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**Testimony COMMENTING on HB1852 H.D.1
RELATING TO WATER POLLUTION**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: 02-26-16
Time: 11:00 AM

Room Number: 308

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department supports the intent of this measure and would like to
3 offer the following comments. The Clean Water State Revolving Fund (CWSRF) was
4 established by the 1987 amendments to the Federal Water Pollution Control Act (FWPCA), also
5 known as the Clean Water Act (CWA) as a financial assistance program for a wide range of
6 wastewater infrastructure projects, under title 33 U.S. Code Section 1383. The program is a
7 powerful partnership between the United States Environmental Protection Agency (EPA) and the
8 states that gives states the flexibility to fund a range of projects that address their highest priority
9 water quality needs. The program was amended in 2014 by the Water Resources Reform and
10 Development Act (WRRDA).

11 The WRRDA Public Law 113-121 amended Titles I, II, V, and VI of the Clean Water Act and
12 became effective on October 1, 2014. The amendments made significant changes to the CWA,
13 including explicitly expanding the CWSRF loan programs to nonprofit entities. As amended, the
14 CWA now includes section 603(c)(4), which states that each CWSRF may provide financial
15 assistance to any public, private, or nonprofit entity, "for the construction, repair, or replacement
16 of decentralized wastewater treatment systems that treat municipal wastewater or domestic
17 sewage." The CWA also includes section 603(c)(11), which states that each CWSRF Program
18 may provide financial assistance, "to any qualified nonprofit entity, as determined by the
19 Administrator to provide assistance to owners and operators of small and medium publicly
20 owned treatment works (A) to plan, develop, and obtain financing for eligible projects under this
21 subsection, including planning, design, and associated preconstruction activities; and (B) to assist
22 such treatment works in achieving compliance with this Act." Projects that provide assistance to
23 small and medium publicly owned treatment works (POTW) are eligible. The definition of small

1 and medium POTWs shall be determined by the State. Assistance recipients must be a nonprofit
2 entity. A nonprofit entity is one which has Federal tax-exempt status. The CWSRF may not
3 fund ongoing O&M activities; however, planning and design costs for capital projects, as well as
4 broader water quality planning projects, are eligible.

5 The Department believes that item 6(b) under Section 2 should be moved to Section 4,
6 Section 342D-87(e). The remaining language under Section 2 should be deleted in its entirety
7 because the proposed language does not comply with the requirements of WRRDA. The
8 suggested language to make nonprofit organizations eligible for receiving loans from the
9 CWSRF program is already proposed under Section 3, Section 342D-83(b)(4) and (b)(5).
10 The language complies with the requirements of WRRDA.

11 Thank you for the opportunity to testify on this measure.

12 **Offered Amendments:** Delete Section 2 of the measure in its entirety. Under Section 4, add
13 §342D-87(e) to read the following, “Notwithstanding section 414D-85 to the contrary, the director
14 may hold individual members of the nonprofit organization that received the loan separately and
15 jointly liable for the nonpayment or default of the loan”.