SENATE BILL 641-FN

AN ACT establishing a state assistance to public drinking water systems program and fund.


COMMITTEE: Finance

ANALYSIS

This bill establishes the per and polyfluoroalkyl substances fund and enables the department of environmental services to make grants, loans, contracts, and reimbursements from the fund for projects related to PFAS remediation.

Explanation: Matter added to current law appears in bold italics. Matter removed from current law appears [in brackets and struckthrough.] Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
AN ACT establishing a state assistance to public drinking water systems program and fund.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Per and PolyFluoroalkyl Substances (PFAS) Fund and Programs. Amend RSA by inserting after chapter 485-G the following new chapter:

CHAPTER 485-H
PER AND POLYFLUOROALKYL SUBSTANCES (PFAS) FUND AND PROGRAMS

485-H:1 Purpose Statement. The general court recognizes that there is widespread and persistent contamination of groundwater, surface water and soils throughout the state caused by releases, discharges and air emissions of per and polyfluoroalkyl substances (PFAS). The existence of these man-made chemicals, some of which are occurring at unhealthy levels in New Hampshire’s drinking water, require a strategy to protect, preserve, and enhance the water that New Hampshire citizens and environment rely upon. In addition, associated funding is necessary to investigate and research the sources, occurrence and effective management of PFAS, adopt protective standards for drinking water, groundwater, surface water, soils, wastewater residuals and air emissions, as well as to remediate, treat and otherwise manage and ensure compliance with PFAS standards.

485-H:2 Definitions. In this chapter:

I. "Department" means the department of environmental services.

II. "Drinking water standard" means maximum contaminant levels established in accordance with RSA 485.


IV. “Wastewater residuals” means septage, sludge, or biosolids.

485-H:3 Implementation of Drinking Water and Environmental Protection.

I. The department of environmental services shall administer the PFAS fund. Fund proceeds sufficient to fund the department's PFAS program and qualifying projects shall be transferred to the department and maintained in a separate, nonlapsing account, continually appropriated to the department for the purpose of paying all costs of this program. The department shall perform the following duties to the limit of available funding, including but not limited to:

(a) Establishing and administering a PFAS revolving loan program to assist municipalities, public drinking water systems, and publicly owned wastewater and wastewater residuals treatment or storage facilities with the cost of complying with state standards for PFAS.
(b) Establishing and administering a grant program to assist disadvantaged communities with loan repayment and to provide assistance for small public water systems and homeowners with drinking water wells that exceed current drinking water standards.

c) Investigating and researching the sources, occurrence, and effective management of PFAS, including, but not limited to the development of regulatory standards and treatment technologies.

d) Investigating and remediating PFAS contamination in cases where a responsible party does not exist or is not performing as required by existing statute.

II. The department shall adopt rules, under RSA 541-A, relative to:

(a) Administering the grant and loan programs for eligible projects necessary to meet state PFAS standards.

(b) Administering contractual and reimbursement programs for drinking water, wastewater, wastewater residuals, soils, and air emission research and development, and remedial projects.

(c) Administering a reimbursement program for private home owners with PFAS contamination in their wells that exceeds the state drinking water standard.

III. The department shall within the limits of available funding:

(a) Award grants, revolving loan funds, contractual services and reimbursements to projects from the PFAS fund in a manner consistent with this chapter.

(b) Award available funds if the project meets one or more of the following criteria:

(1) The project is or was necessary to comply with a state mandated PFAS standard and the applicant for funding is a municipality, a non-transient public water system, or a publicly owned wastewater or wastewater residuals treatment or storage facility.

(2) The project is or was necessary to achieve state mandated drinking water PFAS standards for a private well serving one or more existing homes.

(3) The project is necessary to understand the source, occurrence, or appropriate management of PFAS.

(4) The project is necessary to investigate or remediate PFAS contamination where a responsible party does not exist or is not performing as required by existing statute.

(5) The project is necessary to develop and construct new technology to address PFAS contamination.

IV. At least every 5 years, the department shall prepare and file a report with the general court evaluating the progress made relative to PFAS contamination, the efficiency of the program established under this chapter, and whether it continues to provide the maximum benefit to New Hampshire citizens, and providing any recommendations on potential additional tasks for which the fund could be used to address PFAS contamination.
485-H:4 PFAS Fund Established. There is hereby established the PFAS fund which shall be kept distinct and separate from all other funds. The state treasurer shall be the trustee of the fund, may invest the fund in accordance with RSA 6:8. Any earnings on fund moneys shall be added to the fund. All moneys in the fund shall be nonlapsing and shall be continually appropriated to the department. The PFAS fund shall be used to fund grants, loans, contractual services, and reimbursements in accordance with this chapter. Funds from any bond proceeds, grants, loan repayments, legislative appropriations, donations, and other funds shall be credited to this fund.

2 New Subparagraph; PFAS Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (358) the following new subparagraph:


3 Effective Date. This act shall take effect 60 days after its passage.
AN ACT establishing a state assistance to public drinking water systems program and fund.

FISCAL IMPACT:  [ X ] State  [ X ] County  [ X ] Local  [ ] None

<table>
<thead>
<tr>
<th>STATE:</th>
<th>Estimated Increase / (Decrease)</th>
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<tbody>
<tr>
<td></td>
<td>FY 2020</td>
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<tr>
<td>Appropriation</td>
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</tr>
<tr>
<td>Revenue</td>
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<tr>
<td>Expenditures</td>
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</tr>
</tbody>
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| Funding Source: | [ ] General Fund | [ ] Education | [ ] Highway | [ X ] Other - PFAS |

| COUNTY: | |
| Revenue | $0 | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase |
| Expenditures | $0 | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase |

| LOCAL: | |
| Revenue | $0 | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase |
| Expenditures | $0 | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase |

METHODOLOGY:

This bill establishes the per and polyfluoroalkyl substances fund, that is nonlapsing and continually appropriated to the Department of Environmental Services, and enables the Department to make grants, loans, contracts, and reimbursements from the fund for projects related to PFAS remediation.

The Department indicates it would assume the following responsibilities under this bill:

- Establish and administer a PFAS revolving loan program to assist municipalities, public water systems and publicly owned wastewater and wastewater residuals treatment or storage facilities with the cost of complying with State standards for PFAS.
• Establish and administer a grant program to assist disadvantaged communities with loan repayment and to provide assistance to small public water systems and homeowners with drinking water wells that exceed current drinking water standards.
• Investigate and research the sources, occurrences and effective management of PFAS including the development of standards and treatment technologies.
• Investigate and remediate PFAS contamination in situations where a responsible party does not exist or is not performing as required by law.

The Department states the amount that may be available to the Fund for grants, loans, contracts and reimbursement programs is unknown because sufficient testing for levels of PFAS is not complete. While the sampling is not complete and the potential costs are indeterminable, the Department did develop a range of possible costs for public water system treatment in conjunction with the rulemaking for Maximum Contaminant Levels (MCLs) for PFAS compounds. That analysis, based information from currently treating systems and an assumption 9% of sources of public water would need to be treated, estimated the cost to be between $65 and $143 million. In addition, the Department would need staff and assumes, depending on the size of the fund 6 to 10 new positions would be necessary.

The Department indicates the impact on county and local revenues and expenditures cannot determined until sufficient testing for levels of PFAS is complete.

With an effective date of 60 days after passage, it is assumed any fiscal impact would begin in FY 2021.

AGENCIES CONTACTED:
Department of Environmental Services