

# This presentation premiered at WaterSmart Innovations

[watersmartinnovations.com](http://watersmartinnovations.com)



# Death-Knell Barriers to Utility Water Conservation Programs: How Do We Fix Them?

Mary Ann Dickinson  
President and CEO

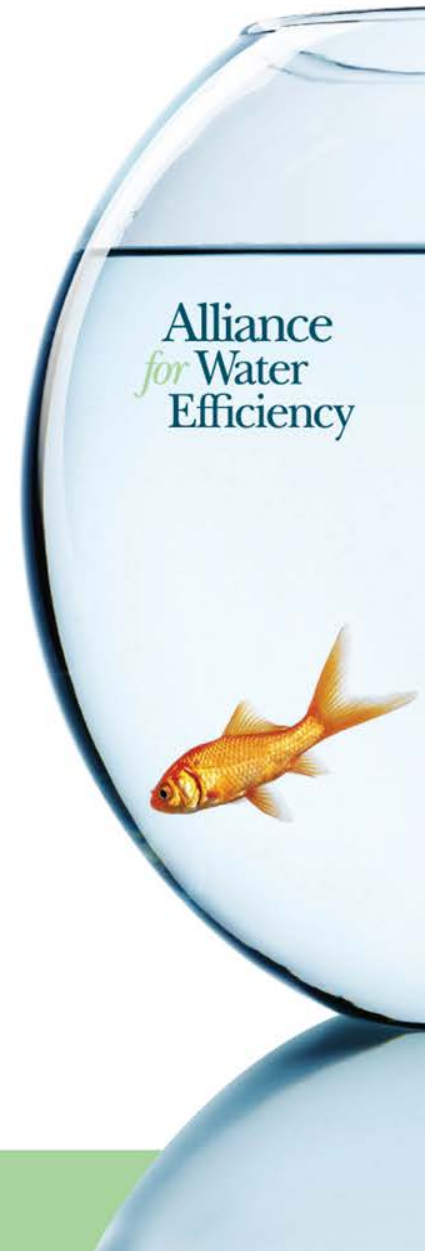
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A PLATFORM  
PROMOTING THE  
EFFICIENT AND  
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USE OF WATER



Alliance *for* Water Efficiency

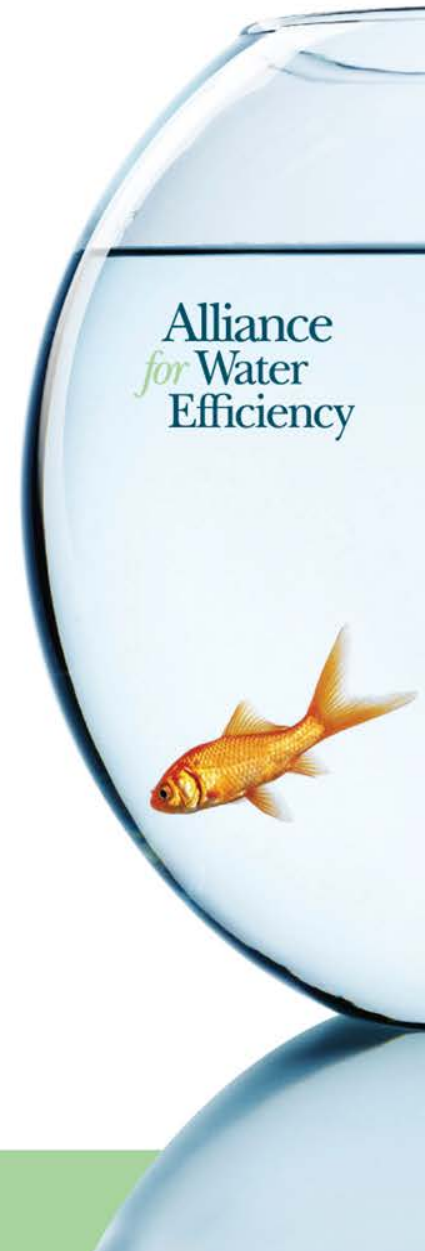
# Unintended Consequences?

1. Reduced water sales -- and thus reduced utility revenue
2. Perception of rate hikes being caused by consumer conservation
3. Reduced flows in plumbing fixtures leading to documented pathogen growth
4. Potential drain line blockages in commercial buildings
5. Slower main line flows causing need for greater flushing and thus waste
6. Accelerated sewer line corrosion



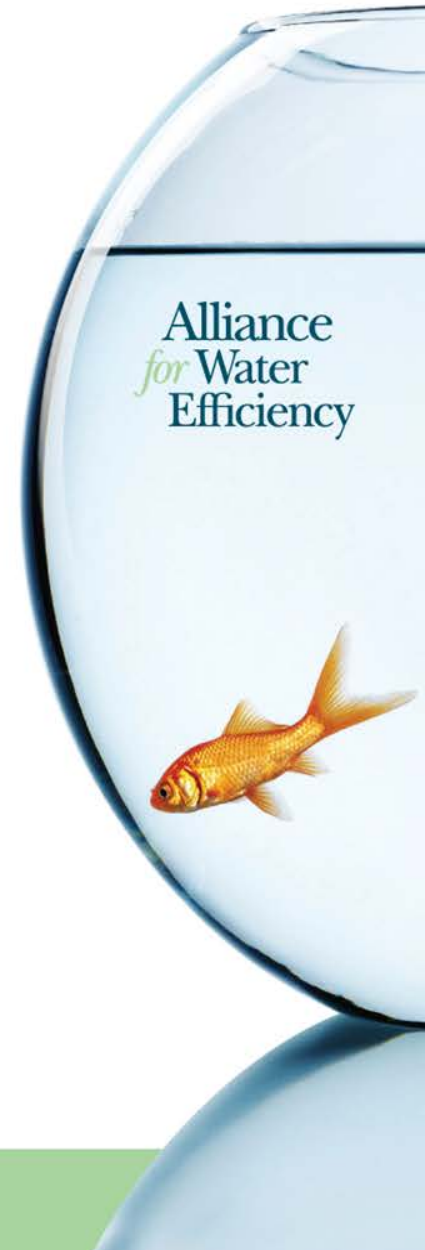
# But There Are More.....

