
HOUSE BILL 2116

State of Washington 61st Legislature 2009 Regular Session

By Representatives Maxwell, Dunshee, Upthegrove, Jacks, Lias, and Simpson

Read first time 02/10/09. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to funding for water pollution control; amending
2 RCW 90.50A.020, 90.50A.030, 90.50A.040, and 90.50A.060; adding a new
3 section to chapter 90.50A RCW; and declaring an emergency.

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

5 **Sec. 1.** RCW 90.50A.020 and 1993 c 329 s 1 are each amended to read
6 as follows:

7 (1) The water pollution control revolving fund is hereby
8 established in the state treasury. Moneys in this fund may be spent
9 only after legislative appropriation. Moneys in the fund may be spent
10 only in a manner consistent with this chapter.

11 (2) The water pollution control revolving fund shall consist of:

12 (a) All capitalization grants provided by the federal government
13 under the federal water quality act of 1987;

14 (b) Any moneys provided by the federal government for water
15 pollution control facilities and related activities to achieve federal
16 water pollution requirements;

17 (c) All state matching funds appropriated or authorized by the
18 legislature;

1 ((+e)) (d) Any other revenues derived from gifts or bequests
2 pledged to the state for the purpose of providing financial assistance
3 for water pollution control projects;

4 ((+d)) (e) All repayments of moneys borrowed from the fund;

5 ((+e)) (f) All interest payments made by borrowers from the fund;

6 ((+f)) (g) Any other fee or charge levied in conjunction with
7 administration of the fund; and

8 ((+g)) (h) Any new funds as a result of leveraging.

9 (3) The state treasurer may invest and reinvest moneys in the water
10 pollution control revolving fund in the manner provided by law. All
11 earnings from such investment and reinvestment shall be credited to the
12 water pollution control revolving fund.

13 **Sec. 2.** RCW 90.50A.030 and 2007 c 341 s 38 are each amended to
14 read as follows:

15 The department shall use the moneys in the water pollution control
16 revolving fund to provide financial assistance, as provided in the
17 water quality act of 1987 and ~~((as provided in))~~ RCW 90.50A.040, and
18 pursuant to other federal requirements for achieving state and federal
19 water pollution control for protection of the state's waters:

20 (1) To make loans, on the condition that:

21 (a) Such loans are made at or below market interest rates,
22 including interest free loans, at terms not to exceed twenty years;

23 (b) Annual principal and interest payments will commence not later
24 than one year after completion of any project and all loans will be
25 fully amortized not later than twenty years after project completion;

26 (c) The recipient of a loan will establish a dedicated source of
27 revenue for repayment of loans; and

28 (d) The fund will be credited with all payments of principal and
29 interest on all loans.

30 (2) Loans may be made for the following purposes:

31 (a) To public bodies for the construction or replacement of water
32 pollution control facilities as defined in section 212 of the federal
33 water quality act of 1987;

34 (b) For the implementation of a management program established
35 under section 319 of the federal water quality act of 1987 relating to
36 the management of nonpoint sources of pollution, subject to the
37 requirements of that act; and

1 (c) For development and implementation of a conservation and
2 management plan under section 320 of the federal water quality act of
3 1987 relating to the national estuary program, subject to the
4 requirements of that act.

5 (3) The department may not use the moneys in the water pollution
6 control revolving fund for grants, forgiveness of principal, and
7 negative interest unless approved by congress. Grants, forgiveness of
8 principal, and negative interest may be made for the following
9 purposes:

10 (a) To public bodies for the construction or replacement of water
11 pollution control facilities as defined in section 212 of the federal
12 water quality act of 1987;

13 (b) For the implementation of a management program established
14 under section 319 of the federal water quality act of 1987 relating to
15 the management of nonpoint sources of pollution, subject to the
16 requirements of that act;

17 (c) For development and implementation of a conservation and
18 management plan under section 320 of the federal water quality act of
19 1987 relating to the national estuary program, subject to the
20 requirements of that act;

21 (d) For stormwater projects as required by a national pollution
22 discharge elimination system permit; and

23 (e) For combined sewer overflow projects.

24 (4) If grants are approved by congress, the department shall accept
25 grant applications for moneys provided from the federal government
26 through the end of December 2009. The department shall prioritize
27 grants for water pollution control facilities that have a history of
28 noncompliance.

29 (5) The department may also use the moneys in the fund for the
30 following purposes:

31 (a) To buy or refinance the water pollution control facilities'
32 debt obligations of public bodies at or below market rates, if such
33 debt was incurred after March 7, 1985;

34 (b) To guarantee, or purchase insurance for, public body
35 obligations for water pollution control facility construction or
36 replacement or activities if the guarantee or insurance would improve
37 credit market access or reduce interest rates, or to provide loans to
38 a public body for this purpose;

1 (c) As a source of revenue or security for the payment of principal
2 and interest on revenue or general obligation bonds issued by the state
3 if the proceeds of the sale of such bonds will be deposited in the
4 fund;

5 (d) To earn interest on fund accounts; and

6 (e) To pay the expenses of the department in administering the
7 water pollution control revolving fund according to administrative
8 reserves authorized by federal and state law.

