# Chapter 70A.135 RCW
# WATER POLLUTION CONTROL FACILITIES FINANCING

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**RCW 70A.135.010 Purpose—Legislative intent.** The long-range health and environmental goals for the state of Washington require the protection of the state's surface and underground waters for the health, safety, use, enjoyment, and economic benefit of its people. It is the purpose of this chapter to provide financial assistance to the state and to local governments for the planning, design, acquisition, construction, and improvement of water pollution control facilities and related activities in the achievement of state and federal water pollution control requirements for the protection of the state's waters.

It is the intent of the legislature that distribution of moneys for water pollution control facilities under this chapter be made on an equitable basis taking into consideration legal mandates, local effort, ratepayer impacts, and past distributions of state and federal moneys for water pollution control facilities.

It is the intent of this chapter that the cost of any water pollution control facility attributable to increased or additional capacity that exceeds one hundred ten percent of existing needs at the time of application for assistance under this chapter shall be entirely a local or private responsibility. It is the intent of this chapter that industrial pretreatment be paid by industries and that state funds shall not be used for such purposes. [2009 c 479 s 51; 1986 c 3 s 1. Formerly RCW 70.146.010.]

**Effective date—2009 c 479:** See note following RCW 2.56.030.

**Effective dates—1986 c 3:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately except sections 12 through 15 of this act shall take effect April 1, 1986." [1986 c 3 s 18.]

**RCW 70A.135.020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

(2) "Eligible cost" means the cost of that portion of a water pollution control facility that can be financed under this chapter excluding any portion of a facility's cost attributable to capacity that is in excess of that reasonably required to address one hundred ten percent of the applicant's needs for water pollution control existing at the time application is submitted for assistance under this chapter.

(3) "Nonpoint source water pollution" means pollution that enters any waters of the state from any dispersed water-based or land-use activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, and forestlands, subsurface or underground sources, and discharges from boats or other marine vessels.

(4) "Public body" means the state of Washington or any agency, county, city or town, conservation district, other political subdivision, municipal corporation, quasi-municipal corporation, and those Indian tribes now or hereafter recognized as such by the federal government.

(5) "Sole source aquifer" means the sole or principal source of public drinking water for an area designated by the administrator of the environmental protection agency pursuant to Public Law 93-523, Sec. 1424(b).

(6) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(7) "Water pollution control activities" means actions taken by a public body for the following purposes: (a) To prevent or mitigate pollution of underground water; (b) to control nonpoint sources of water pollution; (c) to restore the water quality of freshwater lakes; and (d) to maintain or improve water quality through the use of water pollution control facilities or other means. During the 1995-1997 fiscal biennium, "water pollution control activities" includes activities by state agencies to protect public drinking water supplies and sources.

(8) "Water pollution control facility" or "facilities" means any facilities or systems for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, stormwater, residential, commercial, industrial, and agricultural wastes, which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities include all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to such purpose. Water pollution control facilities also include such facilities, equipment, and collection systems as are necessary to protect federally designated sole source aquifers. [2009 c 479 s 52;

1995 2nd sp.s. c 18 s 920; 1993 sp.s. c 24 s 923; 1987 c 436 s 5; 1986 c 3 s 2. Formerly RCW 70.146.020.]

