
SENATE BILL 6588

State of Washington

65th Legislature

2018 Regular Session

By Senators Honeyford and Warnick

1 AN ACT Relating to establishing the water infrastructure program;
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.** The water infrastructure program is
5 established and must be administered by the department. The
6 department must administer the water infrastructure program to
7 support and fund infrastructure projects designed to reduce pollution
8 from stormwater, prevent flooding, increase the availability of water
9 supplies for beneficial uses, or improve fish passage.

10 NEW SECTION. **Sec. 2.** The definitions in this section apply
11 throughout this chapter unless the context clearly requires
12 otherwise.

13 (1) "Department" means the department of ecology.

14 (2) "Project" means water infrastructure that meets the criteria
15 for funding established in this chapter.

16 (3) "Sponsor" means an agency as defined in RCW 42.56.010, a
17 federally recognized Indian tribe in Washington, or a federal agency
18 engaging in flood control or water supply activities in Washington.

1 NEW SECTION. **Sec. 3.** The department must administer the water
2 infrastructure program established in this chapter for the purpose of
3 supporting and funding projects that affect a broad geographic area
4 and are consistent with the following priorities:

5 (1) Reducing stormwater pollution from existing infrastructure
6 and development;

7 (2) Reducing the risk of flooding, protecting against damage
8 caused by floods, and protecting or restoring naturally functioning
9 areas where floods occur;

10 (3) Improving the availability and reliability of water supplies
11 for beneficial uses; and

12 (4) Improving fish passage.

13 NEW SECTION. **Sec. 4.** (1) The purpose of the water
14 infrastructure program established in this chapter is to ensure that
15 the priorities for water infrastructure projects set forth in section
16 3 of this act are carried out through evaluation, ranking, and
17 funding of projects.

18 (2) When administering the water infrastructure program with
19 regard to flood-related projects, the department must, to the
20 greatest extent practicable, implement the Chehalis basin strategy
21 described in RCW 43.21A.732.

22 (3) When administering the water infrastructure program with
23 regard to water supply projects, the department must, to the greatest
24 extent practicable, implement the integrated plan as defined in RCW
25 90.38.010, and focus on projects that are consistent with satisfying
26 the water supply needs identified in RCW 90.90.020.

27 (4) The department must seek assistance from advisory groups that
28 will consult with the department to ensure that the water
29 infrastructure program is administered with due consideration for the
30 views and advice of organizations and individuals who demonstrate
31 concern for water management in Washington. The department may
32 consult with any advisory groups with which the department has
33 consulted on similar programs. The department is further permitted to
34 establish and convene new volunteer advisory groups to consult with
35 the department and assist the department in the administration of the
36 water infrastructure program. However, the department must establish
37 or consult with at least one advisory group for each priority for
38 water infrastructure projects as described in section 3 of this act.
39 The department must provide for appropriate participation by

1 designees of the Washington state conservation commission and the
2 Puget Sound partnership on volunteer advisory groups. The department
3 must consider the advice of each advisory group, but the department
4 retains full authority to administer the water infrastructure program
5 consistent with this chapter.

6 NEW SECTION. **Sec. 5.** (1) The department must administer the
7 water infrastructure program as a competitive grant process to
8 evaluate, rank, and fund projects proposed by project sponsors. The
9 department must ensure that the competitive grant process established
10 in this section promotes the priorities for water infrastructure
11 projects as described in section 3 of this act.

12 (2) Project sponsors who apply for funding through the water
13 infrastructure program must provide a minimum of twenty-five percent
14 match of the nonfederal share of project costs, but the department
15 must give preference to projects that provide a higher level of local
16 or private funding, and must honor preexisting project financial
17 agreements. The match may include funds, commitments, or
18 contributions dedicated to the accomplishment of the project, such
19 as: Cash on hand; the value of real property when acquired solely for
20 the purpose of the project; the proceeds of a letter of credit or
21 other binding loan commitment; a pledge commitment; and in-kind
22 contributions, including private and local government funds, but must
23 not include funds from any state or federal source unless those funds
24 are derived from local levies, assessments, or charges upon state or
25 federal lands. Project sponsors may receive credit for properly
26 documented matching funds that were contributed no earlier than ten
27 years prior to the effective date of this section and that were
28 dedicated to the accomplishment of the project or were incurred for
29 construction costs to remediate and recover from past damage that the
30 project is intended to remedy where damage exceeded twenty-five
31 million dollars, provided that the prior costs must only include
32 local government funds. The department must develop criteria for
33 documenting the value of the match.

