

This special report is a summary of specific titles and sections of the America's Water Infrastructure Act (AWIA) (S. 3591) and the Drinking Water Infrastructure Act (DWIA) (S. 3590) as reported by the Senate Environment and Public Works Committee (EPW) on May 6.

Title I, Water Resources Development, includes various provisions for U.S. Army Corps of Engineers (Corps) water projects and programs. Subtitle A, Section 1001 authorizes \$50M for two comprehensive flood protection studies on the Upper and Lower Missouri River. It requires the Corps to submit a comprehensive strategy and report with : (1) recommendations on management plans; (2) actions to be carried out by federal agencies; (3) any needed changes to the general comprehensive plan for flood control in the Missouri River Basin; (4) any opportunities for increased non-federal management in the Missouri River Basin; and (5) any follow-up studies for problem areas for which data or current technology does not allow for immediate solutions.

Section 1021 authorizes the Corps to enter into contracts with other federal agencies and non-federal entities that own, operate, and maintain water resources, water storage, or irrigation projects for enhanced inspections of aging infrastructure. Section 1022 would prioritize and expedite repairs, reconstruction, and upgrades to damaged flood control infrastructure. Section 1023 requires the Corps to coordinate with state and local authorities to complete maintenance and repairs of Upper Snake River levees on an expedited basis. Section 1030 requires the Corp to report on projects \$100M or more over budget or behind schedule by more than five years. Section 1033 requires continued maintenance of high-risk flood control projects, if the Corps assumes responsibility, until the project is modified to reduce that risk. Section 1037 would establish an interagency task force on small dams and fish passage.

Section 1047 amends 33 U.S.C. 3303 to require the Corps to identify engineering and maintenance deficiencies, as well as describe recommended remedies and the associated costs, for each levee identified in the national levee database, in consultation with relevant non-federal interests, providing them with an opportunity to comment. Section 1052 amends 33 U.S.C. 2321b to facilitate evaluations of operational changes for proposed non-federal hydropower production at Corps of Engineers facilities, at non-federal cost. Section 1053 requires the Corps, by community request, to evaluate its temporary structures constructed in response to natural disasters, and consider making the features permanent, with a 35% non-federal cost-share (unless the community is small or disadvantaged).

Section 1054 amends 33 U.S.C. 2231 to expand authorization for non-federal interests to undertake feasibility studies for modifications or improvements to Corps projects. Section 1061 extends authorizations at \$15M per year through FY 2024 for the Rio Grande environmental management program. Section 1062 amends 33 U.S.C. 2336(f) to allow the Corps to provide technical, planning and design assistance to federal and non-federal interests for projects to address water quality problems association with abandoned mines, and authorizes \$30M until expended. Section 1063 amends section 595(I) of WRDA 1999 to appoint a Corps headquarters employee as a program manager responsible for the environmental infrastructure program. It also increases authorized appropriations to \$65M for environmental infrastructure assistance to non-federal interests in rural Idaho, Montana, Nevada, New Mexico, Utah and Wyoming

Section 1071 requires the Corps and Federal Emergency Management Agency (FEMA) to report on a single levee standard for more certainty. Section 1077 amends 33 U.S.C. 2213 to allow the Corps to renegotiate non-Federal interest repayment obligations due to project delays, particularly with respect to interest rates, forgiveness of construction interest accrued, and credit against construction interest, given projects with a delay of five years or more.

Section 1080 requires the Corps to consider the suitability of dredged material to be disposed of for a full range of beneficial uses and the economic and environmental benefits and impacts. Section 1095 amends 33 U.S.C. 2326 to allow the most beneficial use of dredged material from a project rather than the least cost disposal option.

Section 1081 requires the Corps to research Upper Missouri River Basin mainstem dam fish losses during periods of high-water flow. Section 1083 allows the Corps to recommend projects in underserved communities, economically distressed areas, or rural areas without the need to demonstrate that the project is justified by national economic development benefits. Section 1093 authorizes harmful algal blooms demonstration programs in the Great Lakes and Florida to determine the causes of, and how to effectively treat and eliminate, harmful algal blooms, with \$25M to remain available until expended.

Section 1102 directs the Corps to share its categorical exclusions (CEs) for environmental review with other federal agencies, while requiring other agencies to conduct a rulemaking process if they proceed to adopt similar CEs.

Subtitle B authorizes various feasibility studies and reports. Section 1201 authorizes proposed feasibility studies and modifications, including projects for flood risk management in Port Arthur and Chocolate Bayou, Texas; for navigation in Houston-Galveston, Texas; and modification of a water desalination project in South Perris, California.

