

ACT 240

H.B. NO. 1852

A Bill for an Act Relating to Water Pollution.

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

SECTION 1. The legislature finds that the clean water state revolving fund loan program is a federal-state partnership that assists in financing the construction of water pollution control projects necessary to prevent contamination of groundwater and coastal resources, and to protect the health, safety, and welfare of the State. To achieve these purposes, the program provides low interest loans to state and county agencies to construct water pollution control projects.

The legislature further finds that the areas of the State that are more likely to have cesspools would be greatly served by wastewater treatment works. Additionally, while the State or counties may not place a priority on providing water pollution control facilities to areas with prominent cesspool usage,

some residents of these areas are willing to work together to plan, design, and construct wastewater treatment works. However, wastewater treatment works can have significant costs, and because the clean water state revolving fund loan program only provides loans to state and county agencies, interested groups of residents cannot access this funding mechanism to plan, design, and construct wastewater treatment works in their areas.

The purpose of this Act is to clarify the entities eligible to receive loans from the water pollution control revolving fund, including nonprofit organizations.

SECTION 2. Section 342D-83, Hawaii Revised Statutes, is amended to read as follows:

“§342D-83 Revolving fund; establishment, purposes, coordination. (a) There is established in the state treasury a fund to be known as the water pollution control revolving fund to be administered by the director. The revolving fund shall be administered, operated, and maintained to remain available in perpetuity for its stated purpose.

(b) The purpose of the revolving fund is to provide financial assistance to eligible parties for projects or activities to:

- (1) Enable counties and state agencies to plan, design, and construct publicly owned wastewater treatment works in accordance with ~~[Title]~~ title 33 United States Code sections 1381 to 1387;
- (2) Enable eligible parties to implement management programs established under ~~[Title]~~ title 33 United States Code section 1329; ~~and~~
- (3) Enable eligible parties to implement conservation and management plans established under ~~[Title]~~ title 33 United States Code section 1330~~[-]~~;
- (4) Enable eligible parties to construct, repair, or replace a privately owned decentralized wastewater treatment system and individual wastewater system that treats municipal wastewater or domestic sewage under title 33 United States Code section 1383;
- (5) Enable eligible nonprofit entities to provide assistance to small and medium sized publicly owned treatment works for training activities, planning, design, and associated preconstruction activities under title 33 United States Code section 1383;
- (6) Enable eligible parties to manage, reduce, treat, or recapture stormwater or subsurface drainage water under title 33 United States Code section 1383;
- (7) Enable eligible parties to develop and implement watershed projects meeting the criteria under title 33 United States Code section 1274;
- (8) Enable counties and state agencies to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse under title 33 United States Code section 1383;
- (9) Enable counties and state agencies to reduce the energy consumption needs for publicly owned treatment works under title 33 United States Code section 1383;
- (10) Enable eligible parties to reuse or recycle wastewater, stormwater, or subsurface drainage water under title 33 United States Code section 1383; and
- (11) Enable eligible parties to increase the security of publicly owned treatment works under title 33 United States Code section 1383.”

SECTION 3. Section 342D-87, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§342D-87~~]]~~ **Revolving fund; conditions.** (a) The following conditions shall apply to each project receiving water pollution control financing under this part:

- (1) The project shall conform with the state water quality management plan developed under ~~[Title]~~ title 33 United States Code section 1285(j), 1288, 1313(e), 1329, or 1330;
- (2) The project shall be certified by the director as entitled to priority over other eligible projects on the basis of financial and water pollution control needs;
- (3) In the case of wastewater treatment works construction projects, the application or agreement for the loan shall contain:
 - (A) Reasonable assurances that the applicant will provide for the proper and efficient operation and maintenance of the treatment works after its construction;
 - (B) Reasonable assurances by the applicant that an impact fee structure will be instituted to ensure that new developments pay their appropriate share of the costs of the wastewater treatment works, as determined by the counties; and
 - (C) ~~[Such]~~ Any other provisions required by federal or state law or deemed necessary or convenient by the director;
- (4) The county or state agency receiving these funds for a construction project shall require the installation of the low flow water fixtures and devices for faucets, hose bibbs, showerheads, urinals, and toilets in all new construction projects; provided that the fixtures and devices shall be approved by the International Association of Plumbing and Mechanical Officials and shall comply with applicable American National Standards Institute standards and ~~[such]~~ any other standards as may be required by the respective county for all new residential and public buildings; and
- (5) The county receiving these funds shall take specific steps to reduce polluted runoff into state waters through educational and regulatory programs.

(b) The use of federal funds and state matching funds in the revolving fund shall be in conformance with ~~[Title]~~ title 33 United States Code sections 1381 to 1387.

(c) The director may make and condition loans from the revolving fund which shall:

- (1) Be made at or below market interest rates; and
- (2) Require periodic payments of principal and interest with repayment commencing not later than one year after completion of the project for which the loan is made; and
- (3) ~~Be fully amortized not later than twenty years after project completion.];~~

provided that all loans shall be fully amortized upon the expiration of the term of the loan.

(d) No loan of funds from the revolving fund shall be made unless the loan recipient pledges a dedicated source of revenue for the repayment of the loans. This pledge may be a county's full faith and credit (a general obligation payable from its general fund), special assessments, revenues from an undertaking, system, or improvements, including user charges, or any other source of revenue.

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(e) Notwithstanding section 414D-85 to the contrary, the director may hold individual members of the nonprofit organization that received the loan jointly and severally liable for the nonpayment or default of the loan.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)