

INITIATIVE 769

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 769 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to clean water investment; amending RCW 39.42.060
2 and 82.08.020; and adding a new chapter to Title 90 RCW.

3 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** DECLARATION OF POLICY. It is the solemn
5 obligation of each generation to provide beneficial stewardship of
6 Washington state's natural resources. Meeting this obligation requires
7 restoration of the environment, and improved protection of the health
8 and safety of our citizens. The purpose of this chapter is to provide
9 funding for (1) facilities that control, collect, treat, reuse, or
10 dispose of wastewater and storm water; (2) facilities that treat,
11 conserve, or distribute drinking water; (3) improvements to or
12 replacement of existing irrigation facilities that will conserve water
13 or improve water quality; (4) acquiring valuable or potentially
14 valuable riparian habitat; and (5) acquiring valid, current water
15 rights in order to restore streamflows. Only those facilities and
16 acquisitions that are in compliance with applicable land use and growth
17 management act comprehensive plans, urban growth areas, critical area
18 ordinances, development regulations, and other applicable requirements
19 are eligible for funding under this chapter.

1 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "Administering agencies" means the agencies identified by the
5 legislature as responsible for administering the funds made available
6 under this chapter.

7 (2) "Current, valid water right" means a water right, whether a
8 permit, certificate, or claim, under which water is currently being
9 used, or has been used in the preceding five years, in a manner
10 consistent with the terms of the water right, and which has not been
11 relinquished or abandoned.

12 (3) "Drinking water treatment, conservation, and distribution
13 facilities" means domestic or municipal water supply, treatment,
14 conservation, or distribution systems including but not limited to
15 equipment, utilities, structures, real property, and interests in and
16 improvements on real property necessary for or incidental to the
17 acquisition, construction, installation, or use of any such water
18 supply treatment, conservation, or distribution system.

19 (4) "Public body" means the state of Washington or any agency,
20 political subdivision, special purpose district, or municipal or quasi-
21 municipal corporation thereof; an agency of the federal government; and
22 those Indian tribes now or hereafter recognized as such by the federal
23 government.

24 (5) "Small communities" means an incorporated town or city or
25 unincorporated area with a population of five thousand or fewer or a
26 special purpose district or other municipal or quasi-municipal
27 corporation providing services to five thousand customers or fewer on
28 the effective date of this act.

29 (6) "Wastewater and storm water collection, treatment, and reuse
30 facilities" means any facilities or systems used for the control,
31 collection, storage, treatment, reuse, recycling, or disposal of
32 wastewater, including but not limited to sanitary sewage, residential,
33 industrial, commercial, and agricultural wastewater; or municipal storm
34 water. Such facilities may include all equipment, utilities,
35 structures, real property, and interests in and improvements on real
36 property necessary for or incidental to such purpose.

1 NEW SECTION. **Sec. 3.** GENERAL OBLIGATION BONDS--AUTHORIZED--
2 ISSUANCE, SALE, TERMS--APPROPRIATION REQUIRED. For the purpose of
3 providing funds to public bodies for:

4 (1) The planning, acquisition, construction, and improvement of
5 wastewater and/or storm water control, collection, treatment, disposal,
6 or reuse facilities;

7 (2) The planning, acquisition, construction, and improvement of
8 drinking water treatment, conservation, and distribution facilities;

9 (3) The planning, acquisition, construction, improvement, or
10 replacement of existing irrigation facilities that will conserve water
11 or improve water quality;

12 (4) Identifying, acquiring, improving, and maintaining riparian
13 areas that currently have or will have value as fish and/or wildlife
14 habitat; and

15 (5) Identifying, acquiring, leasing, and maintaining valid, current
16 water rights and converting such water rights into instream flow
17 rights, the state finance committee shall issue general obligation
18 bonds of the state of Washington in the sum of one billion dollars to
19 finance the facilities, acquisitions, and other expenditures authorized
20 by this chapter and all costs incidental thereto. These bonds are
21 special indebtedness under Article VIII, section 3 of the state
22 Constitution and shall be paid and discharged within twenty-five years
23 after the date of issuance. No bonds authorized by this chapter may be
24 offered for sale without prior legislative appropriation of the net
25 proceeds of the bonds to be sold.

