a new program, drawn from the Bond-Lincoln Fishable Waters bill (S. 678 in the 107th Congress), to restore fisheries habitat and to enhance access to fisheries.

A state seeking to establish such a program must develop a plan, through a public process and in consultation with an advisory council. Each plan must address the following: characterization of the watershed, objectives, ongoing factors affecting habitat and access, specific projects to improve fisheries habitat, and necessary incentives to facilitate implementation of best management practices.

The plan also must designate priority projects, based on the likelihood that the projects will achieve significant progress toward the protection or restoration of habitat or the enhancement of uses for important recreational and subsistence fisheries. States are eligible for grants to manage and implement their plans. The program is authorized at $250 million a year, from the Trust Fund.