

# HB1852 HD1

Measure Title: RELATING TO WATER POLLUTION.

Report Title: Water Pollution Control Revolving Fund; Clean Water State Revolving Fund Loan Program; Nonprofit Organizations

Description: Clarifies that nonprofit organizations may receive loans from the Water Pollution Control Revolving Fund to engage in activities that are consistent with the Federal Water Pollution Control Act, including the planning, designing, and construction of wastewater treatment works. (HB1852 HD1)

Companion:

Package: None

Current Referral: CPH, WAM

Introducer(s): EVANS, CREAGAN, C. LEE, MCKELVEY, TSUJI, Belatti, DeCoite, San Buenaventura



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

SENTATOR ROSALYN H. BAKER, CHAIR  
SENATE COMMITTEE ON CONSUMER PROTECTION AND HEALTH

Hearing Date: March 17, 2016  
Time: 9:45 AM

Room Number: 229

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”.