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IC 5-1.2-10-3Funds

Sec. 3. (a) The following funds are established:

(1) The drinking water revolving loan fund (referred to in this chapter as the "drinking water SRF fund" or "fund").

(2) The wastewater revolving loan fund (referred to in this chapter as the "wastewater SRF fund" or "fund").

(b) The authority shall administer, hold, and manage each fund.

(c) Except as provided in the federal Clean Water Act or the federal Safe Drinking Water Act, the cost of administering either fund or program may be paid from the appropriate fund or from other money.

(d) All money accruing to each fund and money allotted to the state under federal law is appropriated continuously for the purposes specified in this chapter.

(e) Money in the each fund does not revert to the state general fund at the end of a state fiscal year.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-4Funds; purpose

Sec. 4. Each fund is established to provide money for loans and other financial assistance under this chapter to or for the benefit of participants, including forgiveness of principal if allowed under federal law.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-5Money; sources

Sec. 5. (a) The general assembly may appropriate money to either fund.

(b) Grants or gifts of money to either fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to either fund; and

(2) loans and other financial assistance, as provided in sections 11 through 15 of this chapter;

shall be deposited in the appropriate fund.

(c) Repayments of loans and other financial assistance from either fund, including interest, premiums, and penalties, shall be deposited in the appropriate fund.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-6 Money; investment

Sec. 6. (a) The authority shall invest the money in each fund in accordance with an investment policy adopted by the authority. Interest, premiums, gains, or other earnings from the investments shall be credited to and deposited in the appropriate fund.

(b) As an alternative to subsection (a), the authority may invest or cause to be invested all or a part of each fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to:

- (1) a participant;
- (2) the authority; or
- (3) any person to which the authority or a participant is obligated, as provided in the trust agreement or indenture.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-7 Money; uses

Sec. 7. (a) Money in the wastewater SRF fund may be used for wastewater collection and treatment systems.

(b) Money in the drinking water SRF fund may be used for public water systems that will facilitate compliance with national primary drinking water regulations applicable to public water systems under the federal Safe Drinking Water Act or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act.

(c) Money in each fund may be used to do the following:

- (1) Provide loans or other financial assistance to participants for:
 - (A) the planning;
 - (B) the designing;
 - (C) the construction;
 - (D) the renovation;
 - (E) the improvement;
 - (F) the expansion; or
 - (G) any combination of the activities described in clauses (A) through (F);

for the purposes described in subsections (a) and (b), including other activities necessary or convenient to complete these tasks.

(2) Pay the cost of administering each fund and program.

(3) Carry out any purpose eligible for assistance under the federal Clean Water Act or the federal Safe Drinking Water Act.

(4) Conduct all other activities that are allowed by the federal Clean Water Act or the federal Safe Drinking Water Act.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-8 Technical, managerial, and financial capacity

Sec. 8. The authority may develop and implement a strategy to assist participants in acquiring and maintaining technical, managerial, and financial capacity as contemplated by the federal Clean Water Act or the federal Safe Drinking Water Act.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-9 Discretion of the authority

Sec. 9. This chapter does not require the authority to provide a loan or other financial assistance to any participant to the extent the authority determines the loan or financial assistance is not in the best interests of the wastewater or drinking water program and the authority.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-10 Contracting; authorization

Sec. 10. The authority may contract with the department of environmental management or any other entity or person for assistance in administering the wastewater or drinking water program and the wastewater SRF fund or drinking water SRF fund and in carrying out the purposes of this chapter.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-11 Duties

Sec. 11. For the purposes of this chapter, the authority shall do the following:

(1) Administer, hold, and manage all aspects of each fund and the wastewater or drinking water program, and any related fund or account the authority creates under this chapter.

- (2) Be the point of contact in relations with the United States Environmental Protection Agency.
- (3) Prepare and provide wastewater or drinking water program information.
- (4) Ensure that each proposed financial assistance agreement meets the environmental and technical aspects of the wastewater or drinking water program.
- (5) Periodically inspect project design and construction to determine compliance with the following:
 - (A) This chapter.
 - (B) The federal Clean Water Act or the federal Safe Drinking Water Act.
 - (C) Construction plans and specifications.
- (6) Negotiate the negotiable aspects of each financial assistance agreement.
- (7) Manage any payment systems through which the state receives grant payments from the federal government for the wastewater or drinking water program and disbursements to the wastewater SRF fund or drinking water SRF fund.
- (8) Prepare annual reports concerning each fund and program.
- (9) Be the point of contact with participants and other interested persons in preparing and providing wastewater or drinking water program information.
- (10) Prepare or cause to be prepared each financial assistance agreement.
- (11) Sign each financial assistance agreement.
- (12) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-12 Provision of services

Sec. 12. The authority may provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-13 Fees

Sec. 13. (a) In connection with the wastewater or drinking water program, the authority may:

(1) charge a fee for services provided;

(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a participant under this chapter, regardless of whether the application is approved or rejected; and

(3) charge a fee (or cause interest on a loan made from the wastewater SRF fund or drinking water SRF fund to be so designated) in any manner allowed by the federal Clean Water Act or the federal Safe Drinking Water Act.