Section 1202 provides for expedited completion of projects for navigation, flood risk management, ecosystem restoration, and water supply, including: St. George Harbor, Alaska; Raymondville Drain Project, Lower Rio Grande Basin, Texas; Port of Corpus Christi, Texas; Port of Houston Ship Channel, Texas; Westminster and East Garden Grove, California; Prado Basin, California; Malibu Creek watershed, California; San Francisquito Creek, California; Tulsa-West Tulsa, Oklahoma; Lower Santa Cruz watershed, Arizona; Seattle Harbor, Washington; and Willamette River Basin Review Reallocation, Oregon.

Section 1204 directs Corps' assistance to non-federal sponsors for various projects, including: (1) a feasibility study on resolving increased silting and shoaling adjacent to, but outside of, the federal channel, experienced at the Port of Bandon, Coquille River, Oregon; (2) a feasibility study on increasing the frequency and depth of dredging assistance from the Corps at the Port of Astoria, located at the mouth of the Columbia River, Oregon; (3) modification of the authorized funding level for the project to carry out water related infrastructure, El Paso, Texas, authorized by Section 219(f)(269) of WRDA 1992; (4) a feasibility study for dam safety improvements, Oroville Dam, California; (5) an environmental infrastructure project to increase hydrologic variability, Sacramento Regional Water Bank, California; (6) a study for a project for aquatic ecosystem restoration and allied purposes, Blue River Watershed, Missouri and Kansas; (7) a project for aquatic and riparian restoration, Line Creek, Riverside, Kansas; (8) modification of the authorized funding level for the environmental infrastructure program, Central New Mexico, under Section 593 of WRDA 1999; (9) modification of the authorized funding level for the environmental assistance program, Ohio and North Dakota, under Section 594 of WRDA 1999; (10) modification of the project for flood risk management, Red River below Denison Dam, Arkansas, Louisiana, and Texas, to allow the Caddo Levee District, Louisiana, to incorporate the Cherokee Park Levee into the project; (11) a feasibility study, Arkansas River Basin, Oklahoma, to determine whether the purchase of additional flood easements, changes in lake level management, additional levee infrastructure, or implementation of other flood risk management or containment mechanisms along the Arkansas River Basin would benefit local communities by reducing flood risks in a range of different flood scenarios; (12) a feasibility study for the project for flood risk management, Tonto Creek, Arizona; (13) modification of the authorized funding level for the environmental infrastructure project, Calaveras County, California, under Section 219(f)(86) of WRDA 1992.

Subtitle C would deauthorize or modify certain projects. Section 1302 deauthorizes a portion of the Rush River and Lower Rush River flood control project in North Dakota. Section 1303 authorizes the Corps to dispose of the navigation project at Willamette Falls Locks, Willamette River, Oregon, with the opportunity for the Willamette Falls Locks Commission or the State of Oregon to accept conveyance of the project.

Subtitle D includes new project authorizations, with expedited completion of some projects. Section 1401 authorizes 20 Chief's or Director's Reports, including: (1) ecosystem restoration projects along the South Platte River and Tributaries, Adams and Denver Counties, in Colorado, and from Sandia Pueblo to Isleta Pueblo of the Rio Grande in New Mexico; (2) flood risk management projects for the Little Colorado River at Winslow, Navajo County, Arizona and the Middle Rio Grande floor protection, Bernalillo to Belen, New Mexico; and (3) navigation projects for the Gulf Intracoastal Waterway, Brazos River Floodgates and Colorado River Locks in Texas. Section 1402 expedites completion of certain projects with priority funding for: (1) flood risk management, Rio de Flag, Arizona; (2) water supply and ecosystem restoration, Howard Hanson Dam, Washington; (3) ecosystem restoration, Puget Sound, Washington; (4) navigation, Tacoma Harbor, Washington; and (5) water storage, Halligan Dam, Colorado.

Subtitle E pertains to water supply and storage. Section 1501 requires the Corps to study and construct new, or enlarge existing, small water storage projects in rural states in partnership with non-federal interests, using any applicable hydrologic, economic, or environmental data from state water plans or other state planning documents relating to water resources management. The federal share of the study is 75%, with full non-federal responsibility for any project construction. The maximum amount authorized per project is \$65M, with \$130M authorized for each fiscal year. Section 1502 pertains to Missouri River reservoir sediment management, authorizing removal activities at Upper Missouri River Basin reservoirs and modifying requirements for the sediment management plan.