- There are **2** major barriers to planning and implementing water conservation programs that are policy oriented
- We don't talk about them much
- But if not solved soon, they could be fatal to the long-term effectiveness and financing of your utility water conservation programs



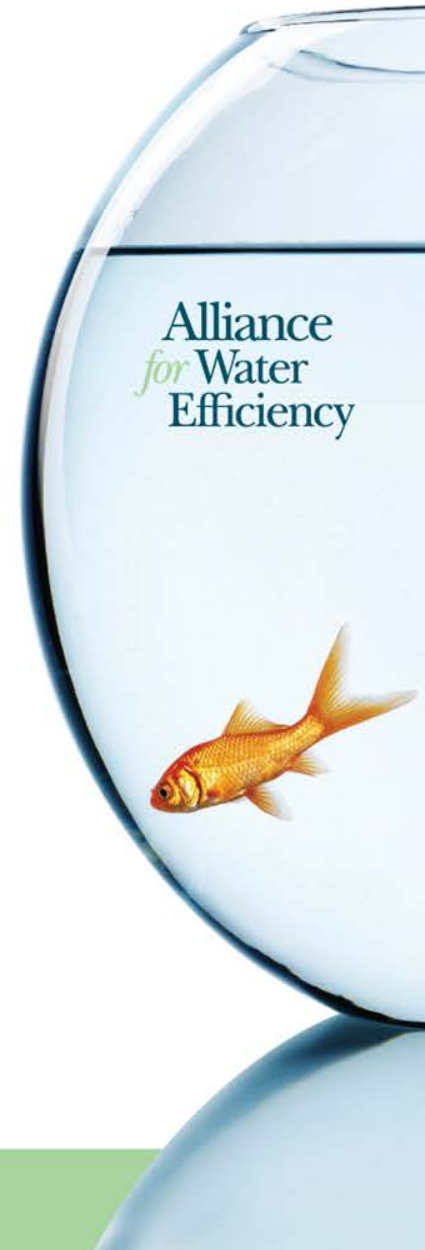
# First Barrier: Not Tax-Exempt

- Water efficiency is **not** federally tax-exempt
- This has always been a problem – not new
- Income from water conservation rebates is federally taxable to the consumer, unlike energy efficiency
- Some states made conservation tax-exempt at the state level (e.g. California)
- Utilities are affected by this
- All rebate income totaling \$600 or more in a calendar year must be sent in a 1099 at the end of the tax year



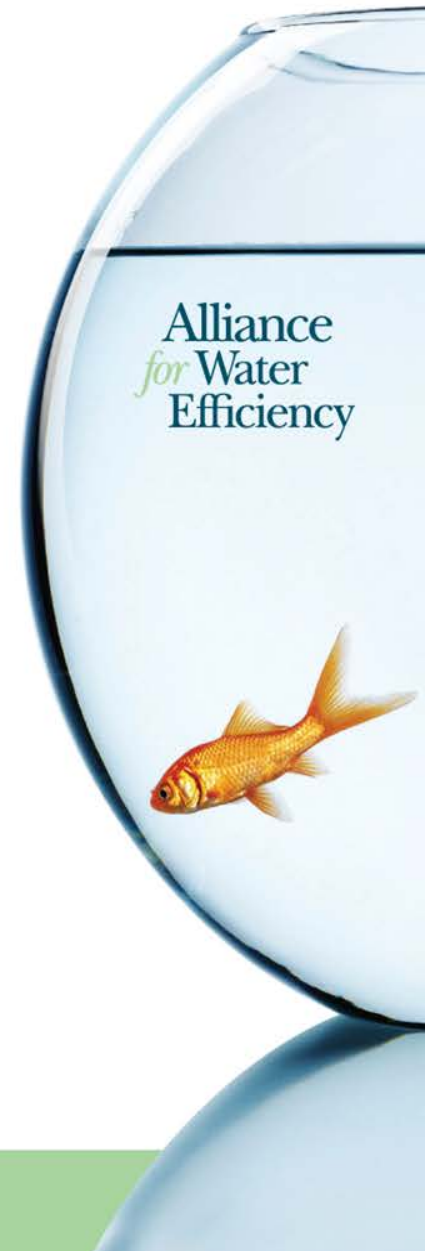
# Why Didn't This Surface Before?

- We have been trying for years to get the attention of Congress to fix this
- AWE has a fact sheet on this issue that it has distributed to Congress since 2010
- Water utilities haven't much appreciated the need for a legislative fix because so little of their consumer rebates in the past aggregated to the \$600 threshold
- Legislation was attempted in the 1990's by a Congressional Representative from Seattle – but no success



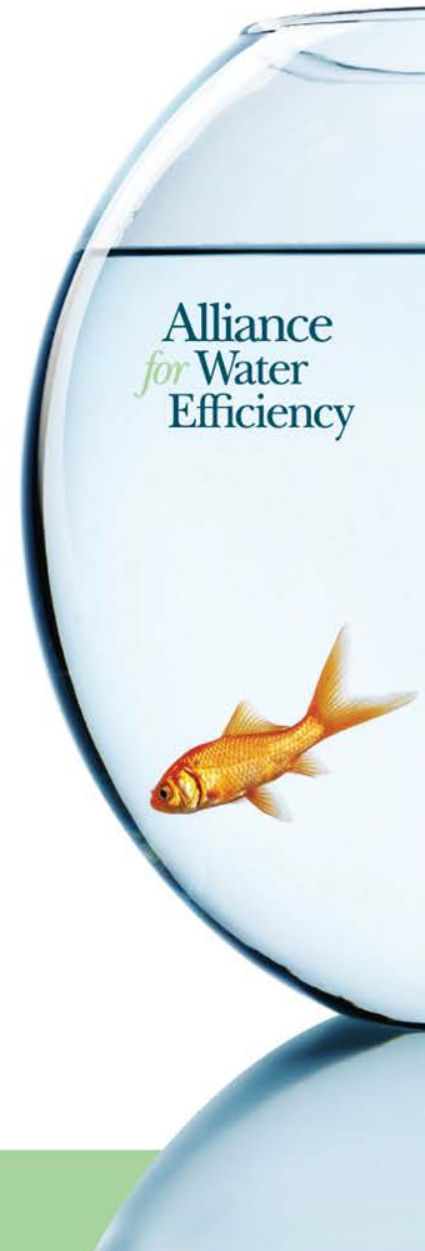
# Why Is This a Problem Now?

- Landscape transformation rebates (often known as “cash for grass” rebates) are becoming popular, particularly in the arid West
- Many individual consumers now receiving much more than \$600 a year
- Water utilities are now realizing their federal tax obligations to send out 1099s to consumers
- Consumer reaction has been **very** negative
- A disincentive to customer participation



# Example

- In 2015, the Metropolitan Water District of Southern California provided nearly half a billion dollars in consumer rebates for landscape transformation in response to the drought
- When MWD's 1099s for those rebates hit consumers, their anger exploded
- They believed they were doing a public service by taking out their lawn and conserving water
- Rightfully maintained that this "benefit" should not be personally taxable to them.







