

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO B-ENGROSSED HOUSE BILL 2152

By JOINT COMMITTEE ON WAYS AND MEANS

June 29

1 On page 17 of the printed B-engrossed bill, after line 22, insert:

2 “**SECTION 26a. If House Bill 2009 becomes law, section 26 of this 2009 Act (amending ORS**
3 **285A.213) is repealed and ORS 285A.213, as amended by section 199, chapter __, Oregon Laws**
4 **2009 (Enrolled House Bill 2009), is amended to read:**

5 “285A.213. (1) There is established in the State Treasury, separate and distinct from the General
6 Fund, the Safe Drinking Water Revolving Loan Fund. All moneys in the Safe Drinking Water Re-
7 volving Loan Fund are continuously appropriated to the [*Economic and Community Development*
8 *Department*] **Oregon Business Development Department for the Oregon Infrastructure Fi-**
9 **nance Authority for the purposes set forth in this section.**

10 “(2) The [*Economic and Community Development Department*] **Oregon Infrastructure Finance**
11 **Authority** shall administer the Safe Drinking Water Revolving Loan Fund in accordance with a
12 memorandum of understanding between the [*department*] **Oregon Infrastructure Finance Author-**
13 **ity** and the Oregon Health Authority.

14 “(3) The Safe Drinking Water Revolving Loan Fund shall consist of:

15 “(a) Moneys transferred to the fund by the **Oregon Health** Authority for purposes authorized
16 by the memorandum of understanding between the [*authority and the department*] **Oregon Health**
17 **Authority and the Oregon Infrastructure Finance Authority.**

18 “(b) Moneys transferred to the fund by the federal government, other state agencies or local
19 governments.

20 “(c) Moneys transferred to the fund by the Legislative Assembly or the [*Oregon Economic and*
21 *Community Development Commission*] **Oregon Infrastructure Finance Authority.**

22 “(d) Proceeds from the sale of revenue bonds.

23 “(e) Repayment of financial assistance provided with moneys from the fund.

24 “(f) Interest and other earnings on moneys in the fund.

25 “(4) Moneys in the Safe Drinking Water Revolving Loan Fund shall be used to provide financial
26 or other assistance to publicly owned and privately owned water systems under the Safe Drinking
27 Water Act Amendments of 1996, P.L. 104-182, and rules of the [*department*] **Oregon Business De-**
28 **velopment Department.** As used in this subsection, ‘assistance’ includes direct purchase by the
29 [*department*] **Oregon Infrastructure Finance Authority** of goods or services related to a water
30 system project to the extent permitted by the memorandum of understanding between the [*depart-*
31 *ment and the authority,*] **Oregon Infrastructure Finance Authority and the Oregon Health Au-**
32 **thority, and by** the Safe Drinking Water Act Amendments of 1996, and as authorized by rules of
33 the [*department*] **Oregon Business Development Department.**

34 “(5) The owner of a water system may borrow from the Safe Drinking Water Revolving Loan
35 Fund by entering into a loan agreement with the [*department*] **Oregon Infrastructure Finance**

1 **Authority.** The owner of a municipally owned water system may enter into a loan agreement with
2 the [department] **Oregon Infrastructure Finance Authority** notwithstanding any restriction on
3 indebtedness in the charter or bylaws of the municipality or any other provision of law. Moneys
4 owed to the [department] **Oregon Infrastructure Finance Authority** by the borrower under a loan
5 agreement may be paid from:

6 “(a) Revenue from any water system project of the borrower, including special assessment re-
7 venue;

8 “(b) Amounts withheld under subsection (6) of this section;

9 “(c) The general fund of the borrower;

10 “(d) Any combination of sources listed in paragraphs (a) to (c) of this subsection; or

11 “(e) Any other source.

12 “(6) If a borrower fails to comply with a loan agreement entered into under subsection (5) of this
13 section, the **Oregon Business Development** Department may seek appropriate legal remedies to
14 secure any repayment due the Safe Drinking Water Revolving Loan Fund. If a borrower defaults on
15 repayment due the fund, the State of Oregon may withhold any amounts otherwise due to the bor-
16 rower. Any amounts withheld under this subsection shall be credited toward repayment of the bor-
17 rower’s indebtedness to the fund.”.

18 On page 61, after line 36, insert:

19 “**SECTION 122a. If House Bill 2009 becomes law, section 122 of this 2009 Act (amending**
20 **ORS 285B.563) is repealed and ORS 285B.563, as amended by section 200, chapter __, Oregon**
21 **Laws 2009 (Enrolled House Bill 2009), is amended to read:**

22 “285B.563. (1) There is established in the State Treasury, separate and distinct from the General
23 Fund, the Water Fund. **Interest earned by the Water Fund shall be credited to the fund.** All
24 moneys in the Water Fund are continuously appropriated to the [Economic and Community Devel-
25 opment Department] **Oregon Business Development Department for the Oregon Infrastructure**
26 **Finance Authority** for the purposes described in ORS 285B.560 to 285B.599, including the direct
27 project management costs.

28 “(2)(a) Moneys in the Water Fund may be obligated to water projects.

