

ESHB 2116 - S COMM AMD

By Committee on Environment, Water & Energy

ADOPTED AS AMENDED 04/14/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 90.50A.020 and 1993 c 329 s 1 are each amended to
4 read as follows:

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

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

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

12 (b) Other moneys provided by the federal government including funds
13 under the American recovery and reinvestment act of 2009 for water
14 pollution control facilities and related activities to achieve federal
15 water pollution requirements;

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

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

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

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

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

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

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

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

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

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

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

11 (b) Annual principal and interest payments will commence not later
12 than one year after completion of any project and all loans will be
13 fully amortized not later (~~then~~) than twenty years after project
14 completion;

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

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

19 (2) Loans, including additional subsidization to eligible
20 recipients in the form of forgiveness of principal and negative
21 interest loans or grants or any combination thereof, may be made for
22 the following purposes:

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

26 (b) For the implementation of a management program established
27 under section 319 of the federal water quality act of 1987 relating to
28 the management of nonpoint sources of pollution, subject to the
29 requirements of that act; and

30 (c) For development and implementation of a conservation and
31 management plan under section 320 of the federal water quality act of
32 1987 relating to the national estuary program, subject to the
33 requirements of that act.

34 (3) The department may also use the money in the water pollution
35 control revolving fund provided by congress for additional
36 subsidization to eligible recipients in the form of forgiveness of
37 principal, negative interest loans or grants or any combination

1 thereof. Uses of forgiveness of principal and negative interest loans
2 or grants include but are not limited to the following purposes:

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

6 (b) For the implementation of a management program established
7 under section 319 of the federal water quality act of 1987 relating to
8 the management of nonpoint sources of pollution, subject to the
9 requirements of that act;

10 (c) For development and implementation of a conservation and
11 management plan under section 320 of the federal water quality act of
12 1987 relating to the national estuary program, subject to the
13 requirements of that act;

14 (d) For storm water projects; and

15 (e) For combined sewer overflow projects.

16 (4) If additional subsidization is made available from moneys
17 provided by congress to eligible recipients in the form of forgiveness
18 of principal or negative interest loans or grants or any combination
19 thereof, the department shall accept applications consistent with this
20 chapter.

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

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

26 (b) To guarantee, or purchase insurance for, public body
27 obligations for water pollution control facility construction or
28 replacement or activities if the guarantee or insurance would improve
29 credit market access or reduce interest rates, or to provide loans to
30 a public body for this purpose;

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

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

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

1 ~~((4))~~ (6) The department shall present a biennial progress report
2 on the use of moneys from the account to the appropriate committees of
3 the legislature. The report shall consist of a list of each recipient,
4 project description, and amount of the grant, loan, or both.

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

7 (7) When prioritizing project applications for loans, forgiveness
8 of principal, and negative interest loans or grants or any combination
9 thereof for water pollution control facilities, the department shall
10 consider the following:

11 (a) The protection and improvement of water quality and public
12 health;

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

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

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

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

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

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

25 (h) Effective one calendar year following the development and
26 statewide availability of model evergreen community management plans
27 and ordinances under RCW 35.105.050, whether the project is sponsored
28 by an entity that has been recognized, and what gradation of
29 recognition was received, in the evergreen community recognition
30 program created in RCW 35.105.030;

31 (i) The extent to which the applicant county or city, or if the
32 applicant is another public body, the extent to which the county or
33 city in which the applicant public body is located, has established
34 programs to mitigate nonpoint pollution of the surface or subterranean
35 water sought to be protected by the water pollution control facility
36 named in the application for state assistance; and

37 (j) The recommendations of the Puget Sound partnership, created in

1 RCW 90.71.210, and any other board, council, commission, or group
2 established by the legislature or a state agency to study water
3 pollution control issues in the state.

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

6 Moneys deposited in the water pollution control revolving fund
7 shall be administered by the department. In administering the fund,
8 the department shall:

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

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

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

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

24 (5) Enter into agreements with the federal environmental protection
25 agency;

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

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

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

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

3 Any public body receiving a loan, forgiveness of principal, or
4 negative interest loan or grant or any combination thereof from the
5 fund shall:

6 (1) Appear on the annual project priority list to be identified for
7 funding under section 212 of the federal water pollution control act
8 amendments of 1987 or be eligible under sections 319 and 320 of that
9 act;

10 (2) Submit an application to the department;

11 (3) Establish and maintain a dedicated source of revenue or other
12 acceptable source of revenue for the repayment of the loan; and

13 (4) Demonstrate to the satisfaction of the department it has
14 sufficient legal authority to incur the debt for the loan that it is
15 applying for.

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

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

22 **Sec. 6.** RCW 90.48.110 and 2007 c 343 s 13 are each amended to read
23 as follows:

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

35 (a) The department shall require, through the development of rules,

1 that plans established in this subsection (1) include the following
2 elements:

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

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

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

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

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

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

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

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

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

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

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

1 industrial pretreatment systems, to local units of government
2 requesting such delegation and meeting criteria established by the
3 department.

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

16 NEW SECTION. **Sec. 7.** The department of ecology may adopt rules to
17 implement this act.

18 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and takes effect
21 immediately."

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22 On page 1, line 1 of the title, after "control;" strike the
23 remainder of the title and insert "amending RCW 90.50A.020, 90.50A.030,
24 90.50A.040, 90.50A.060, and 90.48.110; adding a new section to chapter
25 90.50A RCW; creating a new section; and declaring an emergency."

EFFECT: Makes changes to conform the bill to the American

recovery and reinvestment act of 2009.

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