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## Water-Conservation Rebate Recipients Surprised To Learn Rebates Are Taxable

By Laura Northrup [@lnorthrup](#) January 28, 2016



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LOCAL / L.A. Now

# Turf rebate recipients will have to decide how to report funds on federal taxes



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On debate day, a look back at the most famous moment in a vice



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# U.S. tax policy undercuts CA water conservation push

27 Jan, 2016  
Chris Reed

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Even before the current marathon drought, turf replacement subsidies have long been touted by the state government as a powerful way to get California homeowners to stop having water-guzzling lawns. But the federal government sees these subsidies as taxable income. This is from a recent Los Angeles Times report:



*Southern Californians who received cash rebates for replacing their lawns with drought-tolerant landscaping will soon get a federal tax form in the mail reporting the amount, but water officials said Thursday it is still not clear whether the reimbursement will be taxable.*

*Officials from the Metropolitan Water District of Southern California — which funded a \$340 million incentive program — say they are sending 1099 forms to turf rebate recipients of \$600 or more and leaving reporting up to participants and their tax advisers.*

*“We’re doing what we believe is our obligation, which is sending the 1099s,” said Deven Upadhyay, an MWD manager. Recipients “would have to work with their own tax adviser in terms of the way that they might characterize it in terms of the way they file their own taxes.”*

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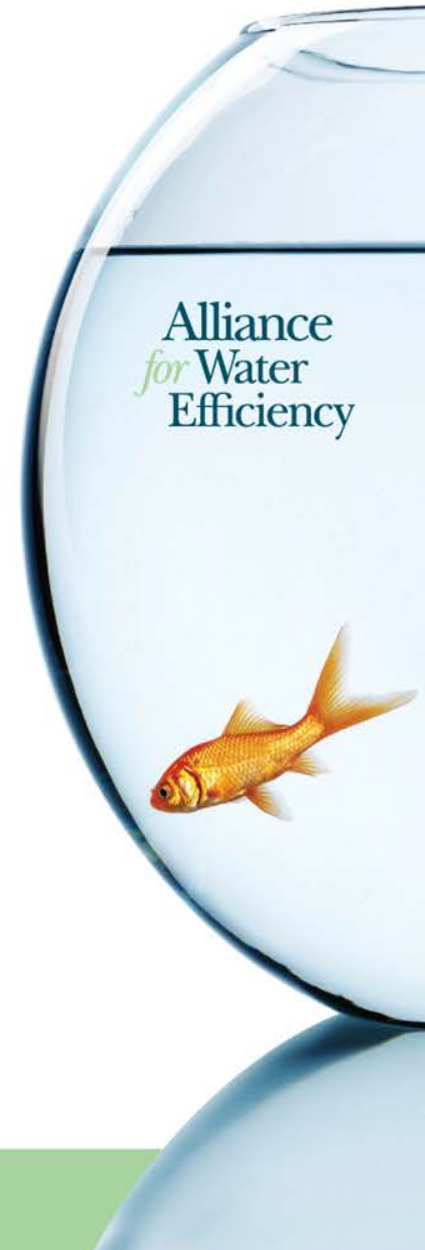
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# What's the Solution?

- Energy efficiency has been exempt from federal taxation for three decades. Section 136 in the IRS Tax Code
- Thus, energy utilities don't face sending out thousands of 1099s every year to angry customers.
- If water efficiency isn't treated similarly, consumer participation in water conservation programs will wane and eventually disappear.
- Utility CFO's will not want to deal with the 1099 issue as well as angry customers



# Creating a Coalition

- Formed by Western Urban Water Coalition and AWE
- Purpose: to address and fix the tax-exemption barrier for water conservation and green infrastructure
- Work with IRS, OMB, and Congress
- Coordinate with energy efficiency advocates



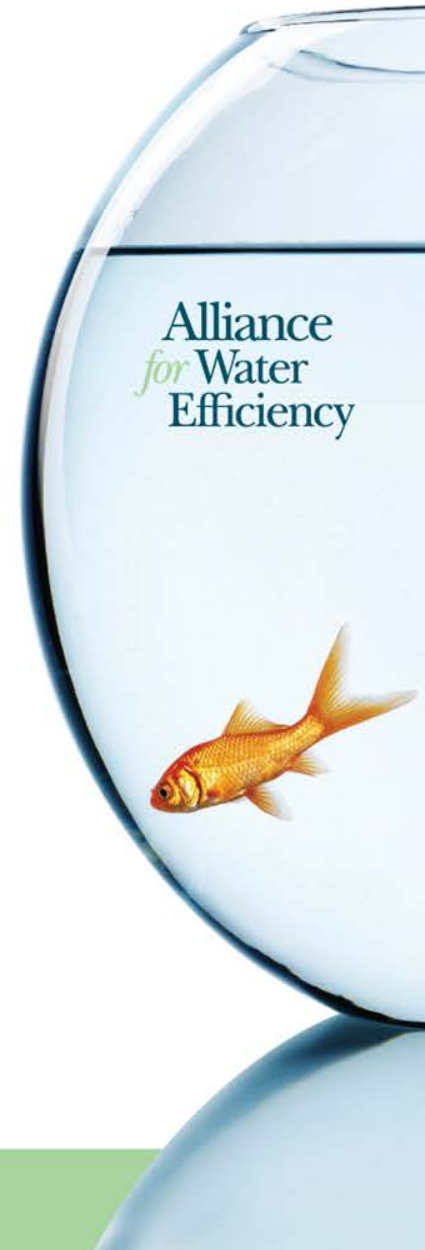
**CPWC**

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COALITION TO PROMOTE WATER CONSERVATION

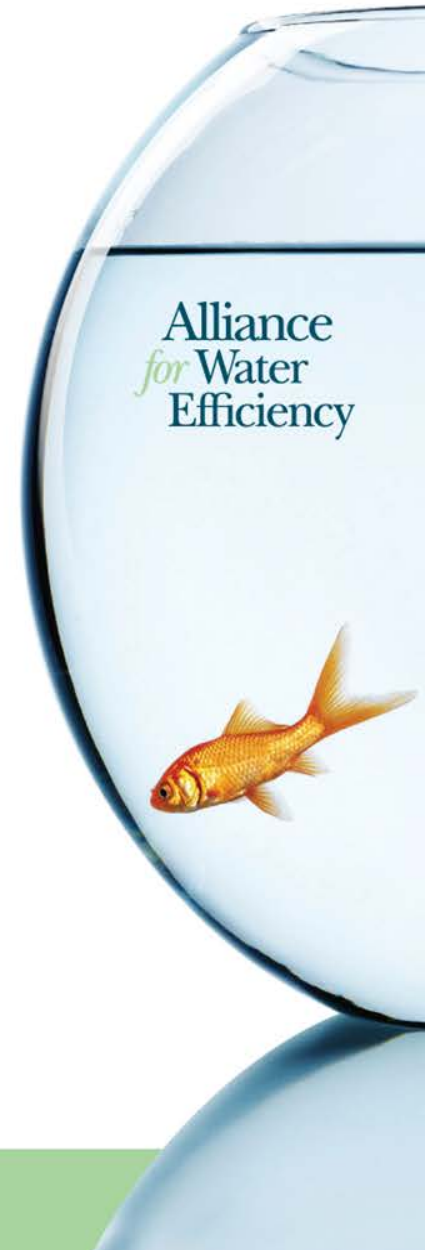
# Administrative vs Legislative Fix

- Congressman Jared Huffman (CA) briefed by AWE on this issue early in 2015
- Letter sent to IRS on December 11, 2015 signed by 34 Congressional Representatives asking Treasury if this could be administratively fixed
- Treasury responded on January 5, 2016 saying a legislative change to Section 136 is required to add water efficiency and green infrastructure as tax-exempt programs
- Treasury included this issue as a need fix in their “green book” of legislative changes



