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SECOND ENGROSSED SENATE BILL 5251

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State of Washington                      64th Legislature                      2015 Regular Session

By Senators Honeyford and Keiser; by request of Department of Health

Read first time 01/16/15. Referred to Committee on Agriculture,  
Water & Rural Economic Development.

1            AN ACT Relating to transferring public water system financial  
2 assistance activities from the public works board and the department  
3 of commerce to the department of health; and amending RCW  
4 70.119A.170.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            **Sec. 1.** RCW 70.119A.170 and 2001 c 141 s 4 are each amended to  
7 read as follows:

8            (1) A drinking water assistance account ~~((is))~~and an  
9 administrative subaccount are created in the state treasury. ~~((Such~~  
10 ~~subaccounts as are necessary to carry out the purposes of this~~  
11 ~~chapter are permitted to be established within the account.~~  
12 ~~Therefore, the drinking water assistance administrative account and~~  
13 ~~the drinking water assistance repayment account are created in the~~  
14 ~~state treasury.))~~ The purpose of the account is to allow the state to  
15 use any federal funds that become available to states from congress  
16 to fund a state revolving ~~((loan))~~ fund loan program as part of the  
17 reauthorization of the federal safe drinking water act.  
18 ~~((Expenditures from the account may only be made by the secretary,~~  
19 ~~the public works board, or the department of community, trade, and~~  
20 ~~economic development, after appropriation.))~~Moneys in the account may  
21 be spent only after appropriation. Until June 30, 2018, expenditures

1 from the account may only be made by the secretary of health, the  
2 public works board, or the department of commerce. Beginning July 1,  
3 2018, expenditures from the account may only be made by the  
4 secretary. Moneys in the account may only be used, consistent with  
5 federal law, to assist local governments and public water systems to  
6 provide safe and reliable drinking water through a program  
7 administered through the department (~~of health, the public works~~  
8 ~~board, and the department of community, trade, and economic~~  
9 ~~development)) and for other activities authorized under federal law.  
10 Money may be placed in the account from the proceeds of bonds when  
11 authorized by the legislature, transfers from other state funds or  
12 accounts, federal capitalization grants or other financial  
13 assistance, all repayments of moneys borrowed from the account, all  
14 interest payments made by borrowers from the account or otherwise  
15 earned on the account, or any other lawful source. All interest  
16 earned on moneys deposited in the account, including repayments,  
17 shall remain in the account and may be used for any eligible purpose.  
18 (~~Moneys in the account may only be used to assist local governments~~  
19 ~~and water systems to provide safe and reliable drinking water, for~~  
20 ~~other services and assistance authorized by federal law to be funded~~  
21 ~~from these federal funds, and to administer the program.))~~~~

22 (2) The department (~~and the public works board~~) shall  
23 (~~establish and~~) maintain a program to use the moneys in the  
24 drinking water assistance account as provided by the federal  
25 government under the safe drinking water act. (~~The department and~~  
26 ~~the public works board, in consultation with purveyors, local~~  
27 ~~governments, local health jurisdictions, financial institutions,~~  
28 ~~commercial construction interests, other state agencies, and other~~  
29 ~~affected and interested parties, shall by January 1, 1999, adopt~~  
30 ~~final joint rules and requirements for the provision of financial~~  
31 ~~assistance to public water systems as authorized under federal law.~~  
32 ~~Prior to the effective date of the final rules, the department and~~  
33 ~~the public works board may establish and utilize guidelines for the~~  
34 ~~sole purpose of ensuring the timely procurement of financial~~  
35 ~~assistance from the federal government under the safe drinking water~~  
36 ~~act, but such guidelines shall be converted to rules by January 1,~~  
37 ~~1999.)) The department (~~and the public works board~~) shall make  
38 every reasonable effort to (~~ensure the state's receipt and~~  
39 ~~disbursement of~~) provide cost-effective, timely services and disburse  
40 federal funds to eligible public water systems as quickly as possible~~

1 after the federal government has made them available. (~~By December~~  
2 ~~15, 1997, the department and the public works board shall provide a~~  
3 ~~report to the appropriate committees of the legislature reflecting~~  
4 ~~the input from the affected interests and parties on the status of~~  
5 ~~the program. The report shall include significant issues and~~  
6 ~~concerns, the status of rule making and guidelines, and a plan for~~  
7 ~~the adoption of final rules.~~

8 ~~(3) If the department, public works board, or any other~~  
9 ~~department, agency, board, or commission of state government~~  
10 ~~participates in providing service under this section, the~~  
11 ~~administering entity shall endeavor to provide cost effective and~~  
12 ~~timely services. Mechanisms to provide cost effective and timely~~  
13 ~~services include: (a) Adopting federal guidelines by reference into~~  
14 ~~administrative rules; (b) using existing management mechanisms rather~~  
15 ~~than creating new administrative structures; (c) investigating the~~  
16 ~~use of service contracts, either with other governmental entities or~~  
17 ~~with nongovernmental service providers; (d) the use of joint or~~  
18 ~~combined financial assistance applications; and (e) any other method~~  
19 ~~or practice designed to streamline and expedite the delivery of~~  
20 ~~services and financial assistance.~~