29 “(b) Moneys shall be used primarily to make loans to municipalities. The [department] **authority**
30 may make a loan only if:

31 “(A) The municipality applying for the loan certifies to the department that adequate funds will
32 be available to repay the loan; and

33 “(B) The [department] **authority** determines that the amount of the loan applied for is based on
34 a reasonable and prudent expectation of the municipality’s ability to repay the loan.

35 “(c) The [department] **authority** may award a grant [only] if a loan is not feasible due to:

36 “(A) Financial hardship to the municipality, as determined by the [department] **authority**, based
37 on consideration of anticipated water service charges or anticipated waste water service charges,
38 the per capita income of the municipality and any other factors as the department by rule may es-
39 tablish; and

40 “(B) Special circumstances of the water project.

41 “(d) **The authority may also award grants from the fund to:**

42 “(A) **Identify and implement sustainable technologies and practices;**

43 “(B) **Build asset management capacity for municipalities;**

44 “(C) **Plan for strategic initiatives that focus on the regionalization of water systems; or**

45 “(D) **Provide third party technical assistance to communities in the development of water**

1 **systems that include asset management components.**

2 “[(d)] (e) The [department] **authority** may determine the amount of grant or loan funding on a
3 case-by-case basis.

4 “(3) The moneys in the fund may also be used to assist the [department] **authority** in selling
5 revenue bonds on behalf of municipalities in order to carry out the purposes of ORS 285B.560 to
6 285B.599.

7 “(4) Moneys in the Water Fund may be invested as provided by ORS 293.701 to 293.820. The
8 earnings from the investments and other program income shall be credited to the Water Fund.

9 “(5) The Water Fund shall consist of:

10 “(a) Moneys appropriated to the fund by the Legislative Assembly.

11 “(b) Moneys transferred to the fund by the [Economic and Community Development Department]
12 **authority** from the Special Public Works Fund created by ORS 285B.455.

13 “(c) Moneys transferred to the Water Fund by the Water Resources Commission from the Water
14 Development Fund created by Article XI-I(1) of the Oregon Constitution.

15 “(d) Moneys from any federal, state or other grants.

16 “(e) Proceeds of revenue bonds issued under ORS 285B.575.

17 “(f) Earnings on the Water Fund.

18 “(6) The [department] **authority** shall administer the fund.

19 “(7) The department shall adopt rules and policies for the administration of the fund. The de-
20 partment shall coordinate its rulemaking regarding safe drinking water projects with the Water
21 Resources Department and the Oregon Health Authority. The rules adopted under this subsection
22 for safe drinking water projects shall:

23 “(a) Require the installation of meters on all new active service connections from any distrib-
24 ution lines funded with moneys from the fund or from the proceeds of revenue bonds issued under
25 ORS 285B.572 to 285B.578.

26 “(b) Require a plan, to be adopted by a municipality receiving financial assistance from the fund,
27 for installation of meters on all service connections throughout the drinking water system not later
28 than two years after the completion of a safe drinking water project.

29 “(8)(a) The [Economic and Community Development Department] **Oregon Infrastructure Fi-**
30 **nance Authority** shall manage the Water Fund and any expenditures from accounts in the fund and
31 transfers between accounts so that the fund provides a continuing source of financing consistent
32 with ORS 285B.413.

33 “(b) If necessary to ensure repayment of bonds issued under ORS 285B.560 to 285B.599, the [de-
34 partment] **authority** may reduce the value of the fund when the [department] **authority**:

35 “(A) Finds that without a reduction in fund value, bonds secured by the fund are likely to be in
36 default; and

37 “(B) Imposes a moratorium on grants until the requirements of paragraph (a) of this subsection
38 are satisfied.

39 “(9)(a) The [department] **authority** may charge administrative costs to the fund, but not to
40 moneys segregated in the account created by subsection (11) of this section, to pay for administra-
41 tive costs incurred by the [department] **authority**.

42 “(b) To the extent permitted by federal law, administrative costs of the [department] **authority**
43 may be paid from bond proceeds.

44 “(10) The [department] **authority** may establish other accounts within the Water Fund for the
45 payment of water projects costs, reserves, debt service payments, credit enhancements, costs of is-

1 suing revenue bonds, administrative costs and operating expenses or any other purpose necessary
2 to carry out ORS 285B.560 to 285B.599.

3 “(11) There is created within the Water Fund a separate and distinct account for the proceeds
4 from the sale of water development general obligation bonds issued for safe drinking water projects
5 and credited to the special account under this section. Any investment earnings thereon shall be
6 segregated in and continuously appropriated to a special, separately accounted for subaccount of
7 this account. Moneys credited to this account shall be maintained separate and distinct from moneys
8 credited to subaccounts created under subsection (10) of this section. Notwithstanding ORS
9 285B.566 or subsection (4) of this section, all repayments of moneys loaned from the account created
10 by this subsection, including interest on the moneys, shall be credited to the Water Development
11 Administration and Bond Sinking Fund created by ORS 541.830.

12 “(12) As used in this section, ‘administrative costs’ include the [*department’s*] **authority’s** direct
13 and indirect costs for investigating and processing an application, developing a contract, monitoring
14 the use of funds by a municipality, investigating and resolving a budget discrepancy, closing a
15 project and providing financial and other assistance to a municipality.”.

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