34 (3) Although projects may be consistent with more than one
35 priority described in section 3 of this act, a project sponsor must
36 identify in an application which priority is the primary priority
37 advanced by the project.

38 (4) Every two years, the department must evaluate all
39 applications submitted to the water infrastructure program and create

1 ranked lists for projects under each priority described in section 3
2 of this act. Before finalizing its ranked lists, the department must
3 make preliminary ranked lists available to the public and solicit
4 public comment for at least thirty days after the date the
5 preliminary ranked lists are made available to the public. After
6 considering public comments and before November 1st of each year for
7 which projects are ranked, the department must recommend to the
8 governor ranked lists of all projects to be funded. The same ranked
9 lists must be concurrently provided to the appropriate fiscal and
10 policy committees of the legislature. The governor may remove
11 projects from the lists recommended by the department and must then
12 submit the lists to the legislature. The governor may not add
13 projects to any list. The legislature may remove projects from the
14 lists recommended by the governor. The department may not sign
15 contracts or otherwise financially obligate funds from the water
16 infrastructure program account before the legislature has
17 appropriated funds for specific listed projects.

18 NEW SECTION. **Sec. 6.** (1) In ranking projects that promote the
19 priority of reducing stormwater pollution from existing
20 infrastructure and development, the department must use the
21 eligibility and ranking criteria the department uses for the
22 statewide stormwater financial assistance program, as those criteria
23 existed on the effective date of this section. Projects ranked under
24 this section must have a high water quality or ecological benefit and
25 address pollution from existing infrastructure. A project that relies
26 on low-impact development retrofit techniques to reduce stormwater
27 impacts must be preferred over projects that are otherwise rated
28 equally but that do not include low-impact development retrofit
29 techniques.

30 (2) In ranking projects related to flooding, the department must
31 aggressively pursue the completion of projects that promote the
32 priority of reducing the risk of flooding, protecting against damage
33 caused by floods, and protecting or restoring naturally functioning
34 areas where floods occur. The department must rank such projects
35 based on the following criteria, in descending order of importance.

36 (a) The degree to which a project achieves multiple benefits
37 including, but not limited to: Cost-effective flood hazard reduction
38 to people and property; flood risk reduction; recovery of salmon and
39 other native fish; water quality improvements; habitat restoration;

1 agricultural viability; public access; and channel migration zone
2 protection;

3 (b) Projects in counties that have historically been and are
4 projected to continue to be at greatest risk and most vulnerable to
5 flooding, with a priority for projects that address areas that have
6 experienced multiple emergency flood proclamations;

7 (c) Projects that are consistent with and recommended by a
8 collaborative planning and approval process that involves a broad
9 range of stakeholders, including local governments, Indian tribes,
10 state and federal agencies, the environmental community, local
11 landowners, and other interests that include opportunities for public
12 comment, such as a governor's basin-wide planning process, a salmon
13 recovery plan, a hazard mitigation plan, a comprehensive plan, a
14 watershed plan, or other applicable plans;

15 (d) Projects that address both reduction and prevention of flood
16 risks, and protection or restoration of floodplain ecosystem
17 functions;

18 (e) Projects that minimize or eliminate future damage to or
19 disruption of critical infrastructure, including transportation
20 corridors, economic activity and jobs, and emergency response
21 capability;

22 (f) Projects that prepare for the uncertain effects of climate
23 change; and

24 (g) Projects that are developed using a collaborative process
25 involving a broad range of stakeholders, including local governments,
26 Indian tribes, state and federal agencies, environmental groups,
27 local landowners, and other interests.

