STATE OF NEW YORK

956

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

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:

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

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

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

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ent shall not reimburse more than the amount of such state assistance payment/grant for the eligible project.

2. Notwithstanding any other provision of law, including section forty-five hundred forty-five of the civil practice law and rules, evidence of any state assistance payment/grant from the corporation to any municipality or recipient shall not be admissible in any action brought by such municipality or recipient against a responsible party to recover the costs for an eligible project and/or the operating and maintenance costs associated therewith, and the court shall not reduce the amount of any award against a responsible party in whole or in part because of such state assistance payment or grant.

§ 2. This act shall take effect immediately.