

116TH CONGRESS
1ST SESSION

S. 2596

To amend the Safe Drinking Water Act to authorize certain community water systems to enter into partnerships to improve the water systems, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 15, 2019

Ms. DUCKWORTH (for herself, Mr. BRAUN, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Safe Drinking Water Act to authorize certain community water systems to enter into partnerships to improve the water systems, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Voluntary Water Part-
5 nership for Distressed Communities Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) clean, affordable, and accessible drinking
9 water is the backbone of every community;

1 (2) community water systems that are dis-
2 tressed, which are often located in low-income com-
3 munities and communities of color, jeopardize the
4 health and economic growth of the community; and

5 (3) a partnership that is voluntary and not
6 mandatory has the capacity to help a community
7 water system that is distressed to deliver quality and
8 affordable water services by providing those commu-
9 nity water systems technical, operational, and finan-
10 cial support.

11 **SEC. 3. VOLUNTARY WATER PARTNERSHIPS.**

12 (a) IN GENERAL.—Section 1420 of the Safe Drink-
13 ing Water Act (42 U.S.C. 300g–9) is amended—

14 (1) in subsection (b), by adding at the end the
15 following:

16 “(4) NOTICE, ASSESSMENT, AND ENFORCE-
17 MENT.—

18 “(A) NOTICE.—Not later than 1 year after
19 the date of enactment of this paragraph, each
20 State that has primary enforcement responsi-
21 bility under section 1413 (or the Administrator,
22 in the case of a State that does not have pri-
23 mary enforcement responsibility) shall provide
24 written notice to each community water system
25 listed under paragraph (1) in the State that has

1 not returned to compliance that the community
2 water system is so listed.

3 “(B) INTENT TO ENTER PARTNERSHIP.—
4 Not later than 180 days after the date on which
5 a community water system receives a notice
6 under subparagraph (A), the community water
7 system may submit to the State or the Adminis-
8 trator, as applicable, a letter of intent to enter
9 into a partnership (as defined in subsection
10 (d)(3)(A)).

11 “(C) ENFORCEMENT.—

12 “(i) NO ENFORCEMENT ACTION.—

13 “(I) IN GENERAL.—Except as
14 provided in clause (ii), no person (in-
15 cluding the Administrator or a State)
16 may, during the time period described
17 in subclause (II), take or pursue any
18 civil or administrative enforcement ac-
19 tion under this title (including any
20 civil action under section 1449)
21 against a community water system
22 that receives a notice under subpara-
23 graph (A) so long as the community
24 water system is actively and in good
25 faith working to enter into a partner-

1 ship (as defined in subsection
2 (d)(3)(A)) (as determined by the
3 State or the Administrator, as appli-
4 cable).

5 “(II) PERIOD DESCRIBED.—The
6 period referred to in subclause (I) is
7 the period that—

8 “(aa) begins on the date on
9 which the community water sys-
10 tem submits a letter of intent
11 under subparagraph (B); and

12 “(bb) ends on the date that
13 is 180 days after the date on
14 which the community water sys-
15 tem submits the letter of intent
16 described in item (aa).

17 “(ii) EXCEPTIONS.—During the time
18 period described in clause (i)(II)—

19 “(I) the State or the Adminis-
20 trator, as applicable, may take or pur-
21 sue an action against a community
22 water system that receives a notice
23 under subparagraph (A) to address an
24 imminent and substantial public
25 health risk;

1 “(II) any person may take or
 2 pursue an action against a community
 3 water system that receives a notice
 4 under subparagraph (A) with respect
 5 to any requirement relating to moni-
 6 toring or public notification under this
 7 title; and

8 “(III) the Administrator may
 9 take or pursue an action under sec-
 10 tion 1431 against a community water
 11 system that receives a notice under
 12 subparagraph (A).”;

13 (2) in subsection (d)—

14 (A) by redesignating paragraphs (3)
 15 through (5) as paragraphs (7) through (9), re-
 16 spectively;

17 (B) by inserting after paragraph (2) the
 18 following:

19 “(3) PARTNERSHIPS.—

20 “(A) DEFINITION OF PARTNERSHIP.—In
 21 this paragraph and paragraphs (4) through (7),
 22 the term ‘partnership’ means, as applicable—

23 “(i) a community water system result-
 24 ing from a joint enterprise between, or the
 25 combined operations of—

1 “(I) one or more community
2 water systems that receives a notice
3 under subsection (b)(4)(A); and

4 “(II) one or more community
5 water systems that has not received a
6 notice under subsection (b)(4)(A);

7 “(ii) a community water system that,
8 after receiving a notice under subsection
9 (b)(4)(A), enters into a contractual agree-
10 ment with another entity to oversee the fi-
11 nancial, technical, or operational manage-
12 ment of the system;

13 “(iii) a community water system re-
14 sulting from a joint enterprise between, or
15 the combined operations of, one or more
16 community water systems that receives a
17 notice under subsection (b)(4)(A); or

18 “(iv) a contractual agreement unifying
19 one or more community water systems that
20 receives a notice under subsection
21 (b)(4)(A) with one or more community
22 water systems that has not received a no-
23 tice under subsection (b)(4)(A).

1 “(B) AUTHORIZATION.—A community
2 water system that receives a notice under sub-
3 section (b)(4)(A) may enter into a partnership.

4 “(C) REQUIREMENT.—A partnership that
5 includes a community water system with juris-
6 diction over a site on the National Priorities
7 List developed by the President in accordance
8 with section 105(a)(8)(B) of the Comprehensive
9 Environmental Response, Compensation, and
10 Liability Act of 1980 (42 U.S.C.
11 9605(a)(8)(B)) shall include in the partnership
12 agreement a plan developed by the community
13 water system that describes how the community
14 water system will—

15 “(i) meet the requirements of the
16 partnership agreement; and

17 “(ii) with respect to the site, continue
18 to meet the requirements under the Com-
19 prehensive Environmental Response, Com-
20 pensation, and Liability Act of 1980 (42
21 U.S.C. 9601 et seq.).

22 “(D) DEADLINE FOR COMPLIANCE.—A
23 partnership shall be required to correct any sig-
24 nificant noncompliance that resulted in a notice
25 under subsection (b)(4)(A) to one of the entities

1 in the partnership and to comply with this
2 title—

3 “(i) in any case in which the State
4 agency with primary enforcement responsi-
5 bility under section 1413, or the Adminis-
6 trator, if the State does not have primary
7 enforcement responsibility, approves a plan
8 submitted by the partnership to bring the
9 partnership into compliance with this title,
10 as soon as practicable, but not later than
11 the later of—

12 “(I) the date that is 3 years after
13 the date on which the partnership is
14 formed; and

15 “(II) the date determined by the
16 State or the Administrator, as appli-
17 cable, to complete necessary capital
18 construction projects to bring the
19 partnership into compliance; or

20 “(ii) in any case in which the State
21 agency with primary enforcement responsi-
22 bility under section 1413, or the Adminis-
23 trator, if the State does not have primary
24 enforcement responsibility, approves an en-
25 forceable agreement to bring the partner-

1 ship into compliance with this title, by the
2 date specified in the agreement.

3 “(E) STATE REVOLVING LOAN FUNDS.—

4 The Administrator may not withhold funds
5 from a State under section 1452 or otherwise
6 reduce any State allotment or set-aside under
7 that section based on the action or inaction of
8 a State with respect to partnerships entered
9 into pursuant to this paragraph after the date
10 of enactment of the Voluntary Water Partner-
11 ship for Distressed Communities Act of 2019.

12 “(4) PARTNERSHIP INCENTIVES.—The Admin-
13 istrator shall—

14 “(A) establish incentives for a community
15 water system that is distressed to enter into a
16 partnership, including allowing a State to pro-
17 vide assistance under section 1442 or section
18 1452, to a community water system that re-
19 ceived a notice under subsection (b)(4)(A)—

20 “(i) to assess partnership options; and

21 “(ii) to engage in peer-to-peer assist-
22 ance; and

23 “(B) pay for and provide other technical
24 assistance as necessary for the partnerships to
25 achieve compliance with this title.