26 NEW SECTION. **Sec. 4.** DEPOSIT OF PROCEEDS INTO CLEAN WATER
27 INVESTMENT ACCOUNT, 2001--APPROPRIATION. The proceeds from the sale of
28 bonds authorized by this chapter shall be deposited into the clean
29 water investment account, 2001, which is hereby created in the state
30 treasury. These funds shall be appropriated by the legislature as
31 follows:

32 (1) Thirty percent of the funding shall be used for the purposes
33 specified in section 3(1) of this act;

34 (2) Thirty percent of the funding shall be used for the purposes
35 specified in section 3(2) of this act;

36 (3) Fifteen percent of the funding shall be used for the purposes
37 specified in section 3(3) of this act;

1 (4) Ten percent of the funding shall be used for the purposes
2 specified in section 3(4) of this act; and

3 (5) Fifteen percent of the funding shall be used for the purposes
4 specified in section 3(5) of this act.

5 Five years after the effective date of this act, the legislature
6 may review the distribution of funds set forth under subsections (1)
7 through (5) of this section, and may reallocate the percentage
8 distribution within the five eligible categories of expenditures based
9 on demonstrated need and environmental benefit.

10 NEW SECTION. **Sec. 5.** ADMINISTRATION OF PROCEEDS. (1) General.
11 The proceeds from the sale of the bonds deposited in the clean water
12 investment account, 2001 shall be administered by the administering
13 agencies, which shall be designated by the legislature when it
14 initially appropriates funds made available under this chapter. The
15 administering agencies may use or permit the use of any funds so
16 deposited to accomplish the authorized purposes by direct expenditures
17 and by grants to public bodies. Except for grants to small
18 communities, the maximum level of grant funding available for a single
19 project under this chapter shall be fifty percent of the eligible
20 costs. Funds made available under this chapter may be used as matching
21 funds when federal, local, or other funds are made available on a
22 matching basis for facilities, acquisitions, or other expenditures
23 eligible for funding under this chapter.

24 (2) Promulgation of Rules--Funding Criteria--Small Communities.
25 (a) The administering agencies shall, within six months of the initial
26 appropriation of funds made available under this chapter, adopt rules
27 governing the expenditure of funds made available under this chapter.

28 (b) These rules shall include grant eligibility criteria, which
29 shall include, but not be limited to, the following: (i) Environmental
30 performance as described in subsection (5) of this section; (ii) the
31 project sponsor's ability to provide its own funding for the project;
32 and (iii) the availability of funding from other sources. The rules
33 shall also provide an incentive for superior human health or
34 environmental protection by awarding a higher percentage of grant
35 funding for qualifying projects.

36 (c) Fifty percent of the funding provided for the purposes
37 specified in section 3 (1) and (2) of this act shall be awarded to
38 small communities or to public bodies providing services to small

1 communities. Up to ninety percent of the eligible costs of any project
2 undertaken by a small community shall be grant eligible.

3 (d) The rules adopted by the administering agencies shall provide
4 that the cost of any wastewater and storm water collection, treatment,
5 and reuse facilities and drinking water treatment, conservation, and
6 distribution facilities attributable to increased or additional
7 capacity that exceeds one hundred ten percent of existing demand at the
8 time of application for grant funding shall not be grant eligible.

9 (3) Costs of Administration. Not more than four percent of the
10 proceeds of the bond issue may be used to pay the cost of
11 administration of the grants, acquisitions, and other expenditures
12 authorized by this chapter, including the administering agency's costs
13 incurred providing technical, financial, and engineering assistance.

14 (4) Biennial Performance Accounting. Every two years the
15 administering agencies shall provide performance accounting reports to
16 the governor and the legislature detailing how the funding provided by
17 this chapter has been expended over the previous two years. Using
18 appropriate performance measures and, if available, environmental
19 monitoring information, the reports shall describe the human health
20 protection, environmental improvement, and other value accruing to the
21 public from the expenditure of funds made available under this chapter.

22 (5) Environmental Performance. The administering agencies shall
23 prioritize for funding those facilities or expenditures that provide
24 the greatest benefit to human health or the environment. Facilities
25 that eliminate discharges of pollutants or that employ water reuse or
26 conservation measures shall be a high priority. Land or water
27 purchases that restore or protect threatened or endangered species
28 shall also be a high priority.