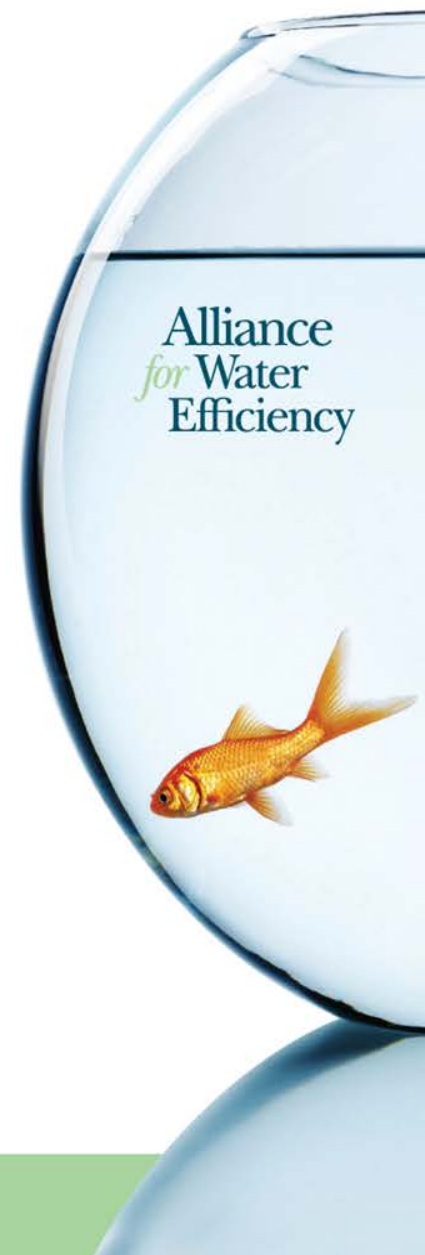
# Administrative Fix

- Water Now Alliance still hoping to seek White House support for an administrative fix
- Argument is that saving water saves energy and thus should be treated as actionable under Section 136's exemption for energy efficiency rebates
- Especially appropriate in states with emergency declarations (such as California)
- Letter to OMB and CEQ being circulated for local government signatures (see [www.waternowalliance.org](http://www.waternowalliance.org))



# House Legislative Fix

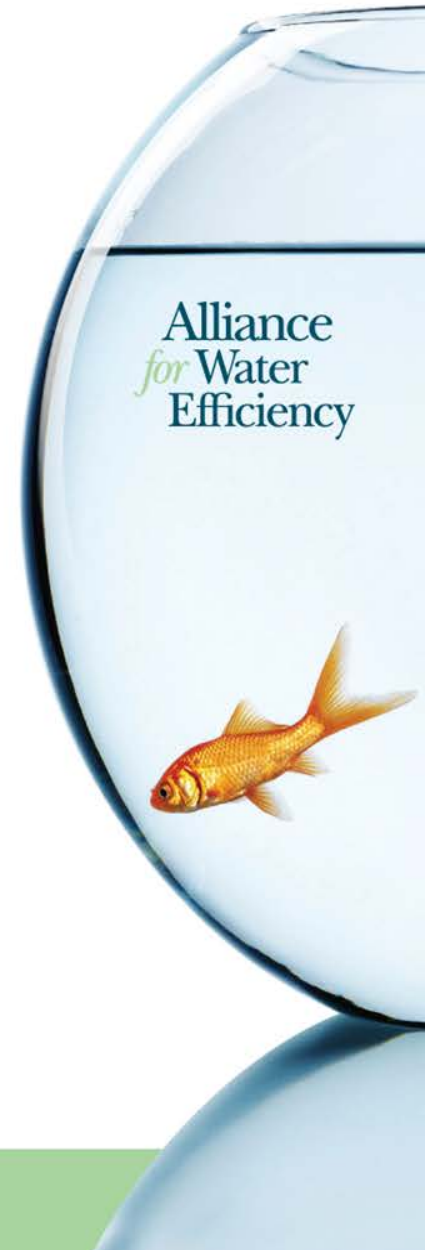
- Bill introduced by Congressman Jared Huffman (CA) on February 25, 2016 – HR 4615 with 1 Republican co-sponsor (also CA)
- “Water Conservation Rebate Tax Parity Act”
- “Gross income shall not include the value of any water conservation and efficiency measure or water runoff management improvement (or any subsidy, rebate, or other amount for such a measure or improvement) received directly or indirectly from a water department.”
- AWE sent support letter on day bill introduced





# Senate Legislative Fix

- Draft Bill ready for be introduced by Senator Diane Feinstein (CA)
- No Republican Senators would co-sponsor
- No action likely in this Congress due to reluctance to open up tax code in an election year
- Current strategy: to provide resolutions of support to key Senators and Congressional Representatives
- More resolutions needed!



## Helix lobbying to make water conservation rebates tax-exempt

Dec 11, 2015 | [Legislative Advocacy](#)

Water conservation rebates are taxable? It turns out that the answer is yes, but only if you receive \$600 or more in rebates in a single year.

If you didn't know about this you're not alone. Few rebates ever surpass the \$600 threshold. But this year — the fourth consecutive year of extreme, statewide drought — Metropolitan Water District of Southern California increased their turf removal rebate to \$2 per square foot. As reported in the [Los Angeles Times](#), many homeowners were surprised to learn that they owe taxes on the big rebates they received.

While the State of California exempted turf removal rebates from reportable income, the IRS didn't. This November, the [Alliance for Water Efficiency](#) reported that this issue was, "included in the U.S. Treasury Department's *greenbook*, an annual report on tax policy changes the administration would like Congress to enact."

On December 3rd, the Alliance for Water Efficiency called on water agencies to email the Speaker of the House, Paul Ryan, Majority Leader, Kevin McCarthy, and Minority Leader, Nancy Pelosi.

