
SENATE BILL 5157

State of Washington

68th Legislature

2023 Regular Session

By Senators Torres, Fortunato, Warnick, and Wellman

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1 AN ACT Relating to investments in critical water infrastructure
2 projects; adding a new chapter to Title 90 RCW; and declaring an
3 emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that
6 Washington's water infrastructure is inadequate to meet the needs of
7 fish, families, and employers due to age, design limitations, and a
8 shortage of storage capacity.

9 (2) The legislature further finds the lack of a secure water
10 supply and adequate infrastructure exacerbates natural disasters,
11 such as flooding and drought, and that Washington's rivers, lakes,
12 and streams are threatened by pollution from existing development.

13 (3) The legislature, with this act, will make a historic
14 \$5,000,000,000 investment in critical water infrastructure projects
15 using available federal funds and dedicating a constant portion of
16 the omnibus capital appropriations act for water infrastructure
17 needs. It is the intent of the legislature to enhance water security
18 for the diverse inhabitants of Washington by making fiscally
19 responsible investments in infrastructure projects that: Promote
20 increased availability of water for out-of-stream beneficial uses;
21 reduce the risk of flooding, protect against damage that may be

1 caused by flooding, and restore areas where flooding has occurred;
2 improve fish passage; and reduce stormwater pollution from existing
3 development.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires
6 otherwise.

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

8 (2) "Preference" means, when referring to a project, that the
9 project should be ranked more favorably than other projects that lack
10 preferred characteristics. However, "preference" does not mean that
11 the department must reject projects that lack preferred
12 characteristics.

13 (3) "Priority" means, when referring to a project, that the
14 project must be ranked more favorably than other projects.

15 (4) "Project" means infrastructure that meets the criteria for
16 funding established in this chapter.

17 (5) "Sponsor" means a Washington state agency, a local government
18 or other public entity in Washington, an agency of the United States
19 government engaged in water supply or flood control activities in
20 Washington, or a federally recognized Indian tribe with a reservation
21 in Washington.

22 NEW SECTION. **Sec. 3.** The Washington water infrastructure
23 program is established and must be administered in accordance with
24 this chapter.

25 NEW SECTION. **Sec. 4.** The Washington water infrastructure
26 program must be administered for the purpose of funding projects that
27 promote the following objectives:

28 (1) Increasing the availability of water for out-of-stream
29 beneficial uses;

30 (2) Reducing the risk of flooding, protecting against damage that
31 may be caused by flooding, and restoring areas where flooding has
32 occurred;

33 (3) Improving fish passage; or

34 (4) Reducing stormwater pollution from existing development.

35 NEW SECTION. **Sec. 5.** (1) The department must apply for any
36 federal grant, loan, or other financial assistance program

1 appropriated in P.L. 117-58 of 2021 that meets the purposes of
2 section 3 of this act. Any federal revenues received from P.L. 117-58
3 of 2021 for the purposes of section 3 of this act, must be deposited
4 into the Washington water infrastructure program account created in
5 section 15 of this act.

6 (2) Prior to the submission of any application for a federal
7 grant, loan, or other financial assistance program under P.L. 117-58
8 of 2021, the office of financial management must review and certify
9 that the grant application meets the requirements of this chapter.

10 NEW SECTION. **Sec. 6.** (1) The Washington water infrastructure
11 program must be administered as a competitive grant program to
12 evaluate and rank projects proposed by sponsors.

13 (2) The department shall begin accepting applications from
14 sponsors on April 1st in each even-numbered year. The application
15 submission period must remain open until October 1st of the same
16 year.

17 (3) After the application submission period closes, the
18 department shall distribute applications to the office of Columbia
19 river, office of Chehalis basin, or fish passage barrier removal
20 board, as appropriate, which must evaluate the applications and
21 create ranked lists of projects for the objectives under section 4 of
22 this act. The department must provide the ranked lists to the
23 appropriate standing committees of the legislature before the
24 commencement of the regular session of the legislature in each odd-
25 numbered year.

26 (4) The department shall publish a list of approved projects
27 based on appropriations made by the legislature and shall notify
28 sponsors of approved projects after the adjournment sine die of the
29 regular or special sessions of the legislature in each odd-numbered
30 year.

31 (5) The department shall publish a list of approved projects
32 after the adjournment sine die of the regular or special sessions of
33 the legislature in an even-numbered year if the legislature makes an
34 appropriation resulting in the funding of projects in an even-
35 numbered year.

36 (6) Subject to the availability of amounts appropriated for this
37 specific purpose, the department is authorized to provide funding to
38 sponsors for projects that were approved. The department may not
39 obligate funds from the Washington water infrastructure program

1 account, Washington water infrastructure program bond account, or
2 Washington water infrastructure program taxable bond account before
3 the legislature has appropriated funds from these accounts for the
4 purpose of funding projects under this chapter.

5 (7) A sponsor that is not approved may reapply during a
6 subsequent application submission period in accordance with this
7 section.

8 NEW SECTION. **Sec. 7.** The office of Columbia river shall review
9 proposed projects designed to increase the availability of water for
10 out-of-stream beneficial uses. The following criteria apply to these
11 projects:

12 (1) A project must increase the availability of water for out-of-
13 stream beneficial uses;

14 (2) The highest priority projects are those projects that
15 implement the integrated plan, as defined under RCW 90.38.010, or
16 satisfy the water supply needs identified under RCW 90.90.020;

17 (3) Preference must be given to projects that provide multiple
18 benefits;

19 (4) Preference must be given to projects that mitigate impacts to
20 fish and wildlife caused by the project;

21 (5) Preference must be given to projects that include practicable
22 conservation measures to ensure that water is used efficiently; and

23 (6) The office of Columbia river may consider whether a project
24 helps the state prepare for the effects of climate change.

