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**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

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

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

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

(1) A drinking water assistance account ((~~is~~))and an administrative subaccount are created in the state treasury. ((~~Such subaccounts as are necessary to carry out the purposes of this chapter are permitted to be established within the account. Therefore, the drinking water assistance administrative account and the drinking water assistance repayment account are created in the state treasury.~~)) The purpose of the account is to allow the state to use any federal funds that become available to states from congress to fund a state revolving ((~~loan~~)) fund loan program as part of the reauthorization of the federal safe drinking water act. ((~~Expenditures from the account may only be made by the secretary, the public works board, or the department of community, trade, and economic development, after appropriation.~~))Moneys in the account may be spent only after appropriation. Until June 30, 2017, expenditures from the account may only be made by the secretary of health, the public works board, or the department of commerce. Beginning July 1, 2017, expenditures from the account may only be made by the secretary. Moneys in the account may only be used, consistent with federal law, to assist local governments and public water systems to provide safe and reliable drinking water through a program administered through the department ((~~of health, the public works board, and the department of community, trade, and economic development~~)) and for other activities authorized under federal law. Money may be placed in the account from the proceeds of bonds when authorized by the legislature, transfers from other state funds or accounts, federal capitalization grants or other financial assistance, all repayments of moneys borrowed from the account, all interest payments made by borrowers from the account or otherwise earned on the account, or any other lawful source. All interest earned on moneys deposited in the account, including repayments, shall remain in the account and may be used for any eligible purpose. ((~~Moneys in the account may only be used to assist local governments and water systems to provide safe and reliable drinking water, for other services and assistance authorized by federal law to be funded from these federal funds, and to administer the program.~~))

(2) The department ((~~and the public works board~~)) shall ((~~establish and~~)) maintain a program to use the moneys in the drinking water assistance account as provided by the federal government under the safe drinking water act. ((~~The department and the public works board, in consultation with purveyors, local governments, local health jurisdictions, financial institutions, commercial construction interests, other state agencies, and other affected and interested parties, shall by January 1, 1999, adopt final joint rules and requirements for the provision of financial assistance to public water systems as authorized under federal law. Prior to the effective date of the final rules, the department and the public works board may establish and utilize guidelines for the sole purpose of ensuring the timely procurement of financial assistance from the federal government under the safe drinking water act, but such guidelines shall be converted to rules by January 1, 1999.~~)) The department ((~~and the public works board~~)) shall make every reasonable effort to ((~~ensure the state's receipt and disbursement of~~))provide cost-effective, timely services and disburse federal funds to eligible public water systems as quickly as possible after the federal government has made them available. ((~~By December 15, 1997, the department and the public works board shall provide a report to the appropriate committees of the legislature reflecting the input from the affected interests and parties on the status of the program. The report shall include significant issues and concerns, the status of rule making and guidelines, and a plan for the adoption of final rules.~~

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

~~(4)~~))(3) The department shall have the authority to establish assistance priorities and carry out oversight and related activities((~~, other than financial administration,~~)) with respect to assistance provided with federal funds. By December 31, 2015, the department, the public works board, and the department of ((~~community, trade, and economic development~~))commerce shall ((~~jointly~~)) develop((~~, with the assistance of water purveyors and other affected and interested parties,~~)) a memorandum of understanding ((~~setting forth responsibilities and duties for each of the parties. The memorandum of understanding at a minimum, shall include~~))to transfer financial administration of the program as authorized under subsection (1) of this section.

(4) The department shall:

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

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

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

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

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

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

((~~(e) A determination of:~~

~~(i)~~))(iv) Least-cost solutions, including ((~~consolidation and~~)) restructuring of ((~~small~~))public water systems, where appropriate((~~, into more economical units~~));

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

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

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

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

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

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

((~~(i)~~))(e) Oversee the testing and evaluation of the water quality of ((~~the state's~~)) public water systems to ((~~assure~~))ensure that priority for financial assistance is provided to systems and areas with threats to public health from contaminated supplies and reduce in appropriate cases the substantial increases in costs and rates that customers of small systems would otherwise incur under the monitoring and testing requirements of the federal safe drinking water act;

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

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

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

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

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

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

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

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

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

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