(b) A participant may pay fees charged under this section. If directed by the authority, a fee charged under this section may be instead of all or a portion of a scheduled interest payment.

(c) Fees shall be held and applied by the authority in any manner allowed by the federal Clean Water Act or the federal Safe Drinking Water Act.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-14 Priority ranking system

Sec. 14. (a) The authority shall use a priority ranking system in making loans or other financial assistance from each fund.

(b) The authority, in consultation with other state agencies the authority determines to be appropriate, shall develop the priority ranking system to achieve optimum water quality consistent with federal primary drinking water regulations and health protection objectives of the federal Safe Drinking Water Act, the water quality goals of the state, and the federal Clean Water Act.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-15 Loans or other financial assistance; authorization

Sec. 15. (a) The authority may make loans or provide other financial assistance from each fund to or for the benefit of a participant for the following:

(1) Establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the wastewater SRF fund or drinking water SRF fund (including financial institutions) for a purpose permitted by this chapter.

(2) Provide interest subsidies.

(3) Pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction.

(b) The authority shall establish the terms and conditions that the authority considers necessary or convenient to:

(1) make loans; or

- (2) provide other financial assistance under this chapter.
- (c) Notwithstanding any other law, the authority may establish and implement requirements that:
 - (1) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and
 - (2) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-16Loans or other financial assistance; necessary documents

Sec. 16. (a) A loan or other financial assistance from either fund must be accompanied by the following:

- (1) All papers and opinions required by the authority.
- (2) Unless otherwise provided by the guidelines of the authority, the following:
 - (A) An approving opinion of nationally recognized bond counsel.
 - (B) A certification and guarantee of signatures.
 - (C) A certification that, as of the date of the loan or other financial assistance:
 - (i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or
 - (ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.
 - (D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.
 - (E) Documentation demonstrating that the participant has the financial, managerial, technical, and legal capability of operating and maintaining its water or wastewater collection and treatment system.
- (b) Each participant:
 - (1) to which; or
 - (2) for the benefit of which;

a loan would be made or the other financial assistance would be provided under this chapter must demonstrate that it has developed or is in the process of developing an asset management program as defined in the guidelines of the authority.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-17Financial assistance agreement

Sec. 17. A participant receiving a loan or other financial assistance from the wastewater SRF fund or drinking water SRF fund shall enter into a financial assistance agreement. A financial assistance agreement related to the wastewater or drinking water program is a valid, binding, and enforceable agreement of the participant.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-18Sale or pledging of loans; federal restrictions

Sec. 18. The authority may sell or pledge loans or evidence of other financial assistance and other obligations of participants to the extent allowed by the federal Clean Water Act or the federal Safe Drinking Water Act.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-19Pledging of loans or property

Sec. 19. (a) The authority may pledge loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the wastewater SRF fund or drinking water SRF fund to secure:

- (1) other loans or financial assistance from the wastewater SRF fund or drinking water SRF fund to or for the benefit of participants; or
- (2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent allowed by the federal Safe Drinking Water Act or the federal Clean Water Act.

(b) The authority must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the authority under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and that is received after the pledge are immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the drinking water SRF fund;
- (2) the wastewater SRF fund; or
- (3) the authority;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or another instrument by which a pledge is created does not have to be filed or recorded, except in the records of the authority.

(e) Action taken to:

(1) enforce a pledge under this section; and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-20Interest rates

Sec. 20. (a) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:

(1) Credit risk.

(2) Environmental, water quality, and health protection.

(3) Affordability.

(4) Other fiscal factors the authority considers relevant, including the wastewater or drinking water program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different participants or for different loans or other financial assistance to the same participants.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-21Sufficient user charges

Sec. 21. The authority shall require a participant receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

(1) operate and maintain the public water or wastewater collection and treatment system; and

(2) pay the obligations of the public water system.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-22 Guidelines

Sec. 22. The authority may adopt guidelines, without complying with [IC 4-22-2](#), to govern the administration of this chapter.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-23 Leveraged loan program; authorization

Sec. 23. (a) As an alternative to making loans or providing other financial assistance to participants, the authority may use the money in either fund to provide a leveraged loan program and other financial assistance programs allowed by the federal Clean Water Act or the federal Safe Drinking Water Act to or for the benefit of participants, including using money in the wastewater SRF fund or drinking water SRF fund to enhance the obligations of participants issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital fund or reserve fund established under [IC 5-1.2-4](#) or another statute or a trust agreement or indenture as contemplated by this chapter; or

(ii) an account established within a fund described in item (i); or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the authority, if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by participants or bonds issued by the authority.

(b) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the wastewater SRF fund or drinking water SRF fund and the supplemental fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

As added by P.L.189-2018, SEC.25.

IC 5-1.2-10-24 Leveraged loan program; authorization

Sec. 24. Notwithstanding any other law, and to the extent allowed by the federal Clean Water Act or the federal Safe Drinking Water Act, money in the wastewater SRF fund or drinking water SRF fund, together with loan repayments to be deposited in the wastewater SRF fund or drinking water SRF fund, may be used to establish a leveraged loan program or other financial assistance programs established in connection with the wastewater SRF fund or drinking water SRF fund.

As added by P.L.189-2018, SEC.25.