



Legislative Fiscal Bureau

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April 19, 2010

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 949: Financial Assistance Under the Clean Water Fund Program and Safe Drinking Water Loan Program

Assembly Bill 949 makes changes to the clean water fund program and the safe drinking water loan program to authorize the programs to accept federal fiscal year 2010 grants to be used for specified forms of financial assistance to municipalities in state fiscal year 2010-11. SB 664 was introduced on April 12, 2010, and referred to the Assembly Committee on Natural Resources. On April 15, 2010, the Assembly Committee recommended passage of AB 664 by a vote of 14 to 0. On April 16, 2010, AB 949 was referred to the Joint Committee on Finance.

CURRENT LAW

The Department of Natural Resources (DNR) and Department of Administration (DOA) jointly administer the clean water fund program and safe drinking water loan program within the environmental improvement fund. The clean water fund program provides financial assistance to municipalities for planning, designing, constructing, or replacing a wastewater treatment facility, for nonpoint source pollution abatement or urban stormwater runoff control projects. The main form of financial assistance is a loan at a subsidized interest rate. The clean water fund program also provides hardship financial assistance with loan interest rates as low as 0% and grants for up to 70% of project costs for certain municipalities that meet specified criteria relating to household income and wastewater user charges. The U.S. Environmental Protection Agency (EPA) provides federal capitalization grants to states. Wisconsin issues revenue bonds to provide financial assistance for wastewater projects. The state also issues general obligation bonds to pay for the required 20% state match to the federal capitalization grant and for the state subsidy costs of low-interest loans. The state pays general obligation bond debt service with general purpose revenues and a portion of loan repayments received from municipalities.

The safe drinking water loan program provides low-interest loans to municipalities for planning, designing, constructing, or modifying public drinking water systems. Wisconsin issues general obligation bonds to pay for the required 20% state match to the federal capitalization grant and for the state subsidy costs of low-interest loans. The safe drinking water loan program does not have a grant component.

The federal American Recovery and Reinvestment Act (ARRA) provided additional funds to the clean water fund and safe drinking water loan programs. Under 2009 Act 11, changes were enacted to authorize the programs to utilize the one-time federal funds for forgiveness of the principal of a loan, negative interest loans, or grants. DNR and DOA signed financial assistance agreements totaling \$103,748,300 of clean water fund program ARRA principal forgiveness funding to 53 projects and allocated \$37,750,000 of safe drinking water loan ARRA principal forgiveness to 47 projects. The programs provided principal forgiveness for 50% of project costs and regular program low-interest loans for the remaining 50% of costs.

The federal fiscal year 2010 appropriations act for EPA authorized funds for the clean water fund and safe drinking water loan programs. The federal act requires states to use a portion of the 2010 funds to increase the amount of subsidy provided for financial assistance in the form of forgiveness of principal of a loan, negative interest loans, or grants. The federal appropriations act also requires states to use 20% of the 2010 capitalization grant for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities. (ARRA included a similar "green" requirement without a specified percentage.)

The federal 2010 appropriations act provides a capitalization grant to Wisconsin for the clean water fund program of \$55,083,000, of which a minimum of \$8,249,700 must be used for principal forgiveness, negative interest loans, or grants. The 2010 federal grant to the state for the safe drinking water loan program is \$23,399,000, of which a minimum of \$7,019,700 must be used for the specified types of financial assistance.

SUMMARY OF BILL

AB 949 would authorize DNR and DOA to use funds received by the state from EPA under the federal 2010 appropriations act (P.L. 111-88) as a capitalization grant for the clean water fund and safe drinking water loan programs through additional forms of subsidy, on a one-time basis, before December 31, 2011. The bill includes the following provisions:

a. DNR and DOA would be required to provide additional subsidy to a municipality in the form of forgiveness of part of the principal of a clean water fund or safe drinking water loan, notwithstanding the current statutory limits on the methods that may be used to provide financial assistance.

b. DNR would be authorized to establish a percentage limit on the amount of financial assistance available through federal 2010 appropriation act funds to any municipality.

c. DNR could establish a deadline for submitting applications for clean water fund financial assistance. The current clean water fund program operates on a continuous funding cycle.

d. DNR could establish a different deadline for submitting applications for safe drinking water loan financial assistance than required under current law. The current safe drinking water loan program has an application deadline of April 30. (2009 AB 733 would change the application deadline to June 30. It was passed by the Assembly on April 13, 2010, and was messaged to the Senate.)

e. DNR could consider any of the following in determining which projects to provide financial assistance: (1) the population of the municipality in which a project would be located; (2) the median household income of the municipality in which the project would be located; or (3) the extent to which a project promotes water efficiency or energy efficiency, is environmentally innovative, or uses natural systems or engineered systems that mimic natural processes, also called green infrastructure.

f. DNR and DOA would not be required to promulgate rules before allocating financial assistance under the provisions of the federal 2010 appropriations act.

FISCAL EFFECT

DNR's fiscal estimate indicates that enactment of the bill would allow the state to receive an additional \$15.3 million in federal capitalization grants for the clean water fund (\$8.3 million) and safe drinking water loan (\$7.0 million) programs in accordance with the federal 2010 appropriations act provisions for principal forgiveness. Passage of the bill during the current legislative session should enable Wisconsin to receive and utilize 100% of the federal fiscal year 2010 capitalization grant during state fiscal year 2010-11. If passage of the bill is delayed until the 2011 legislative session, the state could apply for approximately 80% (\$63.2 million) of the \$78.5 million in federal fiscal year 2010 capitalization grant at this time, and would have to wait until state authorizing legislation is passed in 2011 to apply for the remaining \$15.3 million in federal grants. If the state statutes are not changed prior to September 30, 2011, to authorize receipt of the federal funds, the state would not be able to apply for the \$15.3 million in federal grants after that date. State matching funds (20%) of the federal grants would be approximately \$3 million. State officials indicate existing general obligation bonding authority is expected to be adequate to meet this match requirement.

DNR's fiscal estimate also indicates that the language in the bill related to "green" financing will allow the program to consider additional factors when determining which projects meet the federal requirement to use 20% of the 2010 federal grant for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities. DNR indicates that, without the language of the bill, the program might not be able to fund enough "green" projects to fully utilize the approximately \$15.7 million that must be reserved for these types of projects.

In its fiscal estimate, DNR anticipates that if the bill is not passed during this legislative session, some municipalities might delay moving forward with wastewater or drinking water infrastructure projects until they learn whether principal forgiveness will become available. Some municipalities might believe their projects are not affordable unless they receive principal forgiveness for a portion of project costs. DNR further indicates that delaying construction could cause municipalities to incur additional costs due to the wastewater or drinking water problem becoming worse, project costs increasing over time, or debt service costs increasing during a term of interim financing for the project.

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