Section 1503 mandates that the Corps give equal priority under 42 U.S.C. 1962d-16 for state planning assistance to all authorized purposes, including water supply and water conservation. Section 1504 mandates that the Corps and the U.S. Bureau of Reclamation establish a pilot program and working group with non-federal interests for advancing the science to support forecast-informed reservoir operations in the Upper Missouri River Basin.

Section 1505 authorizes the Corps to work with the National Academy of Sciences (NAS) to conduct a study on the ability of federal agencies to coordinate with federal and non-federal entities with water resources expertise to share data for water allocation, supply, and demand. The report to Congress must include recommendations for streamlined and cost-effective methods and best practices for sharing information, as well as an appropriate federal entity that could serve as the lead coordinator for data relating to water allocation, supply, and demand and host and manage the internet-based platform. The bill authorizes \$3.9M to carry out this study and report, from unobligated funds made available for operations and maintenance activities of the Corps.

Section 1506 requires a General Accountability Office (GAO) study on federal dams with reservoirs that no longer serve a federal purpose or have been considered for divestment, breaching, or removal. Section 1507 requires a GAO report on water control manuals for federal reservoirs west of the 100th meridian, whether they have been updated in the past ten years, and whether any water storage reallocations have been approved by the Corps. The report must include a summary of the process and policies used by the Corps to establish and update flood control curves within those water control manuals at the federal dams and reservoirs, and make recommendations for changes.

Section 1508 amends 33 U.S.C. 2330 to prioritize an aquatic ecosystem restoration project on the South Platte River Basin on a CWA 303(d) impaired water body, with benefits for flood risk management, recreation, and ecosystem restoration. Section 1510 makes permanent the prohibition on Corps fees charged for surplus water contracts for water stored in the Upper Missouri Mainstem Reservoirs. Section 1511 amends 33 U.S.C. 2324 regarding reduced pricing water supply storage for low income communities.

Subtitle F deals with invasive species issues.

Title II of AWIA includes provisions for clean water and wastewater infrastructure. Section 2001 establishes the Clean Infrastructure Resiliency and Sustainability Program, authorizing \$5M per year for FY2021-24 for grants to Publicly Owned Treatment Works (POTWs) to assist in projects that increase the resiliency or adaptability of water systems to natural hazards. Section 2002 increases funding for Clean Water Act (CWA) technical assistance grants for rural, small, and tribal communities, with \$75M for FY2021-24. Section 2003 authorizes \$10M per year for FY2021-24 for a POTW circuit rider program. Grants awarded will provide on-site technical assistance to small and medium POTWs. Section 2004 creates a grant program for equipment replacement or repair for small POTWs to increase water efficiency or energy efficiency, with \$5M per year for FY2021-24.

Section 2005 creates an EPA pilot program to assist 15 POTWs with projects that create or improve the efficiency of waste-to-energy systems, with \$17.5M per year for FY2021-22. Section 2006 reauthorizes a grant pilot program for alternative water source projects to meet critical water supply needs, through conserving, managing, reclaiming, or reusing water, stormwater or wastewater, with \$25M per year for FY2022-24. Section 2007 reauthorizes the municipal grants for sewer overflow and stormwater reuse, adds notification systems as a permissible use of grants, and creates a 15% set aside for rural needs. The funding is increased to \$250M for FY2021-22. Section 2009 builds on an existing grant program for research institutions for water supply reliability projects. It strikes "water phenomena" research, adding the more general "water resources." It sets the cost-share for funding at a 50%-50% match and requires a research review every five years. The program is authorized for \$8.25M for FY21-24.

Section 2012 amends the CWA to require states to use 10% of the state revolving funds for grants, negative interest loans, and loan forgiveness or to buy, refinance or purchase debt. It makes eligible the design and engineering of wastewater treatment systems and allows up to 2% of the funds to be used for technical assistance to small, rural, and tribal POTWs.

Section 2013 establishes an EPA water data sharing pilot program for states to encourage intrastate information sharing among communities regarding water quality, water infrastructure needs, and water technology. A state that is eligible for funding must contain a coastal watershed that has significant pollution levels or substantive wastewater infrastructure deficits. This section also authorizes funds to assist states in the creation of multi-state consortias to exchange water data, share information regarding water practices, protocols, technologies and procedures, and to establish regional intended use plans. This grant program is authorized for \$15M per year for FY2021-24.

Section 2014 reauthorizes the Water Infrastructure Finance and Innovation Act (WIFIA) through 2024 at the current funding level of \$50M annually. Section 2015 reauthorizes the clean water state revolving funds and increases the program's authorization, with \$2B for FY2021, \$2.5B for FY2022, and \$3B for FY2023.

