

ACT 132

S.B. NO. 2774

A Bill for an Act Relating to Environmental Program Financing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that:

- (1) The prevention, control, and abatement of point and nonpoint sources of water pollution of state waters are public purposes;
- (2) The United States Congress, through the enactment of the Water Quality Act of 1987, established a program for state revolving funds to provide financial assistance for eligible projects to prevent, control, and abate point and nonpoint sources of water pollution;
- (3) Coordination of state and federal efforts to protect and improve the quality of state waters should be encouraged;
- (4) The protection and improvement of the quality of state waters by the prevention, control, and abatement of point and nonpoint sources of pollution can be encouraged, initiated, or financed with loans and other financial assistance; and
- (5) It is a public purpose for the State to protect and improve the quality of state waters by providing loans and other financial assistance for water pollution prevention, control, and abatement projects, including projects by counties, state agencies, and private landowners and individuals concerning nonpoint sources of pollution, which include without limit polluted runoff from communities, construction sites, agricultural and other sources, and cesspool and septic tank seepage, leaks, and runoff.

SECTION 2. Section 340E-36, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) Moneys in the drinking water fund may be used only:
- (1) To provide, make, and condition loans;
 - (2) To buy or refinance debt obligations of a municipality, as defined by the Federal Act, at or below market interest rates if the debt obligation is incurred after July 1, 1993;
 - (3) To guarantee or purchase or provide insurance for a public water system obligation if such action would improve credit market access or reduce interest rates applicable to the obligation;
 - (4) 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 the bonds will be deposited into the drinking water fund; ~~and~~
 - (5) To earn interest on the amounts deposited into the drinking water fund[-]; and

- (6) To provide interest rate subsidies by depositing revolving fund moneys into interest bearing accounts in participating financial institutions that issue loans for the implementation of eligible projects under section 340E-35.”

SECTION 3. Section 342D-80, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

““Eligible party” means a county, state agency, or private person.”
2. By amending the definition of “corpus allocation” to read:

““Corpus allocation” means the amount of moneys in the revolving fund ~~[which]~~ that is allocated by the director to provide earnings to reduce ~~[a county or state agency’s]~~ an eligible party’s total financing costs for one or more eligible projects.”

SECTION 4. Section 342D-81, Hawaii Revised Statutes, is amended to read as follows:

“**§342D-81 Declaration of policy.** The State’s policy is to promote water pollution prevention and control, including the use of recycled water, by financing ~~[county and state agency]~~ eligible projects of eligible parties consistent with applicable federal and state laws. The State intends ~~[such]~~ the financing to occur through a revolving fund loan program that makes loans to ~~[counties and state agencies]~~ eligible parties at or below market rates and a leveraging program that uses revenue bonds and revolving fund loan programs together in a coordinated manner that does not cause the state debt ceiling to be exceeded.”

SECTION 5. Section 342D-82, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) The director may:
- (1) Provide financial assistance consistent with this part to any ~~[county or state agency]~~ eligible party for the prevention, control, and abatement of water pollution in the State;
 - (2) Enter into any necessary or required agreement and give or make any necessary or required assurance, designation, or certification with or to any person in order to receive payments or to make or provide any financial assistance in conformance with Title 33 United States Code sections 1329, 1330, and 1383 to 1387;
 - (3) Enter into grant agreements with the administrator of the United States Environmental Protection Agency and accept capitalization grants;
 - (4) Adopt rules pursuant to chapter 91 for the purposes of this part, including rules setting fees for loans issued through the revolving fund and penalties for default of loan repayments;
 - (5) Pledge funds, loans, and accounts or subaccounts in the revolving fund to the payment or security of revenue bonds or loans issued under this part and make such corpus allocations as the director deems appropriate. The pledge shall constitute a lien and security interest on such funds and loans to the extent and with the priority as set forth in the document establishing the pledge, without physical delivery, recording, or other further act;
 - (6) Perform any act considered reasonably necessary, advisable, or expedient for the administration of this part or the advancement of the purposes of this part; and

- (7) Direct the creation of one or more separate accounts or subaccounts within the revolving fund and specify any conditions applicable to the transfer of moneys and securities among [~~sueh~~] the accounts and subaccounts.”

SECTION 6. Section 342D-83, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The purpose of the revolving fund is to provide financial assistance to [~~counties and state agencies~~] eligible parties for projects or activities to:

- (1) [~~Plan,~~] Enable counties and state agencies to plan, design, and construct publicly owned wastewater treatment works in accordance with Title 33 United States Code sections 1381 to 1387;
- (2) [~~Implement~~] Enable eligible parties to implement management programs established under Title 33 United States Code section 1329; and
- (3) [~~Implement~~] Enable eligible parties to implement conservation and management plans established under Title 33 United States Code section 1330.”

SECTION 7. Section 342D-84, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Moneys in the revolving fund, if consistent with the purpose of the revolving fund stated in section 342D-83(b), may be used to:

- (1) Provide, make, and condition loans;
- (2) Guarantee [~~county or state agency~~] eligible party loans and bonds and to purchase or provide bond insurance or other credit enhancement or liquidity support for [~~county or state agency~~] eligible party debt service payments [~~where~~] when such action would improve credit market access or reduce interest rates;
- (3) Buy or refinance debt obligations of [~~counties or state agencies~~] eligible parties at or below market rates, [~~where sueh~~] when the debt obligations were incurred after March 7, 1985;
- (4) Support and pay the reasonable costs of administering the revolving fund, including operation and maintenance of the revolving fund, subject to the limits in Title 33 United States Code section 1383(d)(7) and Title 40 Code of Federal Regulations section 35.3120(g), and to provide a source of revenue or security for such support and payment;
- (5) Pay the principal, interest, and redemption premium, if any, on revenue bonds issued by the director, if the proceeds of [~~sueh~~] revenue bonds will be deposited in the revolving fund; [~~and~~]
- (6) Provide interest rate subsidies from earnings on corpus allocation to subsidize loans to [~~counties and state agencies~~] eligible parties made from the proceeds of the revenue bonds of the department[.]; and
- (7) Provide interest rate subsidies to eligible parties by depositing revolving fund moneys into interest bearing accounts in participating financial institutions that issue loans for the implementation of eligible projects under section 342D-83(b).”

SECTION 8. Section 342D-85, Hawaii Revised Statutes, is amended to read as follows:

“~~[§342D-85]~~ **Revolving fund; deposits.** The following may be deposited into the revolving fund:

- (1) Federal capitalization grant funds and other federal grants, loans, or appropriations;

- (2) Appropriations by the legislature to the revolving fund;
- (3) Payments of principal and interest and other amounts made by ~~[counties and state agencies]~~ eligible parties pursuant to loans or other agreements entered into with the director pursuant to this part; provided that if ~~[such]~~ the loans were financed by proceeds of revenue bonds of the director, the deposit of ~~[such]~~ the payments into the revolving fund shall be subject to the rights of the holders of the bonds to receive ~~[such]~~ the moneys;
- (4) Fees for loans and other items under section 342D-86;
- (5) Proceeds of revenue bonds issued by the director for the purpose of providing financial assistance to ~~[counties and state agencies;]~~ eligible parties;
- (6) Moneys paid to the revolving fund as a result of court ordered awards of judgments;
- (7) Moneys paid to the revolving fund in court-approved or out-of-court settlements;
- (8) All interest attributable to investment of moneys deposited in the revolving fund; and
- (9) All moneys allotted or directed to the revolving fund from other sources.”

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date. Agency rules shall supercede this Act until the rules are amended, repealed, or replaced.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved May 31, 2002.)