9 ~~((4))~~ (6) The department shall present a biennial progress report
10 on the use of moneys from the account to the appropriate committees of
11 the legislature. The report shall consist of a list of each recipient,
12 project description, and amount of the grant, loan, or both.

13 ~~((5) The department may not use the moneys in the water pollution
14 control revolving fund for grants.)~~

15 (7) When prioritizing project applications for loans, grants,
16 forgiveness of principal, and negative interest for water pollution
17 control facilities, the department shall consider the following:

18 (a) The protection and improvement of water quality and public
19 health;

20 (b) The cost to residential ratepayers if they must finance water
21 pollution control facilities without state assistance;

22 (c) Actions required under federal and state permits and compliance
23 orders;

24 (d) Readiness of the project to proceed with planning, design, or
25 construction;

26 (e) The cost-effectiveness of the project based on an analysis of
27 alternatives, including regionalization;

28 (f) Whether the water pollution control facility has a history of
29 noncompliance;

30 (g) Whether the entity receiving assistance is a Puget Sound
31 partner, as defined in RCW 90.71.010;

32 (h) Whether the project is referenced in the action agenda
33 developed by the Puget Sound partnership under RCW 90.71.310;

34 (i) Effective one calendar year following the development and
35 statewide availability of model evergreen community management plans
36 and ordinances under RCW 35.105.050, whether the project is sponsored
37 by an entity that has been recognized, and what gradation of

1 recognition was received, in the evergreen community recognition
2 program created in RCW 35.105.030;

3 (j) The extent to which the applicant county or city, or if the
4 applicant is another public body, the extent to which the county or
5 city in which the applicant public body is located, has established
6 programs to mitigate nonpoint pollution of the surface or subterranean
7 water sought to be protected by the water pollution control facility
8 named in the application for state assistance; and

9 (k) The recommendations of the Puget Sound partnership, created in
10 RCW 90.71.210, and any other board, council, commission, or group
11 established by the legislature or a state agency to study water
12 pollution control issues in the state.

13 **Sec. 3.** RCW 90.50A.040 and 2007 c 341 s 39 are each amended to
14 read as follows:

15 Moneys deposited in the water pollution control revolving fund
16 shall be administered by the department. In administering the fund,
17 the department shall:

18 (1) Consistent with RCW 90.50A.030 and 90.50A.080, allocate funds
19 for loans, grants, forgiveness of principal, and negative interest in
20 accordance with the annual project priority list in accordance with
21 section 212 of the federal water pollution control act as amended in
22 1987, and allocate funds under sections 319 and 320 according to the
23 provisions of that act;

24 (2) Use accounting, audit, and fiscal procedures that conform to
25 generally accepted government accounting standards;

26 (3) Prepare any reports required by the federal government as a
27 condition to awarding federal capitalization grants;

28 (4) Adopt by rule any procedures or standards necessary to carry
29 out the provisions of this chapter;

30 (5) Enter into agreements with the federal environmental protection
31 agency;

32 (6) Cooperate with local, substate regional, and interstate
33 entities regarding state assessment reports and state management
34 programs related to the nonpoint source management programs as noted in
35 section 319(c) of the federal water pollution control act amendments of
36 1987 and estuary programs developed under section 320 of that act;

37 (7) Comply with provisions of the water quality act of 1987; and

1 (8) After January 1, 2010, not provide funding for projects
2 designed to address the restoration of Puget Sound that are in conflict
3 with the action agenda developed by the Puget Sound partnership under
4 RCW 90.71.310.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.50A RCW
6 to read as follows:

- 7 Any public body receiving a grant from the fund shall:
- 8 (1) Appear on the annual project priority list to be identified for
9 funding under section 212 of the federal water pollution control act
10 amendments of 1987 or be eligible under sections 319 and 320 of that
11 act;
 - 12 (2) Submit an application to the department;
 - 13 (3) Establish and maintain a dedicated source of revenue or other
14 acceptable source of revenue for the repayment of the loan; and
 - 15 (4) Demonstrate to the satisfaction of the department it has
16 sufficient legal authority to incur the debt for which it is applying.

17 **Sec. 5.** RCW 90.50A.060 and 1988 c 284 s 7 are each amended to read
18 as follows:

19 If a public body defaults on loan payments due to the fund, the
20 state may withhold any amounts otherwise due to the public body and
21 direct that such funds be applied to the indebtedness and deposited
22 into the account.

23 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 immediately.

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