
HOUSE BILL 2147

State of Washington

57th Legislature

2001 Regular Session

By Representatives G. Chandler and Linville

Read first time 02/19/2001. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to clean water investment; amending RCW 82.08.020;
2 and adding a new chapter to Title 90 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** DECLARATION OF POLICY. It is the solemn
5 obligation of each generation to provide beneficial stewardship of
6 Washington state's natural resources. Meeting this obligation requires
7 restoration of the environment, and improved protection of the health
8 and safety of our citizens. The purpose of this chapter is to provide
9 funding for (1) facilities that control, collect, treat, reuse, or
10 dispose of wastewater and storm water; (2) facilities that treat,
11 conserve, or distribute drinking water; (3) improvements to or
12 replacement of existing irrigation facilities that will conserve water
13 or improve water quality; (4) acquiring valuable or potentially
14 valuable riparian habitat; and (5) acquiring valid, current water
15 rights in order to restore streamflows. Only those facilities and
16 acquisitions that are in compliance with applicable land use and growth
17 management act comprehensive plans, urban growth areas, critical area
18 ordinances, development regulations, and other applicable requirements
19 are eligible for funding under this chapter.

1 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "Administering agencies" means the agencies identified by the
5 legislature as responsible for administering the funds made available
6 under this chapter.

7 (2) "Current, valid water right" means a water right, whether a
8 permit, certificate, or claim, under which water is currently being
9 used, or has been used in the preceding five years, in a manner
10 consistent with the terms of the water right, and which has not been
11 relinquished or abandoned.

12 (3) "Drinking water treatment, conservation, and distribution
13 facilities" means domestic or municipal water supply, treatment,
14 conservation, or distribution systems including but not limited to
15 equipment, utilities, structures, real property, and interests in and
16 improvements on real property necessary for or incidental to the
17 acquisition, construction, installation, or use of any such water
18 supply treatment, conservation, or distribution system.

19 (4) "Public body" means the state of Washington or any agency,
20 political subdivision, special purpose district, or municipal or quasi-
21 municipal corporation thereof; an agency of the federal government; and
22 those Indian tribes now or hereafter recognized as such by the federal
23 government.

24 (5) "Small communities" means an incorporated town or city or
25 unincorporated area with a population of five thousand or fewer or a
26 special purpose district or other municipal or quasi-municipal
27 corporation providing services to five thousand customers or fewer on
28 the effective date of this act.

29 (6) "Wastewater and storm water collection, treatment, and reuse
30 facilities" means any facilities or systems used for the control,
31 collection, storage, treatment, reuse, recycling, or disposal of
32 wastewater, including but not limited to sanitary sewage, residential,
33 industrial, commercial, and agricultural wastewater; or municipal storm
34 water. Such facilities may include all equipment, utilities,
35 structures, real property, and interests in and improvements on real
36 property necessary for or incidental to such purpose.

1 NEW SECTION. **Sec. 3.** GENERAL OBLIGATION BONDS--AUTHORIZED--
2 ISSUANCE, SALE, TERMS--APPROPRIATION REQUIRED. For the purpose of
3 providing funds to public bodies for:

4 (1) The planning, acquisition, construction, and improvement of
5 wastewater and/or storm water control, collection, treatment, disposal,
6 or reuse facilities;

7 (2) The planning, acquisition, construction, and improvement of
8 drinking water treatment, conservation, and distribution facilities;

9 (3) The planning, acquisition, construction, improvement, or
10 replacement of existing irrigation facilities that will conserve water
11 or improve water quality;

12 (4) Identifying, acquiring, improving, and maintaining riparian
13 areas that currently have or will have value as fish and/or wildlife
14 habitat; and

15 (5) Identifying, acquiring, leasing, and maintaining valid, current
16 water rights and converting such water rights into instream flow
17 rights,

18 the state finance committee shall issue general obligation bonds of the
19 state of Washington in the sum of one billion dollars to finance the
20 facilities, acquisitions, and other expenditures authorized by this
21 chapter and all costs incidental thereto. These bonds are special
22 indebtedness under Article VIII, section 3 of the state Constitution
23 and shall be paid and discharged within twenty-five years after the
24 date of issuance. No bonds authorized by this chapter may be offered
25 for sale without prior legislative appropriation of the net proceeds of
26 the bonds to be sold.

