

STATE OF NEW YORK

8282

IN SENATE

May 6, 2020

Introduced by Sen. GAUGHRAN -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to cost recovery by municipalities and other recipients from responsible parties and ensures that responsible parties do not benefit from state assistance payments or grants made by the environmental facilities corporation to municipalities and recipients

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public health law is amended by adding a new section
2 1167-a to read as follows:

3 § 1167-a. Reimbursement of state assistance payments or grants made to
4 municipality or recipient; admissibility of state assistance payments or
5 grants as collateral source. 1. A municipality or recipient that: (a)
6 receives a state assistance payment/grant from the corporation for an
7 eligible project to remove contaminants from drinking water or water
8 supplies under this title, including but not limited to state assistance
9 payments/grants for removing emerging contaminants; (b) takes legal
10 action against a responsible party to recover the costs of such eligible
11 project; and (c) receives payment by judgment, settlement or otherwise
12 from such responsible party for the costs for such eligible project,
13 shall reimburse the corporation the portion of such payment that is in
14 excess of (1) the total cost of the project (including, but not limited
15 to, the capital costs and operating and maintenance costs associated
16 therewith for the period during which the contamination is expected to
17 persist and require treatment); and (2) the expenses (including, but not
18 limited to, attorneys' fees and litigation costs and expenses) incurred
19 by the municipality or recipient pursuing recovery of such costs from
20 responsible parties, provided, however, that the municipality or recipi-
21 ent shall not reimburse more than the amount of such state assistance
22 payment/grant for the eligible project.

23 2. Notwithstanding any other provision of law, including section
24 forty-five hundred forty-five of the civil practice law and rules,
25 evidence of any state assistance payment/grant from the corporation to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 any municipality or recipient shall not be admissible in any action
2 brought by such municipality or recipient against a responsible party to
3 recover the costs for an eligible project and/or the operating and main-
4 tenance costs associated therewith, and the court shall not reduce the
5 amount of any award against a responsible party in whole or in part
6 because of such state assistance payment or grant.

7 § 2. This act shall take effect immediately.