29 (6) Riparian Habitat Purchases. At least seventy-five percent of
30 the riparian habitat acquisitions authorized by section 3(4) of this
31 act shall be land that is currently or was within the preceding five
32 years used for agricultural purposes. These acquisitions shall be on
33 a willing-seller basis and the interest conveyed may be a "fee"
34 interest in the property or a permanent conservation easement that
35 protects the land's value as habitat.

36 (7) Water Right Purchases. Only valid, current water rights may be
37 leased or purchased with funds made available by this chapter. The
38 administering agency shall lease or purchase water rights and convert
39 such rights to trust water rights, as specified in chapter 90.42 RCW,

1 for instream flow protection or restoration where such actions will
2 benefit threatened or endangered species, improve water quality, or
3 restore or maintain other instream values identified in RCW
4 90.54.020(3). These leases or purchases shall be made on a willing-
5 seller basis only.

6 (8) Irrigation System Improvements. The evaluation criteria for
7 irrigation system projects shall include improvements in system
8 efficiency, water quality improvements, streamflow restoration, and
9 protection of fish and wildlife. Water conserved as a result of
10 irrigation system improvements paid for in part by funds made available
11 under this chapter shall be returned to the surface or ground water
12 from which it was originally withdrawn or diverted in a volume equal to
13 the percentage of system improvements paid for with funds made
14 available under this chapter.

15 NEW SECTION. **Sec. 6.** FORM, TERMS, CONDITIONS, ETC., OF BONDS.
16 The state finance committee is authorized to prescribe the form, terms,
17 conditions, and covenants of the bonds; the time or times of sale of
18 all or any portion of the bonds; and the conditions and manner of their
19 sale and issuance.

20 NEW SECTION. **Sec. 7.** ANTICIPATION NOTES--PAYMENT--PLEDGE AND
21 PROMISE--SEAL. When the state finance committee has determined to
22 issue the bonds or a portion thereof, it may, pending the issuance of
23 the bonds, issue, in the name of the state, short-term obligations in
24 anticipation of the money to be derived from the sale of the bonds.
25 The portion of the proceeds of the sale of the bonds as may be required
26 for this purpose shall be applied to the payment of the principal of
27 and interest on the anticipation notes which have been issued. The
28 bonds and notes shall pledge the full faith, credit, and taxing power
29 of the state of Washington and shall contain an unconditional promise
30 to pay the principal and interest when due.

31 **Sec. 8.** RCW 39.42.060 and 1999 c 273 s 9 are each amended to read
32 as follows:

33 No bonds, notes, or other evidences of indebtedness for borrowed
34 money shall be issued by the state which will cause the aggregate debt
35 contracted by the state to exceed that amount for which payments of
36 principal and interest in any fiscal year would require the state to

1 expend more than seven percent of the arithmetic mean of its general
2 state revenues, as defined in section 1(c) of Article VIII of the
3 Washington state Constitution for the three immediately preceding
4 fiscal years as certified by the treasurer in accordance with RCW
5 39.42.070. It shall be the duty of the state finance committee to
6 compute annually the amount required to pay principal of and interest
7 on outstanding debt. In making such computation, the state finance
8 committee shall include all borrowed money represented by bonds, notes,
9 or other evidences of indebtedness which are secured by the full faith
10 and credit of the state or are required to be paid, directly or
11 indirectly, from general state revenues and which are incurred by the
12 state, any department, authority, public corporation or quasi public
13 corporation of the state, any state university or college, or any other
14 public agency created by the state but not by counties, cities, towns,
15 school districts, or other municipal corporations, and shall include
16 debt incurred pursuant to section 3 of Article VIII of the Washington
17 state Constitution, but shall exclude the following:

18 (1) Obligations for the payment of current expenses of state
19 government;

20 (2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;

21 (3) Principal of and interest on bond anticipation notes;

22 (4) Any indebtedness which has been refunded;

23 (5) Financing contracts entered into under chapter 39.94 RCW;

24 (6) Indebtedness authorized or incurred before July 1, 1993,
25 pursuant to statute which requires that the state treasury be
26 reimbursed, in the amount of the principal of and the interest on such
27 indebtedness, from money other than general state revenues or from the
28 special excise tax imposed pursuant to chapter 67.40 RCW;