27 NEW SECTION. **Sec. 4.** DEPOSIT OF PROCEEDS INTO CLEAN WATER
28 INVESTMENT ACCOUNT, 2001--APPROPRIATION. The proceeds from the sale of
29 bonds authorized by this chapter shall be deposited into the clean
30 water investment account, 2001, which is hereby created in the state
31 treasury. These funds shall be appropriated by the legislature as
32 follows:

33 (1) Thirty percent of the funding shall be used for the purposes
34 specified in section 3(1) of this act;

35 (2) Thirty percent of the funding shall be used for the purposes
36 specified in section 3(2) of this act;

37 (3) Fifteen percent of the funding shall be used for the purposes
38 specified in section 3(3) of this act;

1 (4) Ten percent of the funding shall be used for the purposes
2 specified in section 3(4) of this act; and

3 (5) Fifteen percent of the funding shall be used for the purposes
4 specified in section 3(5) of this act.

5 Five years after the effective date of this act, the legislature
6 may review the distribution of funds set forth under subsections (1)
7 through (5) of this section, and may reallocate the percentage
8 distribution within the five eligible categories of expenditures based
9 on demonstrated need and environmental benefit.

10 NEW SECTION. **Sec. 5.** ADMINISTRATION OF PROCEEDS. (1) General.
11 The proceeds from the sale of the bonds deposited in the clean water
12 investment account, 2001 shall be administered by the administering
13 agencies, which shall be designated by the legislature when it
14 initially appropriates funds made available under this chapter. The
15 administering agencies may use or permit the use of any funds so
16 deposited to accomplish the authorized purposes by direct expenditures
17 and by grants to public bodies. Funds made available under this
18 chapter may be used as matching funds when federal, local, or other
19 funds are made available on a matching basis for facilities,
20 acquisitions, or other expenditures eligible for funding under this
21 chapter.

22 (2) Promulgation of Rules--Funding Criteria--Small Communities.
23 (a) The administering agencies shall, within six months of the initial
24 appropriation of funds made available under this chapter, adopt rules
25 governing the expenditure of funds made available under this chapter.

26 (b) These rules shall include grant eligibility criteria, which
27 shall include, but not be limited to, the following: (i) Environmental
28 performance as described in subsection (5) of this section; (ii) the
29 project sponsor's ability to provide its own funding for the project;
30 and (iii) the availability of funding from other sources.

31 (c) Fifty percent of the funding provided for the purposes
32 specified in section 3 (1) and (2) of this act shall be awarded to
33 small communities or to public bodies providing services to small
34 communities. Up to ninety percent of the eligible costs of any project
35 undertaken by a small community shall be grant eligible.

36 (3) Costs of Administration. Not more than four percent of the
37 proceeds of the bond issue may be used to pay the cost of
38 administration of the grants, acquisitions, and other expenditures

1 authorized by this chapter, including the administering agency's costs
2 incurred providing technical, financial, and engineering assistance.

3 (4) Biennial Performance Accounting. Every two years the
4 administering agencies shall provide performance accounting reports to
5 the governor and the legislature detailing how the funding provided by
6 this chapter has been expended over the previous two years. Using
7 appropriate performance measures and, if available, environmental
8 monitoring information, the reports shall describe the human health
9 protection, environmental improvement, and other value accruing to the
10 public from the expenditure of funds made available under this chapter.

11 (5) Environmental Performance. The administering agencies shall
12 prioritize for funding those facilities or expenditures that provide
13 the greatest benefit to human health or the environment. Facilities
14 that eliminate discharges of pollutants or that employ water reuse or
15 conservation measures shall be a high priority. Land or water
16 purchases that restore or protect threatened or endangered species
17 shall also be a high priority.

18 (6) Riparian Habitat Purchases. At least seventy-five percent of
19 the riparian habitat acquisitions authorized by section 3(4) of this
20 act shall be land that is currently or was within the preceding five
21 years used for agricultural purposes. These acquisitions shall be on
22 a willing-seller basis and the interest conveyed may be a "fee"
23 interest in the property or a permanent conservation easement that
24 protects the land's value as habitat.

25 (7) Water Right Purchases. Only valid, current water rights may be
26 leased or purchased with funds made available by this chapter. The
27 administering agency shall lease or purchase water rights and convert
28 such rights to trust water rights, as specified in chapter 90.42 RCW,
29 for instream flow protection or restoration where such actions will
30 benefit threatened or endangered species, improve water quality, or
31 restore or maintain other instream values identified in RCW
32 90.54.020(3). These leases or purchases shall be made on a willing-
33 seller basis only.

34 (8) Irrigation System Improvements. The evaluation criteria for
35 irrigation system projects shall include improvements in system
36 efficiency, water quality improvements, stream flow restoration, and
37 protection of fish and wildlife. Water conserved as a result of
38 irrigation system improvements paid for in part by funds made available
39 under this chapter shall be returned to the surface or ground water

1 from which it was originally withdrawn or diverted in a volume equal to
2 the percentage of system improvements paid for with funds made
3 available under this chapter.

