

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1138

68th Legislature
2023 Regular Session

Passed by the House April 17, 2023
Yeas 96 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate April 11, 2023
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1138** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1138

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By House Appropriations (originally sponsored by Representatives Chapman, Dent, Ramel, Leavitt, Doglio, Lekanoff, Donaghy, and Ormsby; by request of Department of Ecology)

READ FIRST TIME 02/14/23.

1 AN ACT Relating to drought preparedness; amending RCW 43.83B.415
2 and 90.86.030; reenacting and amending RCW 43.83B.430; and adding new
3 sections to chapter 43.83B RCW.

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

5 **Sec. 1.** RCW 43.83B.415 and 2020 c 168 s 5 are each amended to
6 read as follows:

7 (1)(a) The department is authorized to issue grants to eligible
8 public entities to reduce current or future hardship caused by water
9 unavailability stemming from drought conditions. No single entity may
10 receive more than (~~twenty-five~~) 25 percent of the total funds
11 available. The department is not obligated to fund projects that do
12 not provide sufficient benefit to alleviating hardship caused by
13 drought or water unavailability. Projects must show substantial
14 benefit from securing water supply, availability, or reliability
15 relative to project costs. Projects do not need to be completed while
16 a drought emergency order under RCW 43.83B.405(2) is in effect.

17 (b) Except for projects for public water systems serving
18 economically disadvantaged communities, the department may only fund
19 up to (~~fifty~~) 50 percent of the total eligible cost of the project.
20 Money used by applicants as a cash match may not originate from other
21 state funds.

1 (c) For the purposes of this chapter, eligible public entities
2 include only:

3 (i) Counties, cities, and towns;

4 (ii) Water and sewer districts formed under chapter 57.02 RCW;

5 (iii) Public utility districts formed under chapter 54.04 RCW;

6 (iv) Port districts formed under chapter 53.04 RCW;

7 (v) Conservation districts formed under chapter 89.08 RCW;

8 (vi) Irrigation districts formed under chapter 87.03 RCW;

9 (vii) Watershed management partnerships formed under RCW
10 39.34.200; and

11 (viii) Federally recognized tribes.

12 (2) Grants may be used to develop projects that enhance the
13 ability of water users to effectively mitigate for the impacts of
14 water unavailability arising from drought. Project applicants must
15 demonstrate that the projects will increase their resiliency,
16 preparedness, or ability to withstand drought conditions when they
17 occur. Projects may include, but are not limited to:

18 (a) Creation of additional water storage;

19 (b) Implementation of source substitution projects;

20 (c) Development of alternative, backup, or emergency water
21 supplies or interties;

22 (d) Installation of infrastructure or creation of educational
23 programs that improve water conservation and efficiency or promote
24 use of reclaimed water;

25 (e) Development or update of local drought contingency plans if
26 not already required by state rules adopted under chapter 246-290
27 WAC;

28 (f) Mitigation of emergency withdrawals authorized under RCW
29 43.83B.410(1);

30 (g) Projects designed to mitigate for the impacts of water supply
31 shortages on fish and wildlife; and

32 (h) Emergency construction or modification of water recreational
33 facilities.

34 (3) During a drought emergency order pursuant to RCW
35 43.83B.405(2), the department shall prioritize funding for projects
36 designed to relieve the immediate hardship caused by water
37 unavailability.

38 **Sec. 2.** RCW 43.83B.430 and 2022 c 297 s 957 and 2022 c 296 s
39 7008 are each reenacted and amended to read as follows:

1 The state drought preparedness (~~and response~~) account is
2 created in the state treasury. All receipts from appropriated funds
3 designated for the account and all cost recovery revenues collected
4 under RCW 43.83B.410(5) must be deposited into the account.
5 Expenditures from the account may be used for drought planning and
6 preparedness (~~and response~~) activities under this chapter,
7 including grants issued under RCW 43.83B.415. During the 2021-2023
8 fiscal biennium, moneys in the account may be used for water banking
9 pilot projects. Moneys in the account may be spent only after
10 appropriation. During the 2021-2023 fiscal biennium, the legislature
11 may appropriate moneys from the account for activities related to
12 water banking.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.83B
14 RCW to read as follows:

15 Upon the issuance of an order of drought emergency under RCW
16 43.83B.405(2), the state treasurer shall transfer from the general
17 fund to the emergency drought response account created in section 4
18 of this act those amounts necessary to bring the balance of the
19 emergency drought response account to \$3,000,000, based upon the
20 determination of the transfer amount from the office of financial
21 management. The office of financial management must determine the
22 fund balance of the emergency drought response account as of the
23 previous fiscal month before the issuance of an order of drought
24 emergency. The office of financial management must promptly notify
25 the state treasurer and the department of the account balance and the
26 necessary transfer amount once a determination is made. A transfer
27 based on the determination by the office of financial management may
28 be made only once every fiscal year.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.83B
30 RCW to read as follows:

31 The emergency drought response account is created in the state
32 treasury. All receipts from moneys received pursuant to section 3 of
33 this act, moneys appropriated to the account by the legislature for
34 the purpose of funding emergency drought response actions or moneys
35 directed to the account from any other lawful source must be
36 deposited into the account. Moneys in the account may be spent only
37 after appropriation. Expenditures from the account may be used only
38 for the costs of implementing the powers set forth in RCW 43.83B.410

1 through 43.83B.420 to provide relief for the immediate hardship
2 caused by water unavailability while a drought emergency order issued
3 pursuant to RCW 43.83B.405(2) is in effect. The department must, at a
4 minimum, provide the director of the office of financial management,
5 legislative fiscal committees, and the joint legislative committee on
6 water supply during drought, established under RCW 90.86.010, with a
7 close-out cost summary following the expiration of an emergency
8 drought order during which expenditures were made from the account.

9 **Sec. 5.** RCW 90.86.030 and 2010 1st sp.s. c 7 s 122 are each
10 amended to read as follows:

11 (1) The joint legislative committee on water supply during
12 drought shall convene from time to time at the call of the chair when
13 an advisory is in effect under RCW 43.83B.405(1), when a drought
14 (~~conditions~~) emergency order under RCW 43.83B.405 is in effect, or
15 when the chair determines, in consultation with the department of
16 ecology, that it is likely that such an order will be issued within
17 the next year.

18 (2) The committee may request and review information relating to
19 water supply conditions in the state, and economic, environmental,
20 and other impacts relating to decreased water supply being
21 experienced or anticipated. The governor's executive water emergency
22 committee, the department of ecology, and other state agencies with
23 water management or related responsibilities shall cooperate in
24 responding to requests from the committee.

25 (3) During drought conditions in which (~~an~~) a drought emergency
26 order issued under RCW 43.83B.405(2) is in effect, the department of
27 ecology shall provide to the committee no less than monthly a report
28 describing drought response activities of the department and other
29 state and federal agencies participating on the water supply
30 availability committee. The report shall include information
31 regarding applications for, and approvals and denials of emergency
32 water withdrawals and temporary changes or transfers of, water rights
33 under RCW 43.83B.410. The report must include information regarding
34 grants applied for or issued under RCW 43.83B.415.

35 (4) The committee from time to time shall make recommendations to
36 the senate and house of representatives on budgetary and legislative

1 actions that will improve the state's drought response programs and
2 planning.

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