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

**Effective date—2009 c 479:** See note following RCW 2.56.030.

**Severability—Effective date—1995 2nd sp.s. c 18:** See notes following RCW 19.118.110.

**Severability—Effective dates—1993 sp.s. c 24:** See notes following RCW 28A.310.020.

**Effective dates—1986 c 3:** See note following RCW 70A.135.010.

**RCW 70A.135.030 Water pollution control facilities and activities—Grants or loans.** The department may make grants or loans to public bodies, including grants to public bodies as cost-sharing moneys in any case where federal, local, or other funds are made available on a cost-sharing basis, for water pollution control facilities and activities, or for purposes of assisting a public body to obtain an ownership interest in water pollution control facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70A.140.060, within the purposes of this chapter and for related administrative expenses. No more than three percent of the moneys may be used by the department to pay for the administration of the grant and loan program authorized by this chapter. [2020 c 20 s 1378; 2009 c 479 s 53; 2007 c 522 s 955. Prior: 2005 c 518 s 940; 2005 c 514 s 1108; 2004 c 277 s 909; 2003 1st sp.s. c 25 s 934; 2002 c 371 s 921; 2001 2nd sp.s. c 7 s 922; 1996 c 37 s 2; 1995 2nd sp.s. c 18 s 921; 1991 sp.s. c 13 s 61; prior: 1987 c 505 s 64; 1987 c 436 s 6; 1986 c 3 s 3. Formerly RCW 70.146.030.]

**Effective date—2009 c 479:** See note following RCW 2.56.030.

**Severability—Effective date—2007 c 522:** See notes following RCW 15.64.050.

**Effective date—2005 c 518:** See note following RCW 28A.600.110.

**Effective date—2005 c 514:** See note following RCW 83.100.230.

**Part headings not law—Severability—2005 c 514:** See notes following RCW 82.12.808.

**Severability—Effective dates—2004 c 277:** See notes following RCW 89.08.550.

**Severability—Effective date—2003 1st sp.s. c 25:** See notes following RCW 19.28.351.

**Severability—Effective date—2002 c 371:** See notes following RCW 9.46.100.

**Severability—Effective date—2001 2nd sp.s. c 7:** See notes following RCW 43.320.110.

**Severability—Effective date—1995 2nd sp.s. c 18:** See notes following RCW 19.118.110.

**Effective dates—1991 sp.s. c 13:** See note following RCW 18.04.105.

**Effective dates—1986 c 3:** See note following RCW 70A.135.010.

**RCW 70A.135.040 Level of grant or loan not precedent.** No grant or loan made in this chapter for fiscal year 1987 shall be construed to establish a precedent for levels of grants or loans made under this chapter thereafter. [2009 c 479 s 54; 1986 c 3 s 6. Formerly RCW 70.146.040.]

**Effective date—2009 c 479:** See note following RCW 2.56.030.

**Effective dates—1986 c 3:** See note following RCW 70A.135.010.

**RCW 70A.135.050 Compliance schedule for secondary treatment.** The department of ecology may provide for a phased in compliance schedule for secondary treatment which addresses local factors that may impede compliance with secondary treatment requirements of the federal clean water act.

In determining the length of time to be granted for compliance, the department shall consider the criteria specified in the federal clean water act. [1986 c 3 s 8. Formerly RCW 70.146.050.]

**Effective dates—1986 c 3:** See note following RCW 70A.135.010.

**RCW 70A.135.060 Use of funds—Limitations.** Funds provided for facilities and activities under this chapter may be used for payments to a service provider under a service agreement pursuant to RCW 70A.140.060. If funds are to be used for such payments, the department may make periodic disbursements to a public body or may make a single lump sum disbursement. Disbursements of funds with respect to a facility owned or operated by a service provider shall be equivalent in value to disbursements that would otherwise be made if that facility were owned or operated by a public body. Payments under this chapter for waste disposal and management facilities made to public bodies entering into service agreements pursuant to RCW 70A.140.060 shall not exceed amounts paid to public bodies not entering into service agreements. [2020 c 20 s 1379; 2009 c 479 s 55. Prior: 1987 c 527 s 1; 1987 c 436 s 7; 1986 c 3 s 9. Formerly RCW 70.146.060.]

