

ACT 81

S.B. NO. 2777

A Bill for an Act Relating to Water Pollution Control.

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

SECTION 1. Section 342D-54, Hawaii Revised Statutes, is amended to read as follows:

**“§342D-54 [Treatment works; construction grants; advances;] Wastewater treatment works; financial assistance; state revolving fund.** (a) The director may make grants or loans, or both, to any state or county agency of state funds as authorized and appropriated by the legislature for the construction of necessary wastewater treatment works and for other projects intended for wastewater reclamation or waste management by other than conventional means to prevent or to control the discharge of untreated or inadequately treated sewage or other waste into any state waters; provided that the director may allocate grants or loans, or both, to projects on the basis of existing and future growth patterns. The director shall coordinate the granting of state funds with available federal funds for the same purpose. No grant or loan shall be made for any project unless:

- (1) The project conforms with the state water pollution control plan;
- (2) The project is certified by the director as being entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs;
- (3) In the case of wastewater treatment works, the application for the grant or loan, or both, contains the following:
  - (A) Reasonable assurances that the applicant will provide for the proper and efficient operation and maintenance of the wastewater treatment works after its construction; and
  - (B) Reasonable assurances by the applicant that an impact fee structure will be instituted to insure that new developments pay their appropriate share of the costs of the wastewater treatment works, as determined by the counties; and
- (4) The state or county agency receiving these state funds requires the installation of low flow water fixtures and devices for faucets, hose bibbs, showerheads, urinals, and toilets in all new construction projects, [which] and 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] other standards as may be required by the respective county for all new residential and public buildings[, beginning December 31, 1992].

(b) If the federal funds are not immediately available, the director may advance the federal share of the planning and design cost to the county or state agency, subject to the following provisions:

- (1) The director shall enter into a contract with the applicant specifying the conditions of the advance; and
- (2) The advances made by the State to the county or state agency shall be reimbursed to the State immediately upon the receipt from the federal government of the advanced funds or within one year after the completion of project construction, whichever is earlier.

If federal grant funds are available, the applicant shall be required to pay sixty per cent of the nonfederal share of the estimated reasonable cost of the approved wastewater treatment works as defined by 33 United States Code section 1251 et seq. If federal grant funds are not available, the director may make grants or loans, or both, up to one hundred per cent of the estimated cost of the project.

(c) There is established in the state treasury a fund to be known as the water pollution control revolving fund solely for the purpose of [receiving federal and state funds to provide] providing financial assistance to governmental agencies for the planning, design, and construction of wastewater treatment works owned by a governmental agency [in accordance with Title VI of the Water Quality Act of 1987, Public Law 100-4], and [implementation of management] for programs [established] and plans under [sections 319 and 320 of the Water Quality Act of 1987;] 33 United States Code section 1383(c); provided that:

- (1) The director may enter into grant agreements with the administrator of the United States Environmental Protection Agency and accept capitalization grants that shall be deposited into the revolving fund;
- (2) The financial assistance that may be provided to governmental agencies from federal funds and matching state funds in the revolving fund shall be limited to [loans, loan guarantees, and bond guarantees.] those projects and types of assistance allowed under 33 United States Code section 1383. Federal funds shall be kept in a separate account or series of accounts from the account or accounts for state funds in the revolving fund;
- (3) The revolving fund shall be established, maintained, and credited with loan and other financial assistance repayments and investment income, and the fund balance shall be available in perpetuity for its stated purpose;
- (4) The director may make and condition loans from the fund as required by state or federal law. These loans shall:
  - (A) Be made at or below market interest rates;
  - (B) Require annual 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
  - (C) Be fully amortized not later than twenty years after project completion;
- (5) The director shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for appropriate accounting periods of payments and disbursements received and made by the revolving fund and for fund balances at the beginning and end of the accounting period;
- (6) The director may enter into any necessary or required agreement and give or make any necessary or required assurance or certification with any person to receive payments or grants or to make or provide any financial assistance in conformance with [Title VI of the Water Quality Act of 1987;] 33 United States Code sections 1381 to 1387;

- (7) No loan from the revolving fund shall be made unless the loan recipient establishes a dedicated source of revenue for the repayment of the [loans;] loan;
- (8) The director [may] shall adopt rules pursuant to chapter 91 [necessary] for the purposes of this section, including[, ] but not limited to[, ] fees for loans and other financial assistance, and penalties for default of loan and other financial assistance repayments; [and]
- (9) If established, fees shall cover the costs of current activities including the issuance of loans and other financial assistance, monitoring of loans and other financial assistance repayments and conditions, technical review of the planning and design documents, monitoring of construction activities, conducting operation and maintenance inspections of wastewater facilities, and other activities of the revolving fund pursuant to 33 United States Code sections 1381 to 1387; all moneys collected as fees shall be deposited into an administrative expense account or accounts as needed to comply with 33 United States Code section 1383(d)(7) and shall be used exclusively to support the activities of the revolving fund; and
- [(9)] (10) Not less than twenty days prior to the convening of each regular session of the legislature, the director shall submit a report to the legislature of all grants or loans made from the revolving fund during the last completed fiscal year, and during the first three months of the fiscal year in progress. For each grant[, ] or loan, the report shall include:
  - (A) The name of the recipient;
  - (B) The effective date of the grant[; ] or loan;
  - (C) The amount provided; and
  - (D) The intended or actual use of the funds.

(d) Nothing in this section shall restrict the director's authority to make grants or loans, or both, to wastewater treatment works or projects granted waivers under [section 301(h) of the Federal Water Pollution Control Act (33 U.S.C. section 1311(h)).] 33 United States Code section 1311(h).

(e) The department of budget and finance, with the approval of the governor, is authorized to issue revenue bonds at such times and in such amount or amounts, not to exceed \$250,000,000 in aggregate principal, as may be necessary to carry out the purposes of this section. All such bonds shall be issued pursuant to part III of chapter 39, except as provided in this section. The resolution or certificate providing for the issuance of the bonds may provide that all or part of the proceeds of the bonds shall be deposited in the revolving fund, where the proceeds may be held and invested in a separate account or accounts until used in accordance with subsection (c). For the purposes of providing a source of revenue or security for these bonds, the director may pledge funds deposited or to be deposited in the revolving fund to the payment or security of the bonds or the loans, and the pledge shall constitute a lien and security interest on the funds to the extent and with the priority set forth in the document establishing the pledge, without physical delivery, recording, or other further act."

SECTION 2. All grants, loans, agreements, and acts which were previously made under section 342D-54, Hawaii Revised Statutes, are hereby preserved.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 6, 1996.)