Read [Helix's Letter to Congressional Leaders](#).

On December 11th, the Alliance for Water Efficiency reports, a letter signed by 32 members of Congress requesting a federal exemption for water conservation rebates from taxable income was sent to the IRS and the Department of the Treasury.

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**A RESOLUTION OF THE AMWUA BOARD OF DIRECTORS  
REGARDING WATER CONSERVATION AND STORMWATER MANAGEMENT REBATE TAX PARITY**

**WHEREAS**, the Arizona Municipal Water Users Association (AMWUA), a non-profit association of the municipalities of Avondale, Chandler, Gilbert, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, and Tempe, works to protect its members' ability to provide assured, safe, and sustainable water supplies to their communities;

**WHEREAS**, members of AMWUA offer rebates to individuals who install fixtures, appliances, technologies, and physical improvements that increase water use efficiency, lessen water demand, and reduce stormwater runoff from private property in order to encourage the adoption of such measures;

**WHEREAS**, Arizona, the Colorado River Basin, and much of the United States are experiencing increasing stress on water supplies due to drought, climate variability, and other factors;

**WHEREAS**, conservation and stormwater management measures help to ensure the reliability and sustainability of water supplies, which are critical to the well-being of our communities and economies;

**WHEREAS**, water conservation and stormwater rebates are not specifically excluded from income under the U.S. Internal Revenue Code and are therefore taxable income to the recipient;

**WHEREAS**, in 1992, Congress declared similar rebates for energy conservation exempt from taxable income;

**WHEREAS**, water utilities must issue notice of miscellaneous income (Form 1099) to their customers who receive rebates in excess of \$600 a year;

**WHEREAS**, such rebates are not income, but defray upfront costs as an incentive to spur private investment in improvements to increase efficiency, reduce demand, and improve stormwater management;

**WHEREAS**, taxing conservation and stormwater rebates is a disincentive to the millions of Americans who may invest in water conservation and stormwater management;

**NOW, THEREFORE, BE IT RESOLVED THAT THE AMWUA BOARD OF DIRECTORS:**

Request Congress pursue revisions to the Internal Revenue Code to exempt water conservation and stormwater management rebates from taxation, the same treatment currently afforded for energy efficiency and conservation measures under the tax code.

Request Congress review the U.S. Treasury Department's proposal to add exemptions for water conservation and stormwater management measures to the tax code as outlined in its 2016 recommendations to Congress as well as the Congressional Joint Tax Committee's determination that the impact on the federal budget would be "negligible."

Recommend other water-related organizations consider supporting amendments to the Internal Revenue Code to make consumer rebates for water conservation and stormwater management exempt from taxation as income, creating tax parity between the water and energy programs.

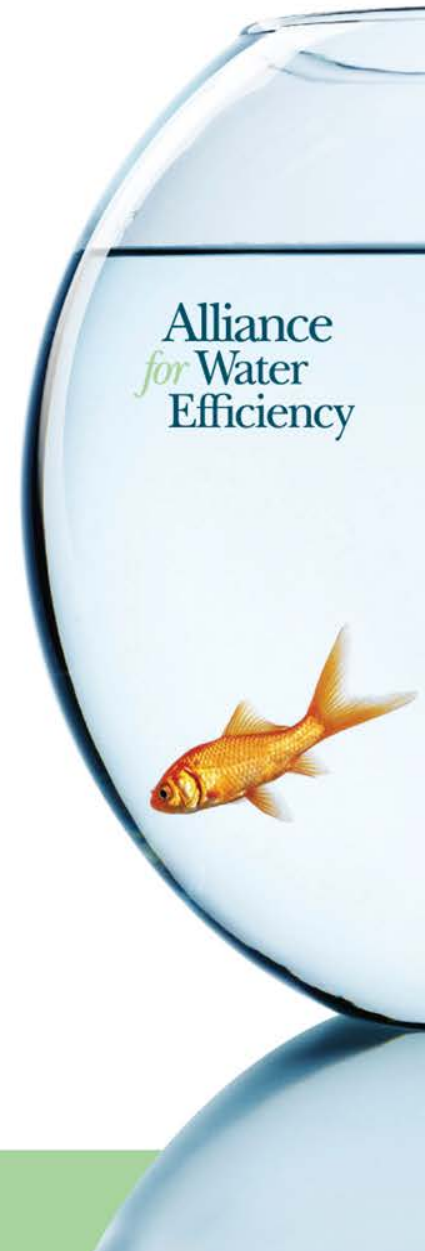
Passed and adopted this twenty-sixth day of May 2016.

A handwritten signature in black ink that reads 'Thelda Williams'.

Councilwoman Thelda Williams, Phoenix  
President, AMWUA Board of Directors

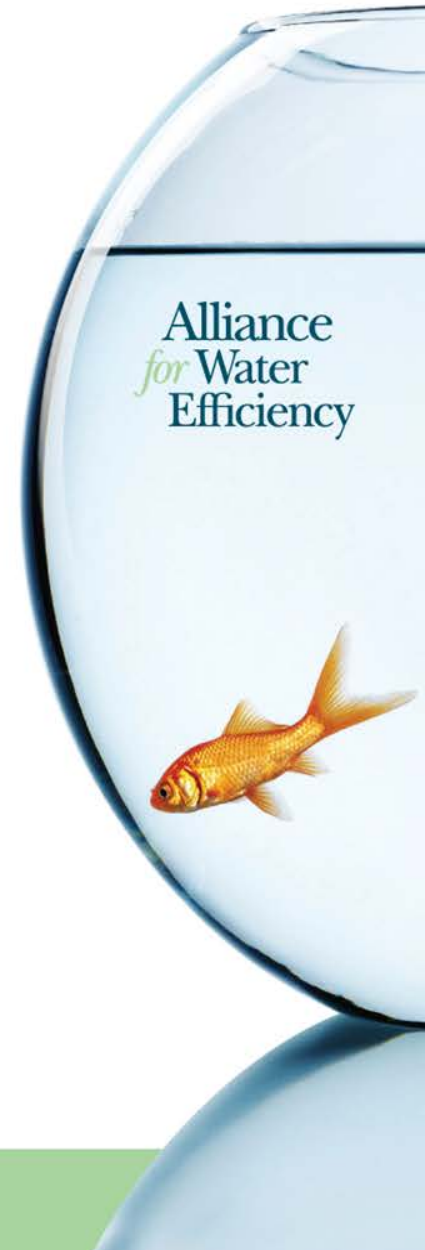
# Plan for 2017

- Give up on this Congress
- Still collect resolutions supporting a fix
- Be ready to launch House and Senate bills in next Congress
- Must have bi-partisan support to move forward
- At least Treasury supports a fix



