

# S.B. NO. IIII

JAN 28 2015

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## A BILL FOR AN ACT

RELATING TO WATER INFRASTRUCTURE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the quality of the  
2 environment and the economy of the State are both of utmost  
3 importance to the welfare of the people of Hawaii. The  
4 legislature, in concert with the United States Environmental  
5 Protection Agency (EPA) and the United States Congress, finds  
6 that there is increasing demand for the replacement of aging  
7 drinking water and wastewater system infrastructure in the State  
8 of Hawaii, the delay of which could pose both a short-term and  
9 long-term health hazard for consumers statewide. Moreover, the  
10 legislature finds that the inability of the drinking water  
11 treatment revolving loan fund, established under section 340E-  
12 35, Hawaii Revised Statutes, and the water pollution control  
13 revolving fund, established under section 342D-83, Hawaii  
14 Revised Statutes, as administered by the department of health,  
15 to flexibly manage their yearly capitalization grants received  
16 from the EPA to the maximum extent allowed under current federal  
17 law, also known as the Safe Drinking Water Act, prevents the  
18 optimal utilization of these funds for the construction of

1 health-protective infrastructure projects in Hawaii, which also  
2 infuses federal funds into the economy and creates jobs.

3 The legislature finds that the incorporation of  
4 capitalization grant transfer authority between the drinking  
5 water treatment revolving loan fund and the water pollution  
6 control revolving fund programs, as currently allowed under  
7 title 40 Code of Federal Regulations section 35.3530(c), can  
8 greatly assist the two programs with proper planning, priority  
9 setting, and the maximizing of their two infrastructure funding  
10 programs by directing these federal funds where they are most  
11 needed in Hawaii. As a side benefit, such authority better  
12 ensures that all of the federal capitalization grant moneys  
13 awarded every year to these two programs will be disbursed as  
14 quickly as possible.

15 SECTION 2. Chapter 340E, Hawaii Revised Statutes, is  
16 amended by adding a new section to read as follows:

17 "§340E- Drinking water treatment revolving loan fund;  
18 transfers. The director may transfer a dollar amount up to  
19 thirty-three per cent of a fiscal year's drinking water  
20 treatment revolving loan fund capitalization grant to the water  
21 pollution control revolving fund established under section 342D-  
22 83, or an equivalent dollar amount from the water pollution  
23 control revolving fund to the drinking water treatment revolving

1 loan fund, established under section 340E-35. The following  
2 conditions apply:

3 (1) Each year in which the director transfers funds  
4 pursuant to this section:

5 (A) The State's attorney general, or attorney  
6 general's designee, shall certify in writing for  
7 the drinking water treatment revolving loan fund  
8 and the water pollution control revolving fund  
9 that state law permits the director to transfer  
10 funds; and

11 (B) The director shall amend the operating agreements  
12 or other parts of the capitalization grant  
13 agreements for the drinking water treatment  
14 revolving loan fund and the water pollution  
15 control revolving fund to document the method  
16 used to transfer funds;

17 (2) The director may not use the transfer provision to  
18 acquire state match for either fund or use transferred  
19 funds to secure or repay state match bonds;

20 (3) The director may reserve fund amounts for transfer in  
21 future years pursuant to requirements under federal  
22 law; and

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1        (4) Funds may be transferred on a net basis between the  
2        drinking water treatment revolving loan fund and the  
3        water pollution control revolving fund, provided that  
4        the thirty-three per cent transfer allowance  
5        associated with drinking water treatment revolving  
6        loan fund capitalization grants received is not  
7        exceeded."

