



SB 09-165

BUILDING A STRONG PARTNERSHIP WITH COLORADO'S CITIES AND TOWNS

To: Members, Senate Agriculture & Natural Resources Committee
 From: Kevin Bommer, Legislative & Policy Advocate
 Date: February 5, 2009
 Subject: SB 09-165 – Small Community Water and Wastewater Project Funding

SB 09-165 - YOUR "YES" VOTE RESPECTFULLY REQUESTED

439 communities with fewer than 5000 people need nearly \$750 million to fund water and wastewater infrastructure projects. Many of these communities are severely disadvantaged and cannot afford debt service on even low- or no-interest loans through the Colorado Water Resources & Power Development Authority and require grant assistance to buy down the cost of the project enough to be able to afford financing the remainder.

On behalf of the small cities and towns in Colorado, CML urges your support of SB 09-165. SB 09-165 utilizes an existing grant program in the Colorado Department of Public Health and Environment dedicated for small communities and establishes a funding mechanism that will only trigger in years of exceptional severance tax revenue.

Problems

- CDPHE has an existing small communities grant program that last received capital construction money in the last year of the Owens Administration – only \$3 million. The state has no other grant assistance program to help disadvantaged communities comply with infrastructure needs and mandates for more expensive treatment solutions passed on by the state and federal government. Conversely, DOLA has used nearly \$90 million from local impact funds in the last three years (2006-2008) and around \$15 million per year in years prior. Public not-for-profit systems are not eligible for impact funds.
- No capital construction or general fund money will be available to fund the small communities water and wastewater grant programs. Also, an actual statutory "fund" does not exist in the treasury in which money can be deposited.
- The State of Colorado chooses to use a significant portion of its allocation of severance tax revenue for water-related programs, but only pertaining to raw water supply issues. The state does not use any severance tax revenue to support water quality programs at CDPHE. Unlike the local impact funding stream, there is not the same focus or statutory requirement that state severance tax money be spent solely on impact-related programs. Therefore, there is nothing barring the state from including other critical water issues.
- The Colorado Water Conservation Board is appropriately prohibited by statute from funding any water and wastewater treatment projects from the perpetual base account, which receives half of the state's severance tax revenue annually.

A state & local partnership for water quality - SB 09-165

Properly treating wastewater and providing clean drinking water is a shared responsibility between the State of Colorado and local governments to provide for the health and welfare of all citizens and the environment. Indeed, 25-8-102 C.R.S. establishes water quality as a matter of statewide concern for protecting the health, peace, safety, and general welfare of the people of Colorado. In the absence of adequate federal assistance to comply with unfunded mandates imposed on local governments, the state and local governments must work together to find additional funding for entities to meet the mandates. This is particularly important for those disadvantaged communities that do not have the ability to ask their residents to shoulder any more of the burden than has already been placed on them.

As a policy matter, CML believes the state must make a commitment to use some of its "water money" to fund its existing grant programs for small communities. Since there is no chance of general fund or capital construction funds available to the state to help it meet its share of the responsibility, CML believes that the state should look at how it prioritizes its expenditures of "water money," regardless of the source or the department into which the money flows. However, it is equally important to CML that the integrity of DNR's perpetual base account is maintained and the level of funding not be reduced below that which the department has traditionally experienced.

SB 09-165 ensures that in years of extraordinary severance tax revenue, a portion of state share will be directed to CDPHE to fund the "Small Communities Drinking Water and Wastewater Grant Program." For FY 2008-09, DNR projected state severance tax revenue to the perpetual base account to be \$40 million. In order to maintain the integrity of DNR's perpetual base account, the legislation would direct up to \$10 million to CDPHE only if the revenue to the perpetual base account were to reach \$50 million (well above anticipated revenue). Any revenue above the \$10 million cap would stay in the perpetual base account. (See included flowchart)

SB 09-165 does not guarantee that the small communities grant program would receive funding every year – which would be the preference of local governments – but would at least demonstrate a solid commitment by the state government to utilize the "next water dollars" (unanticipated revenue in good times) for its part of the responsibility to clean water and safe drinking water.

SB 09-165 - YOUR "YES" VOTE RESPECTFULLY REQUESTED

SB 09-165 WILL:

- Create the "Small Communities Drinking Water and Wastewater Grant Fund" in statute, as it currently does not exist. The fund shall only be used for CDPHE grants made pursuant to its authority in statute. Income and interest derived by the fund shall remain in the fund, and any unexpended and unencumbered funds will remain in the fund and not credited to the general fund.
- Direct up to \$10 million to the Small Communities Drinking Water and Wastewater Grant Fund (grant fund) at any time that 25% of the state severance tax will exceed \$50 million. Up to \$10 million will then be directed to the grant fund instead of the perpetual base account in DNR, and any additional revenue above the \$10 million limit will remain in the perpetual base account.
- Continuously appropriate funds to CDPHE for the sole purpose of making grants through the grant program, since each project is already included in a joint resolution approved by the General Assembly each year.

SB 09-165 WILL NOT:

- Include an automatic escalator in either the \$50 trigger or the \$10 cap.
- Require legislative approval for each grant recipient.

SB 09-165 FAQs

- *Does SB 09-165 cut into existing DNR funds and programs?*

No. Before the slowdown in severance activity this year, DNR was planning on \$40 million into the perpetual base account. SB 09-165 would not trigger unless severance tax revenue flowing into the perpetual base account reaches \$50 million, at which time only the next \$10 million is deposited into the Small Communities Drinking Water & Wastewater Fund.

- *Where did money for the grant program come from before?*

Local governments and CDPHE previously had to beg for state capital construction dollars to be allocated for local "small communities" projects. The last time that happened was in the last year of the Owens Administration when there was less demand and more capital construction money available.

- *Why not use local severance tax money?*

The Energy & Mineral Impact Assistance Grant Program helps local governments in impacted areas with the costs of many impact-related projects. In 2006-2008, the local severance taxes contributed around \$90 million to assist with mandated water and wastewater project costs (30% of all grants) while the State of Colorado spent \$0.

CML believes the local fund is doing its part, and it is good public policy for the State of Colorado to use some of its water money in exceptional severance tax years toward the state and local partnership for improved water quality.

200

TOTAL SEVERANCE TAX REVENUE

50%

50%

State Severance Tax (DNR)

Local Severance Tax (DOLA)

50%

50%

30%

70%

Operational Account

Perpetual Base Account
\$50 million cap

Direct Distribution

Energy/Mineral Impact Assistance Grants

Small Communities Water & Wastewater Grant Fund
\$10 million cap

Any money over the \$10 million cap is returned to the Perpetual Base Account

\$90 million in the last three years spent on water and wastewater in impacted municipalities.

(Cannot be used in special districts or public not-for-profit treatment systems)