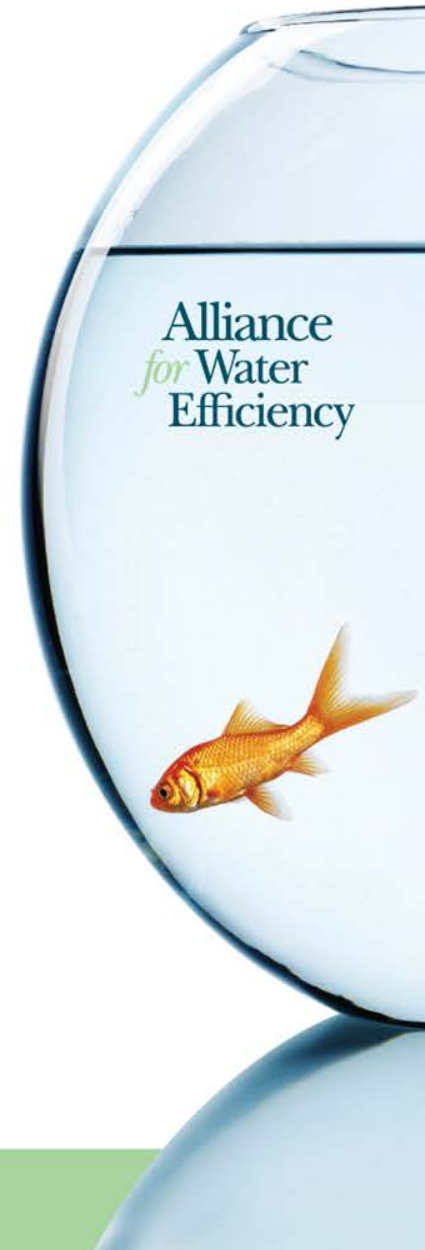
## 2<sup>nd</sup> Barrier

- Water utilities cannot debt finance water conservation programs as part of their capital improvement programs
- We used to be able to do this
- Problem is definitional standards issued by the Government Accounting Standards Board (GASB)
- Unless the “asset” being debt financed is owned or controlled by the water utility (such as a meter or a pressure valve) the “asset” must be paid for with current year operating funds



# Funding with Operating \$

- This is absolutely the worst way to finance a long-term benefit program like water conservation
- You would never consider paying for a water supply source all at once in the first year
- For extremely large utilities this doesn't have much impact as their operating budgets are large
- But for small to medium utilities it is a huge impediment
- And it will cause the need for rate hikes



Welcome to the AWE Conservation Tracking Tool. This model is designed to help you plan for and track water conservation program activity and results. It provides a basic analytical framework for estimating the effects that plumbing/appliance standards and planned conservation programs will have on future water use, utility costs and sales revenue, and average customer rates and bills. It evaluates these effects in terms of costs and benefits from the perspectives of the utility (and its ratepayers) and program participants. Costs and benefits are separately calculated for each conservation measure and can be used to help screen measures and construct program portfolios.

The tracking tool is organized as a series of worksheets. There are three worksheet groups: (1) user input worksheets, (2) tracking tool output worksheets, (3) and background calculation and data storage worksheets. You need only concern yourself with the first two groups. Worksheets in the third group are accessible if you would like to audit the calculations made by the tracking tool, but knowledge of them is not required to use the tracking tool.

User input worksheets will include both cells that take inputs from you as well as cells that contain formulas. Changing the formulas will change the way the tracking tool works and therefore is not recommended. Data input cells are distinguished from all other cells in the model by their Light Yellow fill. Data input cells look like this:

The first two user input worksheets should be completed sequentially: 1. Common Assumptions then 2. Specify Demands. This will ensure the tracking tool has the basic data it needs to get started. After that, the remaining user input worksheets can be completed in any order. The last user input worksheet -- 6. Enter GHG Emission Factors -- is optional. You only need to complete it if you want the tracking tool to calculate GHG emission reductions from plumbing/appliance standards and planned conservation. The User Guide provides lots of additional information and help if you get stuck.

### User Input Sheets

- 1. Common Assumptions 
- 2. Specify Demands 
- 3. Enter Utility Avoided Costs 
- 4. Define Activities 
- 5. Enter Annual Activity 
- 6. Enter GHG Emission Factors (Optional) 

### Tracking Tool Output Sheets

- Activity Savings Profiles 
- Water Savings Summary 
- Utility Revenues and Rates 
- Utility Costs and Benefits 
- Water Loss Comparison 
- Customer Costs and Benefits 
- GHG Reduction Benefits 

# AWE CONSERVATION TRACKING TOOL: UTILITY REVENUES & RATES WORKSHEET

**Review revenue requirement and rate impacts:** This worksheet calculates the impact of planned conservation on annual revenue requirement, average rates, and average bills. It assumes the volumetric revenues generated by the baseline demand and rates forecasts correspond to the utility's volumetric revenue requirement. It then adjusts forecasted annual water sales and revenue requirement using the water savings, conservation program cost, and utility avoided cost estimates calculated earlier. The adjusted revenue requirement equals the baseline revenue requirement plus annual conservation program cost minus annual avoided water supply cost. The adjusted average volumetric rate equals adjusted revenue requirement divided by adjusted annual water sales. The adjusted average monthly volumetric bill equals adjusted revenue requirement divided by number of accounts divided by 12. Calculations are done for two alternative financing strategies for planned conservation. The first strategy treats planned conservation as an operating expense. The model assumes planned conservation is paid for in the year it occurs (Pay-Go financed). The second strategy treats planned conservation as a capital expense. The model assumes planned conservation is debt financed. You can set the debt financing term using the drop-down list.

## Select Chart to View

- Change in Rev. Req.
- Revenue Requirement
- Avg. Water Rate
- Avg. Water Bill
- Change in Rev. Req.
- Change in Water Rate
- Change in Water Bill

Debt Financing Term (Yrs):  Years to Display in Chart:

Chart Explanation

### Change in Annual Volumetric Revenue Requirement Due To Utility Conservation Program



## Baseline Volumetric Revenue Requirement, Average Rate, & Average Bill

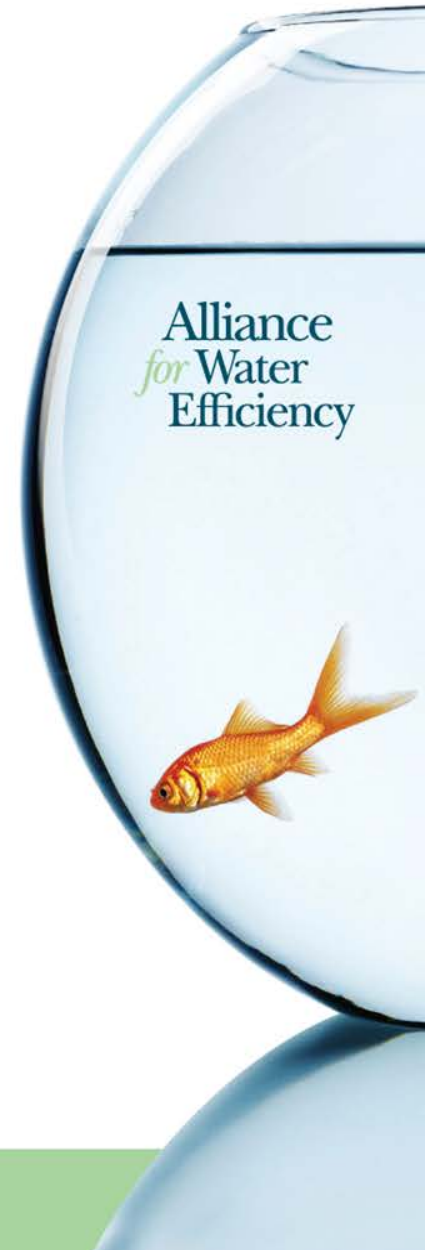
### Baseline Water Sales Forecast (from 2. Specify Demands)

Customer Class	Units	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Single Family	AF	43,779	43,800	43,827	43,851	43,880	43,913	44,069	44,229	44,393	44,560	44,731	45,024	45,321
Multi Family	AF	3,324	3,309	3,295	3,281	3,268	3,257	3,254	3,252	3,250	3,250	3,250	3,259	3,269
CII	AF	13,458	13,481	13,504	13,528	13,553	13,578	13,641	13,705	13,769	13,833	13,898	14,000	14,103
Irrigation	AF	6,729	6,748	6,767	6,787	6,806	6,825	6,864	6,902	6,940	6,979	7,017	7,075	7,133
Not in use	AF	0	0	0	0	0	0	0	0	0	0	0	0	0
Not in use	AF	0	0	0	0	0	0	0	0	0	0	0	0	0
Not in use	AF	0	0	0	0	0	0	0	0	0	0	0	0	0
Not in use	AF	0	0	0	0	0	0	0	0	0	0	0	0	0
Not in use	AF	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>AF</b>	<b>67,289</b>	<b>67,338</b>	<b>67,394</b>	<b>67,447</b>	<b>67,507</b>	<b>67,572</b>	<b>67,827</b>	<b>68,087</b>	<b>68,352</b>	<b>68,622</b>	<b>68,896</b>	<b>69,359</b>	<b>69,826</b>



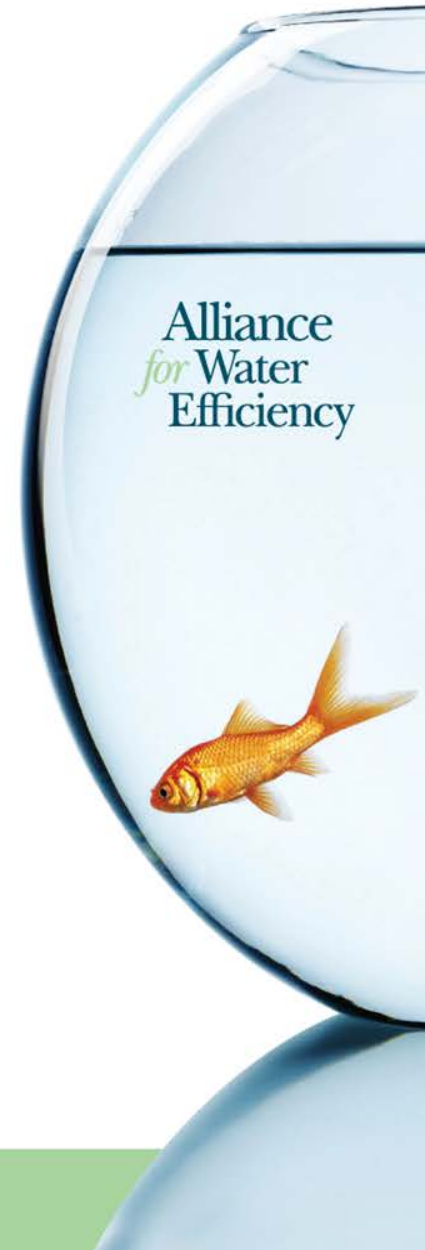
# A Solution?

- Debt-financing is the smart way to fund long-term benefit water conservation programs
- Otherwise, conservation programs will shrink in size to what is affordable from a tight annual operating budget – a budget which is also shrinking due to reduced sales revenues
- Upfront operational spending plus resulting sales reductions means needed rate increases
- Conservation programs are downsized or eliminated as a result



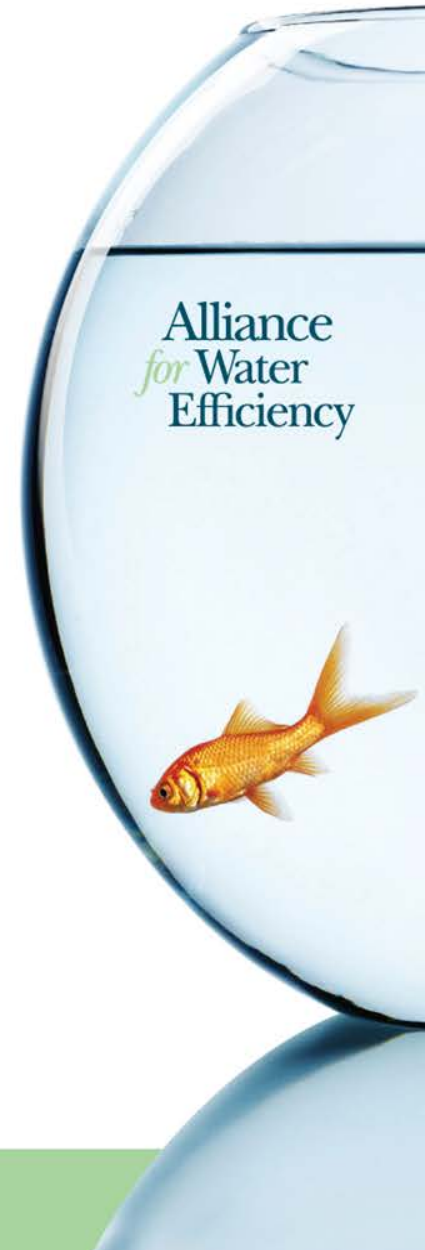
# GASB

- Conservation programs and financing can be encouraged under GASB rules if the benefits could be treated as “assets”
- GASB defines an asset as a “resource with present service capacity that the government presently controls”
- Most water conservation projects do not reflect “control” in a traditional sense, and therefore are not treated by water utility CFO’s as assets that may be capitalized



