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**HOUSE BILL 2309**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Smith, Stanford, Griffey, Haler, Wilcox, Tharinger, and Moscoso; by request of Department of Ecology

AN ACT Relating to increasing the available term of water pollution control revolving fund program loans to reflect the 2014 amendments to the federal clean water act allowing such an increase; and amending RCW 90.50A.010, 90.50A.020, 90.50A.030, 90.50A.040, and 90.50A.050.

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

**Sec.**  RCW 90.50A.010 and 2013 c 96 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Debt service" means the total of all principal, interest, and administration charges associated with a water pollution control revolving fund loan that must be repaid to the department by the public body.

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

(3) "Eligible cost" means the cost of that portion of a water pollution control facility or activity that can be financed under this chapter.

(4) "Federal capitalization grants" means grants from the federal government provided by the clean water ((~~quality~~)) act ((~~of 1987 (P.L. 100-4)~~)).

(5) "Fund" means the water pollution control revolving fund in the custody of the state treasurer.

(6) "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 forest lands, subsurface or underground sources, and discharges from boats or other marine vessels.

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

(8) "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.

(9) "Water pollution control activities" means actions taken by a public body for the following purposes: (a) To control nonpoint sources of water pollution; (b) to develop and implement a comprehensive management plan for estuaries; and (c) to maintain or improve water quality through the use of water pollution control facilities or other means.

(10) "Water pollution control facility" or "water pollution control facilities" means any facilities or systems owned or operated by a public body for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, storm water, combined sewer overflows, 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.

(11) "Clean water act" means 33 U.S.C. Sec. 1251 through 1388, as it existed on the effective date of this section.

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

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

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

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

(b) All state matching funds appropriated or authorized by the legislature;

(c) Any other revenues derived from gifts or bequests pledged to the state for the purpose of providing financial assistance for water pollution control projects;

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

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

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

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

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

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

The department shall use the moneys in the water pollution control revolving fund to provide financial assistance as provided in the clean water ((~~quality~~)) act ((~~of 1987~~)) and as provided in RCW 90.50A.040:

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

(a) Such loans are made at or below market interest rates, including interest free loans, at terms not to exceed ((~~twenty years~~)) the lesser of thirty years or the projected useful life, as determined by the state, of the project to be financed with the proceeds of the loan;

(b) Annual principal and interest payments will commence not later than one year after completion of any project and all loans will be fully amortized ((~~not later then twenty years after project completion~~)) upon the expiration of the term of the loan;

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

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

(2) Loans may be made for the following purposes:

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

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

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

(3) The department may also use the moneys in the fund for the following purposes:

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

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

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

(d) To earn interest on fund accounts; and

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

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

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

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

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

(1) Consistent with RCW 90.50A.030 and 90.50A.080, allocate funds for loans in accordance with the annual project priority list in accordance with ((~~section 212 of~~)) the ((~~federal~~)) clean water ((~~pollution control~~)) act ((~~as amended in 1987, and allocate funds under sections 319 and 320 according to the provisions of that act~~));

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

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

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

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

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

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

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

**Sec.**  RCW 90.50A.050 and 1988 c 284 s 6 are each amended to read as follows:

Any public body receiving a loan from the fund shall:

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

(2) Submit an application to the department;

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

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

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