Section 2016 creates a wastewater infrastructure discretionary grant program for POTWs, with priority funding for systems that need assistance with federal regulatory compliance. This program is authorized at \$50M annually for FY2021-24. Section 2018 creates a grant program to assist research institutions and institutions of higher education with research on new and emerging stormwater control technology, with \$5M per year for FY2022-23.

## **Drinking Water Infrastructure Act**

The Drinking Water Infrastructure Act (DWIA) includes \$2.5B in federal authorizations, including \$1.3B for the Drinking Water State Revolving Fund (DWSRF) for FY2020 (\$1.9B for FY2021), as well as assistance for addressing lead in public water systems, increased assistance for small and disadvantaged communities, and a new grant program that can be used in conjunction with existing SRF and Water Infrastructure Financing and Innovation Act (WIFIA) loans to address drinking water infrastructure.

New DWSRF provisions were added. First, there is a requirement that 20% of a capitalization grant must go to subsidizing the development of a public water system. This includes debt obligations if the subsidy would help the system address threats to public health from heightened exposure to contaminants, including lead. Second, it makes the American Iron and Steel provisions permanent. Third, two percent of the total authorization is to be made available for technical assistance for small systems beginning in FY2021. Additionally, funding specifically addressing emerging contaminants is expanded to include contamination to groundwater (\$300M/year for FY2021-24).

Multiple new programs would be created by DWIA, and many existing programs are expanded. Notably, a new grant program, called the Drinking Water Infrastructure Discretionary Grant Program, would provide funding for drinking water infrastructure that can be used in conjunction with SRF and WIFIA funding and includes a 20% cost-share that can be fulfilled using other federal funding (\$50M/year for FY2022-24).

Other new programs include: (1) a competitive grant for those seeking to help individuals connect to a public water system (\$20M/year for FY 2021-22, with an additional \$50M/year for FY2021-24 for underserved communities); (2) a pilot program under the Reducing Lead in Drinking Water Program for mapping lead service lines and projects that reduce lead in water based on mapping (\$10M to implement a pilot program, with \$60M/year through FY2022 for regular grants); (3) the Operational Sustainability of Small Public Water Systems Program grants for small public water systems to map their lines, implement new monitoring and metering technology, and train staff on implementing asset management strategies (\$10M/year for FY2021-24); (4) Midsize Drinking Water Infrastructure Resilience and Sustainability Program grants for midsize systems to increase resilience to natural hazards, including water conservation and efficiency, modification of vulnerable infrastructure, desalination facilities, watershed management and source water protection, and the use of renewable energy and energy efficiency in drinking water treatment facilities (\$5M/year for FY2021-24); and (5) grants for small and midsize systems to implement new and emerging technologies to improve drinking water systems (\$10M/year for FY2021-24).

Existing programs for small and disadvantaged communities without a public water system or with a contaminated system are expanded to include investments in filtration and system maintenance, including replacing lead service lines and removing lead in water (\$60M in FY2021, \$100M/year for FY2022-24). It also allows technical assistance partners to directly receive funds if they are serving underserved communities. The Drinking Water Infrastructure Risk and Resilience Program is expanded to more directly address "small, disadvantaged and rural systems," in particular the ability to receive technical assistance for community water systems to adapt to an increase in population served due to natural hazards, as well as adding "exposure to lead in drinking water" to reasons a community can receive emergency funding (\$35M/year for FY2021-24). The Drinking Water Infrastructure Resilience and Sustainability Program addresses natural hazards planning for small and disadvantaged communities (\$10M/year for FY2021-24). A program addressing lead in school drinking water is also expanded to allow public water systems and nonprofits to obtain funding for testing (\$25M/year for FY2021-22). DWIA also adds counties, and counties acting as beneficiaries for unincorporated areas, to the list of entities that can receive funding under the Source Water Protection Program (\$5M/year for FY2020-24).

Additionally, DWIA calls for two studies: (1) to assess the needs of rural and urban low-income communities that do not have access to affordable drinking water (\$5M); and (2) for the Environmental Protection Agency to assess emerging technologies to improve drinking water systems.

Finally, DWIA increases the authorized amount of funding to the Indian Reservation Drinking Water Program, which is available to tribes to develop water projects on reservation land (\$20M for FY2020, \$50M/year for FY2021-24). Half of the funding is required to go to ten projects each in the Upper Missouri River Basin, Upper Rio Grande Basin and the Columbia River Basin, and two projects must be on reservations serving more than one federally-recognized tribe. For further details see: <https://www.epw.senate.gov/public/index.cfm/press-releases-republican?ID=A972BA8E-0390-4246-B10A-324F3CE73C67>.