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**SUBSTITUTE HOUSE BILL 2116**

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**State of Washington                      61st Legislature                      2009 Regular Session**

**By** House Capital Budget (originally sponsored by Representatives Maxwell, Dunshee, Upthegrove, Jacks, Llias, 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 stormwater 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 the  
19 provisions of that act;

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

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

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

26 (5) Enter into agreements with the federal environmental protection  
27 agency;

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

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

34 (8) After January 1, 2010, not provide funding for projects  
35 designed to address the restoration of Puget Sound that are in conflict  
36 with the action agenda developed by the Puget Sound partnership under  
37 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 grants, forgiveness of principal, and  
4 negative interest from the fund shall:

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

9            (2) Submit an application to the department;

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

12           (4) Demonstrate to the satisfaction of the department it has  
13 sufficient legal authority to incur the debt for which it is applying.

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

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

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

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

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

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

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

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

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

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

15 (A) Require new sewers and connections to be properly designed and  
16 constructed;

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

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

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

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

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

1 requesting such delegation and meeting criteria established by the  
2 department.

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

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

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