21 ~~(4))~~(3) The department shall have the authority to establish  
22 assistance priorities and carry out oversight and related  
23 activities(~~(, other than financial administration,)~~) with respect to  
24 assistance provided with federal funds. By December 31, 2016, the  
25 department, the public works board, and the department of  
26 ((community, trade, and economic development))commerce shall  
27 ((jointly)) develop((, with the assistance of water purveyors and  
28 other affected and interested parties,)) a memorandum of  
29 understanding ((setting forth responsibilities and duties for each of  
30 the parties. The memorandum of understanding at a minimum, shall  
31 include))to transfer financial administration of the program as  
32 authorized under subsection (1) of this section.

33 (4) The department shall:

34 (a) ~~((Responsibility for developing))~~Develop guidelines for  
35 providing assistance to public water systems and related oversight  
36 prioritization and oversight responsibilities including requirements  
37 for prioritization of loans or other financial assistance to public  
38 water systems;

39 (b) ~~((Department submittal of preapplication information to the~~  
40 ~~public works board for review and comment;~~

1 ~~(c) Department submittal of~~) Establish a prioritized list of  
2 projects ~~((to the public works board for determination of))~~. Priority  
3 considerations must include, but are not limited to:

4 (i) Financial capability of the applicant to repay the loan;  
5 ~~((and))~~

6 (ii) The applicant's readiness to proceed~~((, or the))~~ and the  
7 ability of the applicant to promptly commence and complete the  
8 project;

9 ~~((d) A process for determining))~~ (iii) Consistency with existing  
10 water resource planning and management, including coordinated water  
11 supply plans, regional water resource plans, and comprehensive plans  
12 under the growth management act, chapter 36.70A RCW;

13 ~~((e) A determination of:~~  
14 ~~(i))~~ (iv) Least-cost solutions, including ~~((consolidation and))~~  
15 restructuring of ~~((small))~~ public water systems, where appropriate~~((,~~  
16 into more economical units));

17 ~~((ii))~~ (v) The provision of regional ~~((facilities))~~ benefits that  
18 affect more than one public water system;

19 ~~((iii))~~ (vi) Projects and activities that facilitate compliance  
20 with the federal safe drinking water act; ~~((and~~

21 ~~(iv))~~ (vii) Projects and activities that are intended to achieve  
22 the public health objectives of federal and state drinking water laws  
23 regulations, and rules; and

24 ~~((f))~~ (viii) Implementation of water ~~((conservation))~~ use  
25 efficiency and other demand management measures consistent with state  
26 ~~((guidelines))~~ laws and rules for water utilities;

27 ~~((g))~~ (c) Provide assistance for the necessary planning and  
28 engineering to ~~((assure))~~ ensure that consistency, coordination, and  
29 proper professional review are incorporated into projects or  
30 activities proposed for funding;

31 ~~((h))~~ (d) Establish minimum standards for water system capacity,  
32 including operational, technical, managerial, and financial  
33 ~~((viability))~~ capability, and as part of water system planning  
34 requirements;

35 ~~((i))~~ (e) Oversee the testing and evaluation of the water  
36 quality of ~~((the state's))~~ public water systems to ~~((assure))~~ ensure  
37 that priority for financial assistance is provided to systems and  
38 areas with threats to public health from contaminated supplies and  
39 reduce in appropriate cases the substantial increases in costs and  
40 rates that customers of small systems would otherwise incur under the

1 monitoring and testing requirements of the federal safe drinking  
2 water act;

3 ~~((j) Coordination))~~ (f) Coordinate, to the maximum extent  
4 possible, with other state programs that provide financial assistance  
5 to public water systems and state programs that address existing or  
6 potential water quality or drinking water contamination problems;

7 ~~((k) Definitions of "affordability" and "disadvantaged  
8 community" that are consistent with these and similar terms in use by  
9 other state or federal assistance programs;~~

10 ~~(l) Criteria for the financial assistance program for public  
11 water systems, which shall include, but are not limited to:~~

12 ~~(i) Determining projects addressing the most serious risk to  
13 human health;~~

14 ~~(ii) Determining the capacity of the system to effectively manage  
15 its resources, including meeting state financial viability criteria;  
16 and~~

17 ~~(iii) Determining the relative benefit to the community served;  
18 and~~

19 ~~(m) Ensure that each agency fulfills)~~ (g) Submit a prioritized  
20 list of projects to the public works board for coordination with  
21 other state and federal infrastructure assistance programs, and to  
22 the appropriate committees of the legislature by February 1st of each  
23 year; and

24 (h) Fulfill the audit, accounting, and reporting requirements  
25 under federal law for ~~((its portion of))~~ the administration of  
26 ~~((this))~~ the program.

27 (5) The department ~~((and the public works board shall begin the  
28 process to disburse funds no later than October 1, 1997, and))~~ shall  
29 adopt such rules as are necessary under chapter 34.05 RCW to  
30 administer the program ~~((by January 1, 1999))~~.

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