8        SECTION 3. Chapter 342D, Hawaii Revised Statutes, is  
9        amended by adding to part V a new section to read as follows:

10        "§342D- Water pollution control revolving fund;  
11        transfers. The director may transfer a dollar amount up to  
12        thirty-three per cent of a fiscal year's water pollution control  
13        revolving fund capitalization grant to the drinking water  
14        treatment revolving loan fund established under section 340E-35,  
15        or an equivalent dollar amount from the drinking water treatment  
16        revolving loan fund to the water pollution control revolving  
17        fund, established under section 342D-83. The following  
18        conditions apply:

- 19        (1) Each year in which the director transfers funds  
20        pursuant to this section:  
21        (A) The State's attorney general, or attorney  
22        general's designee, shall certify in writing for  
23        the drinking water treatment revolving loan fund

1                   and the water pollution control revolving fund  
2                   that state law permits the director to transfer  
3                   funds; and

4                   (B) The director shall amend the operating agreements  
5                   or other parts of the capitalization grant  
6                   agreements for the drinking water treatment  
7                   revolving loan fund and water pollution control  
8                   revolving fund to document the method used to  
9                   transfer funds;

10                  (2) The director may not use the transfer provision to  
11                  acquire state match for either fund or use transferred  
12                  funds to secure or repay state match bonds;

13                  (3) The director may reserve fund amounts for transfer in  
14                  future years pursuant to requirements under federal  
15                  law; and

16                  (4) Fund amounts may be transmitted on a net basis between  
17                  the water pollution control revolving fund and the  
18                  drinking water treatment revolving loan fund, provided  
19                  that the thirty-three per cent transfer allowance  
20                  associated with water pollution control revolving fund  
21                  capitalization grants received is not exceeded."

22                  SECTION 4. New statutory material is underscored.

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1 SECTION 5. This Act, upon its approval, shall take effect  
2 on July 1, 2015.

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INTRODUCED BY: 

BY REQUEST

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**Report Title:**

Water Infrastructure; Transfer of Funds

**Description:**

Establishes the authority to transfer federal capitalization grant funds between the Water Pollution Control Revolving Fund and the Drinking Water Treatment Revolving Loan Fund within the Department of Health, in accordance with the existing federal Safe Drinking Water Act, and as codified in Title 40 Code of Federal Regulations section 35.3530(c). Effective July 1, 2015.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO WATER INFRASTRUCTURE.

PURPOSE: To add capitalization grant transfer authority between the Drinking Water Treatment Revolving Loan Fund program (drinking water fund) and Water Pollution Control Revolving Fund program, as currently allowed under Title 40 Code of Federal Regulations section 35.3530(c).

MEANS: Add new sections to chapter 340E and to part V of chapter 342D, Hawaii Revised Statutes.

JUSTIFICATION: The added authority to transfer funds between the two loan programs will provide the necessary flexibility to disburse these annually allotted federal funds in the most timely fashion, to the projects with the greatest funding need and for the optimal health benefit to the public.

Impact on the public: Without this transfer authority, health-protective water and wastewater infrastructure projects may not be built, or may be delayed, due to a lack of available funding within an individual loan program. With the added transfer authority, funding can be directed to the most beneficial projects in either loan program, and thus ensure timely health benefits to the public.

Impact on the department and other agencies: The added authority to transfer funds between the two loan programs will provide the necessary flexibility to both programs to disburse these annually allotted Federal funds in the most-timely fashion, to the projects with the greatest funding need. The Safe Drinking Water Branch, which oversees the Drinking Water Treatment



Revolving Loan program, and the Wastewater Branch, which oversees the Water Pollution Control Revolving Fund program, will both benefit by disbursing their annual capitalization grant allotments at a pace acceptable to the United States Environmental Protection Agency and the United States Congress.

Additionally, the state Attorney General or Attorney General's designee must certify in writing that state law permits the transfer of moneys between funds.

GENERAL FUND: None.

OTHER FUNDS: Drinking Water Treatment Revolving Loan Fund, Water Pollution Control Revolving Fund.

PPBS PROGRAM DESIGNATION: HTH 840.

OTHER AFFECTED AGENCIES: Department of the Attorney General.

EFFECTIVE DATE: July 1, 2015.