
SENATE BILL 5136

State of Washington

66th Legislature

2019 Regular Session

By Senators Honeyford, Warnick, Braun, Hawkins, Wagoner, and Fortunato

Prefiled 01/11/19.

1 AN ACT Relating to establishing the water infrastructure program;
2 adding a new chapter to Title 90 RCW; and creating a new section.

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 in accordance with this chapter.

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

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

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

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

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

18 (5) "Sponsor" means a Washington state agency, a local government
19 or other public entity in Washington, an agency of the United States
20 government engaged in water supply or flood control activities in

1 Washington, or a federally recognized Indian tribe with a reservation
2 in Washington.

3 NEW SECTION. **Sec. 3.** The water infrastructure program must be
4 administered for the purpose of funding projects that promote the
5 following objectives:

6 (1) Increasing the availability of water for out-of-stream
7 beneficial uses;

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

11 (3) Improving fish passage; or

12 (4) Reducing stormwater pollution from existing development.

13 NEW SECTION. **Sec. 4.** (1) The water infrastructure program must
14 be administered as a competitive grant program to evaluate and rank
15 projects proposed by sponsors.

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

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

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

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

1 (6) Subject to the availability of amounts appropriated for this
2 specific purpose, the department is authorized to provide funding to
3 sponsors for projects that were approved. The department may not
4 obligate funds from the water infrastructure program account, water
5 infrastructure program bond account, or water infrastructure program
6 taxable bond account before the legislature has appropriated funds
7 from such accounts for the purpose of funding projects under this
8 chapter.

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

12 NEW SECTION. **Sec. 5.** The office of Columbia river shall review
13 proposed projects designed to increase the availability of water for
14 out-of-stream beneficial uses. The following criteria apply to these
15 projects:

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

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

21 (3) Preference must be given to projects that provide multiple
22 benefits;

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

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

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

29 NEW SECTION. **Sec. 6.** The office of Chehalis basin shall review
30 proposed projects designed to reduce the risk of flooding, protect
31 against damage that may be caused by flooding, and restore areas
32 where flooding has occurred. The following criteria apply to these
33 projects:

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

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

1 (3) Preference must be given to projects that provide multiple
2 benefits;

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

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

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

12 NEW SECTION. **Sec. 7.** The fish passage barrier removal board
13 shall review proposed projects designed to improve fish passage. The
14 following criteria apply to these projects:

15 (1) A project must improve fish passage;

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

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

20 NEW SECTION. **Sec. 8.** The department shall review proposed
21 projects designed to reduce stormwater pollution from existing
22 development. The following criteria apply to these projects:

23 (1) A project must reduce stormwater pollution from existing
24 development;

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

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

30 NEW SECTION. **Sec. 9.** (1) Projects may be consistent with more
31 than one objective under section 3 of this act, but a sponsor is
32 required to identify which objective is the primary objective for a
33 project. The reviewing authorities shall, to the greatest extent
34 practicable, rank projects so that approximately equal amounts will
35 have been allocated among each of the project objective categories
36 under section 3 of this act over the first twenty years of the water
37 infrastructure program.

1 (2) The reviewing authorities shall rank projects in a manner
2 designed to provide funding for as many projects as practicable,
3 while attempting to ensure that each project will receive sufficient
4 funding to facilitate successful completion of the project.

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

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

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

23 NEW SECTION. **Sec. 11.** The department may establish advisory
24 committees to ensure that the water infrastructure program is
25 administered with due consideration for the views of individuals and
26 organizations that have demonstrated their interest in water
27 management in Washington.

28 NEW SECTION. **Sec. 12.** The department shall monitor progress in
29 completing projects and achieving desired outcomes for projects
30 funded under the water infrastructure program. Beginning July 1,
31 2021, the department shall submit biennial reports to the legislature
32 describing the use of funds under this chapter.

33 NEW SECTION. **Sec. 13.** The water infrastructure program account
34 is created in the state treasury. All receipts of money directed to
35 the account must be deposited in the account. Expenditures from the
36 account may be used only for purposes relating to the water

1 infrastructure program established in this chapter. Moneys in the
2 account may be spent only after appropriation.

3 NEW SECTION. **Sec. 14.** The water infrastructure program bond
4 account is created in the state treasury. All receipts of money
5 directed to the account must be deposited in the account. The account
6 is intended to fund projects for purposes relating to the water
7 infrastructure program established in this chapter using tax exempt
8 bonds. Moneys in the account may be spent only after appropriation.

9 NEW SECTION. **Sec. 15.** The water infrastructure program taxable
10 bond account is created in the state treasury. All receipts of money
11 directed to the account must be deposited in the account. The account
12 is intended to fund projects for purposes relating to the water
13 infrastructure program established in this chapter using taxable
14 bonds. Moneys in the account may be spent only after appropriation.

15 NEW SECTION. **Sec. 16.** The legislature intends to appropriate
16 five hundred million dollars each biennium for projects under this
17 chapter, up to a total of five billion dollars.

18 NEW SECTION. **Sec. 17.** Sections 1 through 15 of this act
19 constitute a new chapter in Title 90 RCW.

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