**Effective date—2009 c 479:** See note following RCW 2.56.030.

**Effective dates—1986 c 3:** See note following RCW 70A.135.010.

**RCW 70A.135.070 Grants or loans for water pollution control facilities—Considerations.** (1) When making grants or loans for water pollution control facilities, the department shall consider the following:

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

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

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) Except as otherwise conditioned by RCW 70A.135.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

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

(g) Except as otherwise provided in RCW 70A.135.120, and effective one calendar year following the development and statewide availability of urban forestry management plans and ordinances under RCW 76.15.090, whether the project is sponsored by an entity that has been recognized, and what gradation of recognition was received, in the evergreen community designation program created in RCW 76.15.090;

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

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

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. A county, city, or town that has adopted a comprehensive plan and development regulations as provided in RCW 36.70A.040 may request a grant or loan for water pollution control facilities. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before the department executes a contractual agreement for the grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or

town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) After January 1, 2010, any project designed to address the effects of water pollution on Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310. [2021 c 209 s 18; 2020 c 20 s 1380; 2013 c 275 s 4; 2008 c 299 s 26. Prior: 2007 c 341 s 60; 2007 c 341 s 26; 1999 c 164 s 603; 1997 c 429 s 30; 1991 sp.s. c 32 s 24; 1986 c 3 s 10. Formerly RCW 70.146.070.]

**Findings—Intent—2021 c 209:** See note following RCW 76.15.005.

**Short title—2008 c 299:** See note following RCW 76.15.020.

**Effective date—2007 c 341:** See RCW 90.71.907.

**Findings—Intent—Part headings and subheadings not law—Effective date—Severability—1999 c 164:** See notes following RCW 43.160.010.

**Savings—1999 c 164 ss 301-303, 305, 306, and 601-603:** See note following RCW 82.60.020.

**Effective date—1997 c 429 ss 29 and 30:** See note following RCW 43.155.070.

**Severability—1997 c 429:** See note following RCW 36.70A.3201.

**Section headings not law—1991 sp.s. c 32:** See RCW 36.70A.902.

**Effective dates—1986 c 3:** See note following RCW 70A.135.010.

**RCW 70A.135.080 Extended grant payments.** (1) The department of ecology may enter into contracts with local jurisdictions which provide for extended grant payments under which eligible costs may be paid on an advanced or deferred basis.

(2) Extended grant payments shall be in equal annual payments, the total of which does not exceed, on a net present value basis, fifty percent of the total eligible cost of the project incurred at the time of design and construction. The duration of such extended grant payments shall be for a period not to exceed twenty years. The total of federal and state grant moneys received for the eligible costs of the project shall not exceed fifty percent of the eligible costs.

(3) Any moneys appropriated by the legislature for the purposes of this section shall be first used by the department of ecology to satisfy the conditions of the extended grant payment contracts. [2009 c 479 s 56; 1987 c 516 s 1. Formerly RCW 70.146.075.]

**Effective date—2009 c 479:** See note following RCW 2.56.030.

**RCW 70A.135.090 Grants and loans to local governments—Statement of environmental benefits—Development of outcome-focused performance measures.** In providing grants and loans to local governments, the

department shall require recipients to incorporate the environmental benefits of the project into their applications, and the department shall utilize the statement of environmental benefits in its grant and loan prioritization and selection process. The department shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grant and loan program. To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The department shall consult with affected interest groups in implementing this section. [2001 c 227 s 6. Formerly RCW 70.146.090.]

**Findings—Intent—2001 c 227:** See note following RCW 43.41.270.

**RCW 70A.135.110 Puget Sound partners.** When making grants or loans for water pollution control facilities under RCW 70A.135.070, the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under RCW 90.71.310, or for any other reason, shall not be given less preferential treatment than Puget Sound partners. [2020 c 20 s 1382; 2007 c 341 s 27. Formerly RCW 70.146.110.]

**Effective date—2007 c 341:** See RCW 90.71.907.

**RCW 70A.135.120 Administering funds—Preference to an evergreen community.** When administering funds under this chapter, the department shall give preference only to an evergreen community recognized under *RCW 35.105.030 in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community. [2008 c 299 s 31. Formerly RCW 70.146.120.]

***Reviser's note:** RCW 35.105.030 was repealed by 2021 c 209 s 26.

**Short title—2008 c 299:** See note following RCW 76.15.020.