
ENGROSSED SUBSTITUTE HOUSE BILL 2116

State of Washington

61st Legislature

2009 Regular Session

By House Capital Budget (originally sponsored by Representatives Maxwell, Dunshee, Upthegrove, Jacks, Liiias, and Simpson)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to funding for water pollution control; amending
2 RCW 90.50A.020, 90.50A.030, 90.50A.040, 90.50A.060, and 90.48.110;
3 adding a new 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 and grants 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. Uses of grants,
8 forgiveness of principal, and negative interest include but are not
9 limited to the following 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 storm water projects; and

22 (e) For combined sewer overflow projects.

23 (4) If grants, forgiveness of principal, and negative interest are
24 approved by congress, the department shall accept applications for
25 moneys provided from the federal government pursuant to the federal
26 authority.

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

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

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

37 (c) As a source of revenue or security for the payment of principal

1 and interest on revenue or general obligation bonds issued by the state
2 if the proceeds of the sale of such bonds will be deposited in the
3 fund;

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

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

8 ~~((4))~~ (6) The department shall present a biennial progress report
9 on the use of moneys from the account to the appropriate committees of
10 the legislature. The report shall consist of a list of each recipient,
11 project description, and amount of the grant, loan, or both.

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

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

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

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

21 (c) Actions required under federal and state permits and compliance
22 orders, including projects with a history of noncompliance;

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

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

27 (f) Whether the entity receiving assistance is a Puget Sound
28 partner, as defined in RCW 90.71.010;

29 (g) Whether the project is referenced in the action agenda
30 developed by the Puget Sound partnership under RCW 90.71.310;

31 (h) Effective one calendar year following the development and
32 statewide availability of model evergreen community management plans
33 and ordinances under RCW 35.105.050, whether the project is sponsored
34 by an entity that has been recognized, and what gradation of
35 recognition was received, in the evergreen community recognition
36 program created in RCW 35.105.030;

37 (i) The extent to which the applicant county or city, or if the
38 applicant is another public body, the extent to which the county or

1 city in which the applicant public body is located, has established
2 programs to mitigate nonpoint pollution of the surface or subterranean
3 water sought to be protected by the water pollution control facility
4 named in the application for state assistance; and

5 (j) The recommendations of the Puget Sound partnership, created in
6 RCW 90.71.210, and any other board, council, commission, or group
7 established by the legislature or a state agency to study water
8 pollution control issues in the state.

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

11 Moneys deposited in the water pollution control revolving fund
12 shall be administered by the department. In administering the fund,
13 the department shall:

14 (1) Consistent with RCW 90.50A.030 and 90.50A.080, allocate funds
15 for loans, grants, forgiveness of principal, and negative interest in
16 accordance with the annual project priority list in accordance with
17 section 212 of the federal water pollution control act as amended in
18 1987, (~~and~~) allocate funds under sections 319 and 320 according to
19 the provisions of that act, and allocate funds for separate competitive
20 programs relating to storm water systems, sewer systems, and septic
21 systems prioritized on a worst case first need basis;

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

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

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

28 (5) Enter into agreements with the federal environmental protection
29 agency;

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

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

36 (8) After January 1, 2010, not provide funding for projects

1 designed to address the restoration of Puget Sound that are in conflict
2 with the action agenda developed by the Puget Sound partnership under
3 RCW 90.71.310.

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

6 Any public body receiving grants, forgiveness of principal, and
7 negative interest 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 **Sec. 6.** RCW 90.48.110 and 2007 c 343 s 13 are each amended to read
24 as follows:

25 (1) Except under subsection (2) of this section, all engineering
26 reports, plans, and specifications for the construction of new sewerage
27 systems, sewage treatment or disposal plants or systems, or for
28 improvements or extensions to existing sewerage systems or sewage
29 treatment or disposal plants, and the proposed method of future
30 operation and maintenance of said facility or facilities, shall be
31 submitted to and be approved by the department, before construction
32 thereof may begin. No approval shall be given until the department is
33 satisfied that said plans and specifications and the methods of
34 operation and maintenance submitted are adequate to protect the quality
35 of the state's waters as provided for in this chapter.

1 (a) The department shall require, through the development of rules,
2 that plans established in this subsection (1) include the following
3 elements:

4 (i) Reviews and updates of sewer plans on a six-year cycle,
5 including asset management and financial planning;

6 (ii) An equitable sewer user charge system for residential,
7 commercial, and industrial users to cover all financial obligation of
8 the planned sewer utility;

9 (iii) Connection fees for new connections to a sewer system that
10 reflect a fair share cost of infrastructure from which new connections
11 will benefit;

12 (iv) A capital wastewater facilities reserve fund dedicated to
13 paying for wastewater infrastructure and equipment replacement; and

14 (v) A sewer use ordinance that restricts certain connections and
15 wastes to protect a local government's investment and enhance the
16 wastewater treatment's process stability and effluent quality. The
17 ordinance must, at least:

18 (A) Require new sewers and connections to be properly designed and
19 constructed;

20 (B) Require a provision with a timeline and proximity in which
21 existing and future residences must connect to the sewer system;

22 (C) Prohibit inflow sources into the sewer system; and

23 (D) Prohibit introduction of toxic or hazardous wastes into the
24 sewer system in an amount or concentration that endangers the public's
25 safety or the physical integrity of the system which may cause
26 violations of the national pollutant discharge elimination system
27 permit or state waste discharge permit.

28 (b) Approval under this chapter is not required for large on-site
29 sewage systems permitted by the department of health under chapter
30 70.118B RCW or for on-site sewage systems regulated by local health
31 jurisdictions under rules of the state board of health.

32 (2) To promote efficiency in service delivery and intergovernmental
33 cooperation in protecting the quality of the state's waters, the
34 department may delegate the authority for review and approval of
35 engineering reports, plans, and specifications for the construction of
36 new sewerage systems, sewage treatment or disposal plants or systems,
37 or for improvements or extensions to existing sewerage system or sewage
38 treatment or disposal plants, and the proposed method of future

1 operations and maintenance of said facility or facilities and
2 industrial pretreatment systems, to local units of government
3 requesting such delegation and meeting criteria established by the
4 department.

5 (3) For any new or revised general sewer plan submitted for review
6 under this section, the department shall review and either approve,
7 conditionally approve, reject, or request amendments within ninety days
8 of the receipt of the submission of the plan. The department may
9 extend this ninety-day time limitation for new submittals by up to an
10 additional ninety days if insufficient time exists to adequately review
11 the general sewer plan. For rejections of plans or extensions of the
12 timeline, the department shall provide in writing to the local
13 government entity the reason for such action. In addition, the
14 governing body of the local government entity and the department may
15 mutually agree to an extension of the deadlines contained in this
16 section.

17 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 immediately.

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