1 “(5) SAFE HARBOR.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), a partnership shall not be
4 liable for any civil penalty or fine, or adminis-
5 trative penalty or fine, under this title for a vio-
6 lation of an applicable requirement (as defined
7 in section 1414(i)) (including for any liability
8 pursuant to a civil action under section 1449)
9 if—

10 “(i) the violation was committed by
11 the community water system that received
12 a notice under subsection (b)(4)(A);

13 “(ii) the violation occurred on a date
14 before the community water system de-
15 scribed in clause (i) entered into the part-
16 nership or after the community water sys-
17 tem entered into the partnership but be-
18 fore the applicable deadline for compliance,
19 as determined under paragraph (3)(C);
20 and

21 “(iii) prior to entering into the part-
22 nership, a community water system or en-
23 tity that did not receive a notice under
24 subsection (b)(4)(A) discloses, in a form
25 and manner prescribed by the Adminis-

1 trator, the violation to the head of the
2 State agency with primary enforcement re-
3 sponsibility under section 1413, or the Ad-
4 ministrator, if the State does not have
5 such primary enforcement responsibility.

6 “(B) FAILURE TO COMPLY.—Subpara-
7 graph (A) shall not apply with respect to a
8 partnership after the applicable deadline under
9 paragraph (3)(C) if the partnership fails—

10 “(i) to correct any significant non-
11 compliance that resulted in a notice under
12 subsection (b)(4)(A); and

13 “(ii) to comply with this title by the
14 applicable deadline.

15 “(6) RECIPROCITY.—The Administrator, in col-
16 laboration with the heads of State agencies with pri-
17 mary enforcement responsibility under section 1413,
18 may provide incentives for States to provide greater
19 flexibility in certification, licensing, or other require-
20 ments, to facilitate the provision of services to com-
21 munity water systems by professionals from other
22 jurisdictions, with a focus on rural and disadvan-
23 taged communities.

24 “(7) VOLUNTARY PARTNERSHIP DECISION.—
25 The decision to undertake a partnership by a com-

1 community water system receiving notice under sub-
2 section (b)(4)(A)—

3 “(A) is voluntary on the part of the com-
4 munity water system; and

5 “(B) shall not require any particular type
6 of partnership agreement.”; and

7 (C) by adding at the end the following:

8 “(10) EFFECT.—Nothing in this title shall be
9 construed to prevent the United States from bring-
10 ing an action under section 1001 of title 18 of the
11 United States Code, or to prevent any State with
12 primary enforcement responsibility from bringing an
13 action under any substantially equivalent State
14 law.”; and

15 (3) in subsection (g)(2)—

16 (A) in the second sentence—

17 (i) by inserting “established under
18 subparagraph (A)” after “the clearing-
19 house”; and

20 (ii) by striking “The Administrator”
21 and inserting the following:

22 “(B) NO DUPLICATION.—The Adminis-
23 trator”;

24 (B) in the first sentence, by striking “The
25 Administrator” and inserting the following:

1 “(A) IN GENERAL.—The Administrator”;

2 and

3 (C) by adding at the end the following:

4 “(C) BEST PRACTICES DATABASE.—

5 “(i) IN GENERAL.—The Adminis-
6 trator, in coordination with the States,
7 shall include in the clearinghouse estab-
8 lished under subparagraph (A) a best prac-
9 tices database to share examples of prac-
10 tices involving the operational, technical,
11 and financial capacity of community water
12 systems in accordance with this title.

13 “(ii) GRANTS.—The Administrator
14 may award grants to appropriate, quali-
15 fied, and experienced nonprofit organiza-
16 tions to maintain the database under
17 clause (i).”.

18 (b) USE OF STATE REVOLVING LOAN FUNDS.—Sec-
19 tion 1452(a)(3)(B)(ii) of the Safe Drinking Water Act (42
20 U.S.C. 300j–12(a)(3)(B)(ii)) is amended by inserting
21 “enter into a partnership (as defined in section
22 1420(d)(3)(A)) or” after “the owner or operator of the
23 system agrees to”.

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