

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7207      PCB ANR 10-14    Drinking Water  
**SPONSOR(S):** Agriculture & Natural Resources Policy Committee, Williams, T.  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2296

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
Orig. Comm.:	Agriculture & Natural Resources Policy Committee	11 Y, 0 N	Lowrance	Reese
1)	Full Appropriations Council on Education & Economic Development	17 Y, 0 N	Smith-Brown	Kramer
2)				
3)				
4)				
5)				

**SUMMARY ANALYSIS**

Funds to establish or capitalize the Clean Water State Revolving Fund (CWSRF) programs are provided through federal government grants and state matching funds. The CWSRF provides low-interest loans to eligible entities for planning, designing, and constructing *water pollution control facilities*; loan repayments are then recycled back into the program to fund additional water quality protection projects. The Florida Water Pollution Control Financing Corporation is a nonprofit public-benefit corporation that was established to finance or refinance water pollution control activities.

The Safe Drinking Water Act of 1996 established a Drinking Water SRF (DWSRF) program, administered by the Department of Environmental Protection (DEP) to make funds available to drinking water systems to finance infrastructure improvements to ensure the protection of safe drinking water. The DWSRF Program provides low-interest loans to eligible entities for planning, designing, and constructing *public water facilities*.

The bill renames the Florida Water Pollution Control Financing Corporation as the Florida Water Pollution Control and Drinking Water Financing Corporation (Corporation) and expands the authority of the Corporation to authorize bonds for the DEP's DWSRF program. The proceeds from the bonds related to the DWSRF will be used to fund local government drinking water infrastructure projects. Projects and activities that may be funded are those eligible under the federal Safe Drinking Water Act.

Expansion of the Corporation's authority to issue bonds to finance drinking water projects does not require the appropriation of state dollars nor are any state dollars at risk as a result of bond issuance. All bonds will be backed exclusively by the repayments of the local governments and other owners of drinking water systems receiving SRF loans.

The bill provides that this bill will take effect upon becoming a law.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

State Revolving Fund (SRF) programs provide financial savings for projects that benefit the environment, including protection of public health and conservation of local watersheds. Federal and state contributions fund loans for a wide variety of water quality projects including all types of stormwater, watershed protection or restoration, and estuary management projects, as well as more traditional municipal wastewater treatment projects including water reuse and conservation projects.<sup>1</sup>

The SRF programs allow states to provide funding for their highest-priority water quality needs. Funds to establish or capitalize the Clean Water State Revolving Fund (CWSRF) programs are provided through federal government grants and state matching funds that are equal to 20 percent of federal government grants. CWSRF provides low-interest loans to eligible entities for planning, designing, and constructing *water pollution control facilities*; loan repayments are then recycled back into the program to fund additional water quality protection projects. The revolving nature of these programs provides for an ongoing funding source.<sup>2</sup>

The Florida Water Pollution Control Financing Corporation (Corporation) is a nonprofit public-benefit corporation that was established to finance or refinance water pollution control activities.<sup>3</sup> The long-term purpose for the Corporation is to contribute to statewide compliance with water quality standards through the planning, design and construction of cost-effective wastewater treatment and stormwater management facilities, non-point source pollution management systems, and estuary conservation and management programs.<sup>4</sup> The Corporation is governed by a board of directors consisting of the Governor's Budget Director (or designee), the Chief Financial Officer (or designee), and the Secretary of Environmental Protection (or designee). The executive director of the State Board of Administration shall direct and supervise the affairs of the corporation.<sup>5</sup>

According to the U.S. Environmental Protection Agency, water systems must make significant investments to install, upgrade, or replace infrastructure to continue to ensure the provision of safe drinking water. Installation of new treatment facilities can improve the quality of drinking water and

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<sup>1</sup> Florida DEP, "Water Facilities Funding", [www.dep.state.fl.us/water/wff](http://www.dep.state.fl.us/water/wff)

<sup>2</sup> Florida DEP, "Clean Water State Revolving Fund Loan Program", <http://www.dep.state.fl.us/water/wff/cwsrf/index.htm>

<sup>3</sup> Section 403.1837(1)

<sup>4</sup> Florida DEP, "Clean Water State Revolving Fund Loan Program", <http://www.dep.state.fl.us/water/wff/cwsrf/index.htm>

<sup>5</sup> Section 403.1837(2)

better protect public health. Improvements are also needed to help those water systems experiencing a threat of contamination due to aging infrastructure systems.<sup>6</sup>

The Safe Drinking Water Act of 1996 established a Drinking Water SRF (DWSRF) program, administered by the Department of Environmental Protection (DEP) to make funds available to drinking water systems to finance infrastructure improvements to ensure the protection of safe drinking water. The DWSRF Program provides low-interest loans to eligible entities for planning, designing, and constructing *public water facilities*. The DEP solicits project information throughout the year. The information is used to establish the project priority list for the following annual cycle. Funds are made available for pre-construction loans to rate-based public water systems, construction loans of at least \$75,000, and pre-construction grants and construction grants to small financially disadvantaged communities. The loan terms include a 20-year (30-year for financially disadvantaged communities) amortization and low-interest rates. Small community assistance is available for communities having populations less than 10,000. Each year 15% of the funds are reserved exclusively for their use. In addition, small communities may qualify for loans from the unreserved 85% of the funds.<sup>7</sup>

### Effect of Bill

The bill adds the definitions of “bonds” and “corporation.”

