

JAN 24 2024

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 (U.S.)
5 Environmental Protection Agency and the United States
6 Congress, finds that there is increasing demand for the
7 replacement of aging drinking water and wastewater system
8 infrastructure in the State, the delay of which could pose
9 short-term and long-term health hazard for consumers
10 statewide.

11 The legislature further finds that the drinking water
12 treatment revolving loan fund and the water pollution control
13 revolving fund have been administered by the department of
14 health in ways that manage yearly capitalization grants
15 received from the U.S. Environmental Protection Agency, but
16 not to the maximum extent allowed under the Safe Drinking
17 Water Act (Pub. L. 93-523), preventing the construction of
18 health-protective infrastructure projects in Hawaii.

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1 The legislature additionally finds that the incorporation
2 of capitalization grant transfer authority between the
3 drinking water treatment revolving loan fund and the water
4 pollution control revolving fund programs, as currently
5 allowed under title 40 Code of Federal Regulations section
6 35.3530(c), can greatly assist the two programs with
7 additional planning and priority setting; maximizing of the
8 two infrastructure funding programs by directing federal funds
9 where they are most needed; and ensuring that annual federal
10 capitalization grant moneys awarded to the two programs will
11 be disbursed as quickly as possible.

12 The restoration of Lahaina and other communities impacted
13 by wildfires or other natural disasters would benefit from the
14 ability to utilize the transfer authority between the programs
15 to replace or repair drinking water, wastewater, or stormwater
16 infrastructure.

17 SECTION 2. Chapter 340E, Hawaii Revised Statutes, is
18 amended by adding to part III a new section to be
19 appropriately designated and to read as follows:

20 "§340E- Drinking water treatment revolving loan fund;
21 transfers. The director may transfer up to thirty-three per
22 cent of a fiscal year's drinking water treatment revolving

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1 loan fund capitalization grant amount to the water pollution
2 control revolving fund established under section 342D-83, or
3 an equivalent dollar amount from the water pollution control
4 revolving fund to the drinking water treatment revolving loan
5 fund, established under section 340E-35. The following
6 conditions shall apply:

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

9 (A) The attorney general, or attorney general's
10 designee, shall certify in writing that state law
11 permits the director to transfer funds between the
12 drinking water treatment revolving loan fund and
13 the water pollution control revolving fund; and

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

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

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- 1 (3) The director may reserve fund amounts for transfer in
2 future years pursuant to requirements under federal
3 law; and
- 4 (4) Funds may be transferred on a net basis between the
5 drinking water treatment revolving loan fund and the
6 water pollution control revolving fund; provided
7 that the thirty-three per cent transfer allowance
8 associated with drinking water treatment revolving
9 loan fund capitalization grants received is not
10 exceeded."

11 SECTION 3. Chapter 342D, Hawaii Revised Statutes, is
12 amended by adding to part V a new section to be appropriately
13 designated and to read as follows:

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

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- 1 (1) Each year in which the director transfers funds
2 pursuant to this section:
 - 3 (A) The attorney general, or attorney general's
4 designee, shall certify in writing that state law
5 permits the director to transfer funds between the
6 drinking water treatment revolving loan fund and
7 the water pollution control revolving fund; and
 - 8 (B) The director shall amend the operating agreements
9 or other parts of the capitalization grant
10 agreements for the drinking water treatment
11 revolving loan fund and water pollution control
12 revolving fund to document the method used to
13 transfer funds;
- 14 (2) The director may not use the transfer provision to
15 acquire state match for either fund or use transferred
16 funds to secure or repay state match bonds;
- 17 (3) The director may reserve fund amounts for transfer in
18 future years pursuant to requirements under federal
19 law; and
- 20 (4) Fund amounts may be transmitted on a net basis
21 between the water pollution control revolving fund
22 and the drinking water treatment revolving loan fund;

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1 provided that the thirty-three per cent transfer
2 allowance associated with water pollution control
3 revolving fund capitalization grants received is not
4 exceeded."

5 SECTION 4. New statutory material is underscored.

6 SECTION 5. This Act, upon its approval, shall take effect
7 on July 1, 2024.

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INTRODUCED BY: 

10

BY REQUEST

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Report Title:

Drinking Water Treatment Revolving Loan Fund; Water Pollution Control Revolving Fund; Transfers

Description:

Authorizes the department of health to transfer federal capitalization grant funds between the Water Pollution Control Revolving Fund and the Drinking Water Treatment Revolving Loan Fund, in accordance with title 40 Code of Federal Regulations section 35.3530(c).

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 and Water Pollution Control Revolving Fund program, as currently allowed under Title 40 Code of Federal Regulations section 35.3530(c).

MEANS: Add a new section to chapter 340E and to chapter 342D, Hawaii Revised Statutes.

JUSTIFICATION: Infrastructure that supports drinking water, wastewater, and stormwater systems require ongoing maintenance, upgrades, or replacement. Combining financial resources from the Drinking Water Treatment Revolving Loan Fund and the Water Pollution Control Revolving Fund will increase state and county flexibility in planning for and responding to emergent or longer term water infrastructure needs.

Impact on the public: 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.

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 Environmental Protection Agency and the United States Congress. This bill requires the Attorney General to certify that a transfer is permitted in state laws.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HTH 840.

OTHER AFFECTED
AGENCIES: Department of the Attorney General.

EFFECTIVE DATE: July 1, 2024.