29 (7) Indebtedness authorized and incurred after July 1, 1993,
30 pursuant to statute that requires that the state treasury be
31 reimbursed, in the amount of the principal of and the interest on such
32 indebtedness, from (a) moneys outside the state treasury, except higher
33 education operating fees, (b) higher education building fees, (c)
34 indirect costs recovered from federal grants and contracts, and (d)
35 fees and charges associated with hospitals operated or managed by
36 institutions of higher education;

37 (8) Any agreement, promissory note, or other instrument entered
38 into by the state finance committee under RCW 39.42.030 in connection
39 with its acquisition of bond insurance, letters of credit, or other

1 credit support instruments for the purpose of guaranteeing the payment
2 or enhancing the marketability, or both, of any state bonds, notes, or
3 other evidence of indebtedness;

4 (9) Indebtedness incurred for the purposes identified in RCW
5 43.99N.020; (~~and~~)

6 (10) Indebtedness incurred for the purposes of the school district
7 bond guaranty established by chapter 39.98 RCW; and

8 (11) Indebtedness incurred for the purposes of section 3 of this
9 act.

10 To the extent necessary because of the constitutional or statutory
11 debt limitation, priorities with respect to the issuance or
12 guaranteeing of bonds, notes, or other evidences of indebtedness by the
13 state shall be determined by the state finance committee.

14 **Sec. 9.** RCW 82.08.020 and 2000 2nd sp.s. c 4 s 1 are each amended
15 to read as follows:

16 (1) There is levied and there shall be collected a tax on each
17 retail sale in this state equal to six and five-tenths percent of the
18 selling price.

19 (2) There is levied and there shall be collected an additional tax
20 on each retail car rental, regardless of whether the vehicle is
21 licensed in this state, equal to five and nine-tenths percent of the
22 selling price. The revenue collected under this subsection shall be
23 deposited in the multimodal transportation account created in RCW
24 47.66.070.

25 (3) There is levied and there shall be collected an additional tax
26 on each retail sale in this state equal to one-tenth of one percent of
27 the selling price. The revenue collected under this subsection shall
28 be deposited into the clean water investment bond redemption fund under
29 section 10 of this act. The tax imposed under this subsection shall
30 expire when all bonds authorized under section 3 of this act have been
31 issued and subsequently retired.

32 (4) The taxes imposed under this chapter shall apply to successive
33 retail sales of the same property.

34 (~~(4)~~) (5) The rates provided in this section apply to taxes
35 imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

36 NEW SECTION. **Sec. 10.** RETIREMENT OF BONDS--REDEMPTION FUND--
37 REMEDIES OF BONDHOLDERS--DEBT-LIMIT GENERAL FUND BOND RETIREMENT

1 ACCOUNT. (1) The clean water investment bond redemption fund is
2 created in the state treasury. This fund is exclusively devoted to the
3 payment of interest on and retirement of the bonds authorized by this
4 chapter. The state finance committee shall, on or before June 30th of
5 each year, certify to the state treasurer the amount needed in the
6 ensuing twelve months to meet the bond retirement and interest
7 requirements. The owner and holder of each of the bonds or the trustee
8 for the owner and holder of any of the bonds may by mandamus or other
9 appropriate proceeding require the application of money in the clean
10 water investment bond redemption fund to meet bond retirement and
11 interest requirements.

12 (2) To the extent revenues in any given year exceed the amount
13 necessary for debt service, the state finance committee shall use such
14 revenues for early purchase, redemption, and retirement of outstanding
15 bonds issued under this act.

16 NEW SECTION. **Sec. 11.** LEGISLATURE MAY PROVIDE ADDITIONAL MEANS
17 FOR PAYMENT OF BONDS. The legislature may provide additional means for
18 raising money for the payment of the principal and interest of the
19 bonds authorized in this chapter. This chapter does not provide an
20 exclusive method for the payment.

21 NEW SECTION. **Sec. 12.** BONDS LEGAL INVESTMENT FOR PUBLIC FUNDS.
22 The bonds authorized in this act are a legal investment for all state
23 funds or for funds under state control and for all funds of any other
24 public body.

25 NEW SECTION. **Sec. 13.** SEVERABILITY. If any provision of this act
26 or its application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 14.** CAPTIONS NOT LAW. Captions used in this
30 act are not any part of the law.

31 NEW SECTION. **Sec. 15.** Sections 1 through 7 and 10 through 14 of
32 this act constitute a new chapter in Title 90 RCW.

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