The bill renames the Florida Water Pollution Control Financing Corporation as the Florida Water Pollution Control and Drinking Water Financing Corporation (Corporation). Subsequently, the bill expands the authority of the Corporation to authorize bonds to fulfill the purposes of the DWSRF as well as the Clean Water SRF (CWSRF). The Corporation is authorized to:

- Borrow money and issue notes, bonds, certificates of indebtedness, or other obligations in the DWSRF;
- Operate any program to provide financial assistance authorized under the DWSRF, which may be funded from funds received under a service contract with the DEP, from the proceeds of bonds issued by the Corporation, or from any other funding sources obtained by the Corporation;
- Sell all or any portion of the loans issued under DWSRF;
- Evaluate all financial and market conditions necessary for the purpose of making prudent, sound, financially responsible, and cost-effective decisions in order to secure additional funds to fulfill the purposes of the DWSRF;
- Enter into one or more service contracts with the DEP in connection with financing the functions, projects, and activities provided in the DWSRF. The service contracts may provide for the transfer of all or a portion of the funds in the Drinking Water Revolving Loan Trust Fund to the Corporation for use by the Corporation for costs incurred in its operations.

The Corporation is exempt from taxation and assessments on its income and any property, assets or revenues acquired, received, or used in the furtherance of the purposes of the DWSRF. Benefits or earnings of the Corporation may not benefit any private person, except persons receiving loans under the DWSRF.

Under the provisions of the bill, DEP is authorized to:

- Make or request the Corporation to make loans, grants, and deposits to community water systems, nonprofit transient noncommunity water systems, and nonprofit nontransient noncommunity water systems to assist them in planning, designing, and constructing public water systems, unless such systems are for-profit privately owned or investor-owned public water systems that regularly serve 1,500 service connections or more within a single certified or franchised area.
- Administer the loans so that amounts credited to the DWSRF are reserved for specified purposes.

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<sup>6</sup> U.S. EPA, Drinking Water State Revolving Fund (DWSRF), <http://www.epa.gov/safewater/dwsrf/index.html>

<sup>7</sup> Florida DEP, Drinking Water State Revolving Fund (DWSRF), <http://www.dep.state.fl.us/water/wff/dwsrf/>

- Adopt rules regarding the procedural and contractual relationship between the DEP and the Corporation.
- Require evidence of credit worthiness and adequate security to ensure that each loan recipient can meet their loan obligations.

The bill stipulates that payments from the DWSRF under any service contract entered into by the DEP is subject to annual appropriation by the Legislature. The Fund is exempt from the termination provisions of s.19(f)(2), Art. III of the State Constitution.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 403.1837, F.S. renaming the Florida Water Pollution Control Financing Corporation as the Florida Water Pollution Control and Drinking Water Financing Corporation and revising provisions regarding purpose, powers, and duties of Corporation.

**Section 2:** Amends s. 403.1835, F.S. to conform terminology.

**Section 3:** Amends s. 403.8532, F.S. to define “bonds” and “corporation”, and to specify the scope of DEPs authority.

**Section 4:** Amends s. 403.8533, F.S. to specify that payments under any service contract are subject to annual appropriation and the fund is exempt from specified termination provisions of the State constitution.

**Section 5:** Amends ss. 11.45, F.S., to conform terminology to convey that the Auditor General has authority to conduct audits of the Florida Water Pollution Control and Drinking Water Financing Corporation.

**Section 6:** Provides that the act shall be effective upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

According to the DEP, the revenues from bond proceeds will depend on decisions by the Financing Corporation, under advice from the Division of Bond Finance, the DEP and other advisors, relating to funding demand, the characteristics of the loan pool, and market conditions. The ability periodically to bond is expected to enhance program funding capacity by 25-30% over time from its current \$60-\$70 million per year capacity.

##### 2. Expenditures:

As with current SRF bonds, loan repayments to the DWSRF will be used to cover the debt service on any bonds issued for drinking water. The DEP provides that state appropriations are not required to implement the bonding aspects of the SRF programs.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

The DEP suggests that the ability to issue bonds on behalf of the DWSRF will expand the program's capacity to provide below market rate loans to local governments and other owners of water systems to fund infrastructure projects. The low-interest rate loans provide cost saving to local governments and owners that might otherwise seek loans or issue local government bonds at market rates that they may not be able to afford.

The ability of the Corporation to issue bonds, combined with additional federal funding—if state match is made available by the Legislature—expands the long term capacity of the SRF (similar to the effect of compounding interest), which in turn makes more funds available for local governments and other water system owners.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the DEP, the ability of the Corporation to issue bonds will allow the DWSRF to fund more projects, thereby creating jobs for consulting firms, engineers, construction contractors, and other workers, who in turn inject money into the local economies. The lower financing costs of the SRF benefit owners of water systems by allowing them to build more infrastructure for less cost, which in turn means lower rates and other charges for system customers.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Environmental Protection (DEP) to adopt rules regarding the procedural and contractual relationship between the DEP and the Corporation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DEP, on the advice of the Division of Bond Finance, suggests an amendment to undo the proposed name change of the Florida Water Pollution Control Financing Corporation. The intent of this amendment will be to avoid any problems or confusion with bonds and other documents issued under the existing name.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2010, the Agriculture and Natural Resources Policy Committee adopted three amendments. The amendments:

- Correct a statutory reference;
- Remove language added by the PCB that would prohibit the Corporation, and therefore DEP, from using bond proceeds for anything other than drinking water projects;
- Remove language in the existing law so as not to prohibit the Corporation, and therefore DEP, from using bond proceeds for anything other than wastewater and stormwater projects.