4 NEW SECTION. **Sec. 6.** FORM, TERMS, CONDITIONS, ETC., OF BONDS.
5 The state finance committee is authorized to prescribe the form, terms,
6 conditions, and covenants of the bonds; the time or times of sale of
7 all or any portion of the bonds; and the conditions and manner of their
8 sale and issuance.

9 NEW SECTION. **Sec. 7.** ANTICIPATION NOTES--PAYMENT--PLEDGE AND
10 PROMISE--SEAL. When the state finance committee has determined to
11 issue the bonds or a portion thereof, it may, pending the issuance of
12 the bonds, issue, in the name of the state, short-term obligations in
13 anticipation of the money to be derived from the sale of the bonds.
14 The portion of the proceeds of the sale of the bonds as may be required
15 for this purpose shall be applied to the payment of the principal of
16 and interest on the anticipation notes which have been issued. The
17 bonds and notes shall pledge the full faith, credit, and taxing power
18 of the state of Washington and shall contain an unconditional promise
19 to pay the principal and interest when due.

20 **Sec. 8.** RCW 82.08.020 and 2000 2nd sp.s. c 4 s 1 are each amended
21 to read as follows:

22 (1) There is levied and there shall be collected a tax on each
23 retail sale in this state equal to six and five-tenths percent of the
24 selling price.

25 (2) There is levied and there shall be collected an additional tax
26 on each retail car rental, regardless of whether the vehicle is
27 licensed in this state, equal to five and nine-tenths percent of the
28 selling price. The revenue collected under this subsection shall be
29 deposited in the multimodal transportation account created in RCW
30 47.66.070.

31 (3) There is levied and there shall be collected an additional tax
32 on each retail sale in this state equal to one-tenth of one percent of
33 the selling price. The revenue collected under this subsection shall
34 be deposited into the clean water investment bond redemption fund under
35 section 9 of this act.

1 (4) The taxes imposed under this chapter shall apply to successive
2 retail sales of the same property.

3 (~~(4)~~) (5) The rates provided in this section apply to taxes
4 imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

5 NEW SECTION. **Sec. 9.** RETIREMENT OF BONDS--REDEMPTION FUND--
6 REMEDIES OF BONDHOLDERS--DEBT-LIMIT GENERAL FUND BOND RETIREMENT
7 ACCOUNT. (1) The clean water investment bond redemption fund is
8 created in the state treasury. This fund is exclusively devoted to the
9 payment of interest on and retirement of the bonds authorized by this
10 chapter. The state finance committee shall, on or before June 30th of
11 each year, certify to the state treasurer the amount needed in the
12 ensuing twelve months to meet the bond retirement and interest
13 requirements. On or before the date on which any interest or principal
14 and interest payment is due, the state treasurer shall withdraw from
15 any general state revenues received in the state treasury and deposit
16 in the clean water investment bond redemption fund an amount equal to
17 the amount certified by the state finance committee to be due on the
18 payment date. The owner and holder of each of the bonds or the trustee
19 for the owner and holder of any of the bonds may by mandamus or other
20 appropriate proceeding require the transfer and payment of funds as
21 directed in this section. If a debt-limit general fund bond retirement
22 account is created in the state treasury by chapter 456, Laws of 1997
23 and becomes effective prior to the issuance of any of the bonds
24 authorized by this chapter, the debt-limit general fund bond retirement
25 account shall be used for the purposes of this chapter in lieu of the
26 clean water investment bond redemption fund.

27 (2) To the extent revenues in any given year exceed the amount
28 necessary for debt service, the state finance committee shall use such
29 revenues for early purchase, redemption, and retirement of outstanding
30 bonds issued under this act.

31 NEW SECTION. **Sec. 10.** LEGISLATURE MAY PROVIDE ADDITIONAL MEANS
32 FOR PAYMENT OF BONDS. The legislature may provide additional means for
33 raising money for the payment of the principal and interest of the
34 bonds authorized in this chapter. This chapter does not provide an
35 exclusive method for the payment.

1 NEW SECTION. **Sec. 11.** BONDS LEGAL INVESTMENT FOR PUBLIC FUNDS.
2 The bonds authorized in this act are a legal investment for all state
3 funds or for funds under state control and for all funds of any other
4 public body.

5 NEW SECTION. **Sec. 12.** SEVERABILITY. If any provision of this act
6 or its application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 13.** CAPTIONS NOT LAW. Captions used in this
10 chapter are not any part of the law.

11 NEW SECTION. **Sec. 14.** Sections 1 through 7 and 9 through 13 of
12 this act constitute a new chapter in Title 90 RCW.

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