25 NEW SECTION. **Sec. 8.** The office of Chehalis basin shall review
26 proposed projects designed to reduce the risk of flooding, protect
27 against damage that may be caused by flooding, and restore areas
28 where flooding has occurred. The following criteria apply to these
29 projects:

30 (1) A project must reduce the risk of flooding, protect against
31 damage that may be caused by flooding, or restore areas where
32 flooding has occurred;

33 (2) The highest priority projects are those that implement the
34 Chehalis basin strategy under RCW 43.21A.732;

35 (3) Preference must be given to projects that provide multiple
36 benefits;

1 (4) Preference must be given to projects located in areas that
2 historically have been at the greatest risk and most vulnerable to
3 flooding;

4 (5) Preference must be given to projects that eliminate or
5 minimize the risk of future damage or disruption to critical
6 infrastructure, such as centers of commerce, emergency response
7 systems, hospitals, and transportation corridors; and

8 (6) The office of Chehalis basin may consider whether a project
9 helps the state prepare for the effects of climate change.

10 NEW SECTION. **Sec. 9.** The fish passage barrier removal board
11 shall review proposed projects designed to improve fish passage. The
12 following criteria apply to these projects:

13 (1) A project must improve fish passage;

14 (2) The highest priority projects are those that satisfy the
15 state's obligations under a court order; and

16 (3) Preference must be given to projects sponsored by a city or
17 county.

18 NEW SECTION. **Sec. 10.** The department shall review proposed
19 projects designed to reduce stormwater pollution from existing
20 development. The following criteria apply to these projects:

21 (1) A project must reduce stormwater pollution from existing
22 development;

23 (2) Preference must be given to projects that rely on low-impact
24 development retrofit techniques; and

25 (3) Preference must be given to projects that have a high water
26 quality benefit and address stormwater pollution from existing
27 infrastructure.

28 NEW SECTION. **Sec. 11.** (1) Projects may be consistent with more
29 than one objective under section 4 of this act, but a sponsor is
30 required to identify which objective is the primary objective for a
31 project. The reviewing authorities shall, to the greatest extent
32 practicable, rank projects so that approximately equal amounts will
33 have been allocated among each of the project objective categories
34 under section 4 of this act over the first 20 years of the Washington
35 water infrastructure program.

36 (2) The reviewing authorities shall rank projects in a manner
37 designed to provide funding for as many projects as practicable,

1 while attempting to ensure that each project will receive sufficient
2 funding to facilitate successful completion of the project.

3 (3) The reviewing authorities shall consider whether each project
4 is consistent with the action agenda as defined under RCW 90.71.010,
5 if applicable.

6 (4) Moneys made available under this chapter may not be used to
7 acquire property through condemnation.

8 NEW SECTION. **Sec. 12.** Sponsors that apply for funding through
9 the Washington water infrastructure program are required to provide a
10 minimum of 25 percent of project costs in sponsor funding. The
11 reviewing authorities shall give preference to projects that provide
12 a higher level of sponsor funding. Sponsor funding may include funds,
13 commitments, or contributions dedicated to the accomplishment of the
14 project, such as cash on hand, the value of real property when
15 acquired solely for the purpose of the project, the proceeds of a
16 letter of credit or other binding loan commitment, or similar
17 commitments. Sponsors may receive credit for properly documented
18 funding that was contributed no earlier than 10 years prior to the
19 effective date of this section and that was dedicated to the
20 accomplishment of the project.

21 NEW SECTION. **Sec. 13.** The department may establish advisory
22 committees to ensure that the Washington water infrastructure program
23 is administered with due consideration for the views of individuals
24 and organizations that have demonstrated their interest in water
25 management in Washington.

26 NEW SECTION. **Sec. 14.** The department shall monitor progress in
27 completing projects and achieving desired outcomes for projects
28 funded under the Washington water infrastructure program. Beginning
29 July 1, 2024, the department shall submit biennial reports to the
30 legislature describing the use of funds under this chapter.

31 NEW SECTION. **Sec. 15.** The Washington water infrastructure
32 program account is created in the state treasury. All receipts of
33 money directed to the account must be deposited in the account.
34 Expenditures from the account may be used only for purposes relating
35 to the Washington water infrastructure program established in this
36 chapter. Moneys in the account may be spent only after appropriation.

1 NEW SECTION. **Sec. 16.** The Washington water infrastructure
2 program bond account is created in the state treasury. All receipts
3 of money directed to the account must be deposited in the account.
4 The account is intended to fund projects for purposes relating to the
5 Washington water infrastructure program established in this chapter
6 using tax exempt bonds. Moneys in the account may be spent only after
7 appropriation.

8 NEW SECTION. **Sec. 17.** The Washington water infrastructure
9 program taxable bond account is created in the state treasury. All
10 receipts of money directed to the account must be deposited in the
11 account. The account is intended to fund projects for purposes
12 relating to the Washington water infrastructure program established
13 in this chapter using taxable bonds. Moneys in the account may be
14 spent only after appropriation.

15 NEW SECTION. **Sec. 18.** The legislature intends to appropriate a
16 minimum of 10 percent of all bonds authorized each biennium in
17 addition to federal funds received under P.L. 117-58 of 2021 for
18 projects under this chapter, up to a total of \$5,000,000,000.

19 NEW SECTION. **Sec. 19.** This act may be known and cited as the
20 Washington water act.

21 NEW SECTION. **Sec. 20.** Sections 1 through 19 and 21 of this act
22 constitute a new chapter in Title 90 RCW.

23 NEW SECTION. **Sec. 21.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of
25 the state government and its existing public institutions, and takes
26 effect immediately.

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