28 (3) In ranking projects that promote the priority of improving
29 the availability and reliability of water supplies for beneficial
30 uses, the department must give preference to projects that are
31 consistent with or designed to implement an integrated plan, as
32 defined in RCW 90.38.010, and projects that are consistent with
33 satisfying the water supply needs identified in RCW 90.90.020. For
34 all other projects that promote the priority of improving the
35 availability and reliability of water supplies, the department must
36 give preference to projects that:

37 (a) Improve the availability and reliability of water supplies
38 for beneficial uses;

1 (b) Provide for effective management of water in order to prevent
2 variability in water supplies and prepare for the uncertain effects
3 of climate change;

4 (c) Achieve multiple benefits;

5 (d) Mitigate impacts to fish and wildlife caused by the project;
6 and

7 (e) Include practicable conservation measures, where feasible, to
8 ensure efficient use of water.

9 (4) In ranking projects that promote the priority of improving
10 fish passage, the department must work in cooperation with the
11 department of transportation and the fish passage barrier removal
12 board established in RCW 77.95.160 and give preference to projects
13 for the correction of fish barriers required to satisfy the state's
14 obligation under a court order.

15 (5) Projects located in or proposed for the Puget Sound watershed
16 must be evaluated by the Puget Sound partnership for consistency with
17 the Puget Sound action agenda.

18 (6) No provision of this chapter alters or diminishes existing
19 legal obligations to perform environmental review and obtain
20 necessary permits for any project.

21 (7) The department must, to the greatest extent practicable, seek
22 to rank projects so that, after fifteen years, approximately equal
23 amounts of funding will have been allocated to each of the priorities
24 for water infrastructure projects described in section 3 of this act.

25 (8) The department must manage available resources in the water
26 infrastructure program in a fiscally prudent manner. In recommending
27 projects and managing available resources, the department must
28 consider the annual cash flow requirements of projects that receive
29 appropriations expected to cross multiple biennia. To effectively
30 monitor expected revenues and expenditures, the department must
31 develop a comprehensive fifteen-year financing report that identifies
32 long-term cash flow requirements for approved and recommended
33 projects, projected revenues, and year-end account balances. In
34 recommending multibiennial projects, the department must include
35 separate budget estimates for all phases of the projects including
36 expected future biennium appropriations.

37 (9) Moneys made available under this chapter may not be used to
38 acquire property through condemnation.

1 (10) The department is encouraged to give additional
2 consideration to projects under this section that would provide a
3 benefit to economically disadvantaged communities.

4 NEW SECTION. **Sec. 7.** (1) The department must monitor progress
5 in completing projects and achieving expected outcomes. Beginning
6 January 1, 2020, the department must submit biennial reports to the
7 legislature detailing the use of funds under this chapter.

8 (2) The joint legislative audit and review committee must conduct
9 at least one performance audit to provide an objective and systematic
10 assessment of whether funds provided under this act are being used in
11 an effective and efficient manner.

12 (3) The joint legislative audit and review committee must work
13 with the department to determine if appropriate and reliable benefit-
14 cost methodologies exist that might inform the prioritization process
15 specified in section 6 of this act. The committee must also review
16 whether appropriate and reliable benefit-cost methodologies are used
17 to evaluate capital budget projects proposed by the department. The
18 committee must not recommend benefit-cost methodologies that produce
19 intergenerational inequity by inappropriately discounting benefits
20 that might accrue to future generations.

21 NEW SECTION. **Sec. 8.** The legislature intends to appropriate two
22 hundred fifty million dollars for projects to achieve the goals of
23 this act until June 30, 2033.

24 NEW SECTION. **Sec. 9.** The water infrastructure program account
25 is created in the state treasury. All receipts of money directed to
26 the account must be deposited in the account. Expenditures from the
27 account may be used only for purposes set out in section 3 of this
28 act. Moneys in the account may be spent only after appropriation.

29 NEW SECTION. **Sec. 10.** The water infrastructure program bond
30 account is created in the state treasury. All receipts of money
31 directed to the account must be deposited in the account. The account
32 is intended to fund projects for the purposes set out in section 3 of
33 this act using tax exempt bonds. Moneys in the account may be spent
34 only after appropriation.

1 NEW SECTION. **Sec. 11.** The water infrastructure program taxable
2 bond account is created in the state treasury. All receipts of money
3 directed to the account must be deposited in the account. The account
4 is intended to fund projects for the purposes set out in section 3 of
5 this act using taxable bonds. Moneys in the account may be spent only
6 after appropriation.

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

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