

ACT 218

H.B. NO. 2453

A Bill for an Act Relating to Water Infrastructure.

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

PART I

SECTION 1. The legislature finds that the quality of the environment and the economy of the State are both of utmost importance to the welfare of the people of Hawaii. The legislature, in concert with the United States Environmental Protection Agency and the United States Congress, finds that there is increasing demand for the replacement of aging drinking water and wastewater system infrastructure in the State, the delay of which could pose short-term and long-term health hazards for consumers statewide.

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

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

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

Accordingly, the purpose of this Act is to authorize the governor, or a state official acting pursuant to authorization from the governor, to transfer federal capitalization grant funds in accordance with federal law.

PART II

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

“§340E- Drinking water treatment revolving loan fund; transfers. (a) The governor, or a state official acting pursuant to authorization from the governor, may transfer an amount up to or equal to thirty-three per cent, calculated on the basis of a fiscal year’s drinking water treatment revolving loan fund capitalization grant amount from the drinking water treatment revolving loan fund to the water pollution control revolving fund established under section 342D-83, or an equivalent dollar amount from the water pollution control revolving fund to the drinking water treatment revolving loan fund established under section 340E-35. The following conditions shall apply:

- (1) When the State initially decides to transfer funds pursuant to this section:
 - (A) The attorney general, or an individual designated by the attorney general, shall have signed or concurred in a certification for the drinking water treatment revolving loan fund and water pollution control revolving fund that state law permits the State to transfer funds; and
 - (B) The operating agreements or other parts of the capitalization grant agreements for the drinking water treatment revolving loan fund and water pollution control revolving fund shall be amended to detail the method the State shall use to transfer funds;
- (2) The State shall not use the transfer provision to acquire state match for either fund or use transferred funds to secure or repay state match bonds;
- (3) The State may reserve fund amounts for transfer in future years pursuant to requirements under federal law; and
- (4) Funds may be transferred on a net basis between the drinking water treatment revolving loan fund and water pollution control revolving fund; provided that the thirty-three per cent transfer allowance associated with drinking water treatment revolving loan fund capitalization grants received is not exceeded.
 - (b) No later than twenty days prior to the convening of each regular session, the department of health shall submit to the legislature a report on:
 - (1) All transfers between the water pollution control revolving fund and drinking water treatment revolving loan fund pursuant to this section and section 342D- ; and
 - (2) Whether the transfers comply with federal law.”

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

“§342D- Water pollution control revolving fund; transfers. The governor, or a state official acting pursuant to authorization from the governor, may transfer an amount up to or equal to thirty-three per cent, calculated on the basis of a fiscal year’s drinking water treatment revolving loan fund capitalization grant amount, from the water pollution control revolving fund to the drinking water treatment revolving loan fund established under section 340E-35, or an equivalent dollar amount from the drinking water treatment revolving loan fund to the water pollution control revolving fund established under section 342D-83. The following conditions shall apply:

- (1) When the State initially decides to transfer funds pursuant to this section:
 - (A) The attorney general, or an individual designated by the attorney general, shall have signed or concurred in a certification for the drinking water treatment revolving loan fund and water pollution control revolving fund that state law permits the State to transfer funds; and
 - (B) The operating agreements or other parts of the capitalization grant agreements for the drinking water treatment revolving loan fund and water pollution control revolving fund shall be amended to detail the method the State shall use to transfer funds;

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- (2) The State shall not use the transfer provision to acquire state match for either fund or use transferred funds to secure or repay state match bonds;
- (3) The State may reserve fund amounts for transfer in future years pursuant to requirements under federal law; and
- (4) Funds may be transferred on a net basis between the water pollution control revolving fund and drinking water treatment revolving loan fund; provided that the thirty-three per cent transfer allowance associated with drinking water treatment revolving loan fund capitalization grants received is not exceeded.”

PART III

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 2024.

(Approved July 8, 2024.)

Note

1. Edited pursuant to HRS §23G-16.5.