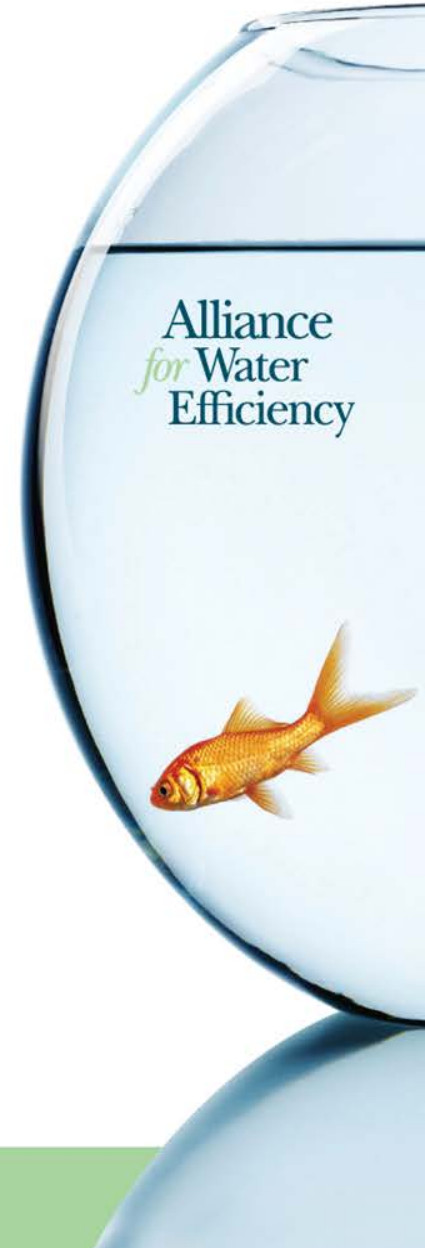
# How to Fix This?

- Partnership with Water Now Alliance and CERES
- White paper being developed
- Two options for fixing this:
  1. GASB guidance provides that “a regulated business-type activity should capitalize all or part of an incurred cost that otherwise would be charged to expense” under certain criteria, which opens up the ability to treat certain water conservation program costs as “regulatory assets.”



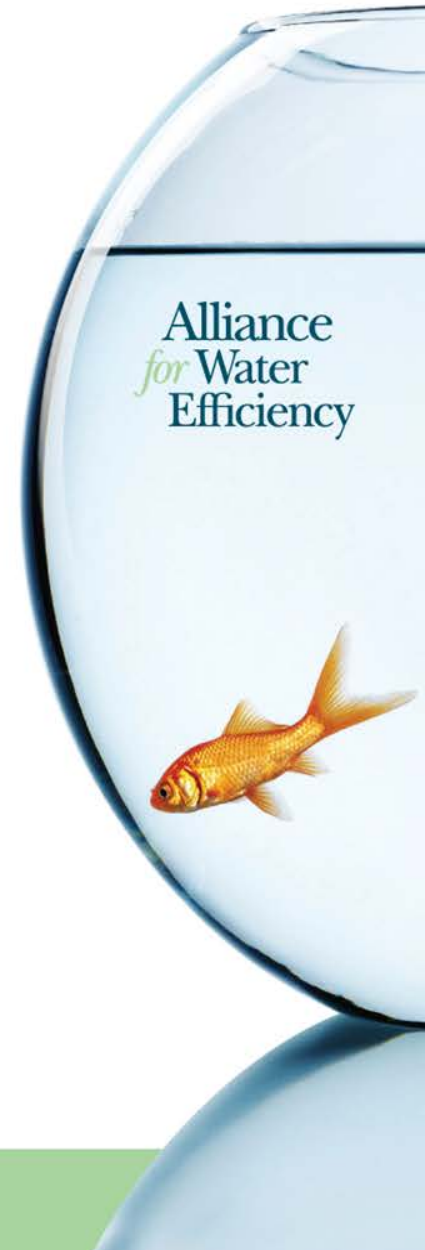
# Another Option: Legal Control

- For green infrastructure or cash-for-grass programs, use easements and real property leases to limit future changes to the relevant property
- Example: 17,000 easements have been issued by the Southern Nevada Water Authority for cash for grass rebates; the program is debt-financed
- For water efficient appliances or grey-water systems, retain full ownership through personal property leases or an interest in the asset with a security filing



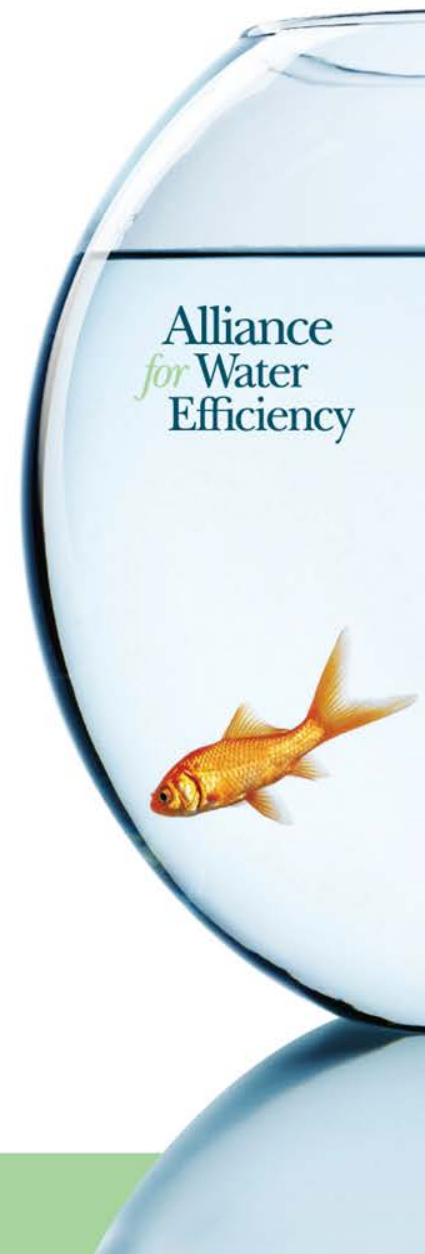
# Moving Forward

1. Work with Government Finance Officer Association on recommendations for addressing these issues
2. Seek formal concurrence on the solutions with GASB officials
3. Develop specific guidance for nervous water utility CFOs
4. Enable once again debt financing of conservation and green infrastructure



# AWE's Role

- Help water conservation programs thrive for our members
- Create opportunities for policy advocacy on enact solutions to these two barriers
- Build coalitions with our membership (such as in Congress)
- Partner with other organizations
- Train our members in implementing the solutions crafted





# Alliance *for* Water Efficiency

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