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## CHAPTER 14. CLEAN WATER STATE REVOLVING FUND

### §2301. Definitions

As used in this Chapter, the following terms shall have the following meanings:

(1) "Clean Water State Revolving Fund" or "CWSRF" means the water pollution control revolving loan fund previously established by Act No. 349 of the 1986 Regular Session of the Legislature, as amended, and formerly known as the "Municipal Facilities Revolving Loan Fund".

(2) "Department" means the Department of Environmental Quality.

(3) "Eligible recipient" means a political subdivision, public trust, agency or commission of the state, or a private entity, to the extent permitted by the federal act or federal regulations.

(4) "Federal act" means the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, specifically Subchapter VI, Chapter 26 of Title 33 of the United States Code, and any amendments thereto relating to water pollution control revolving loan funds established by the respective states, including the CWSRF.

(5) "Federal regulations" means Part 35, Title 40 of the Code of Federal Regulations (40 CFR 35.3100, et seq.) relating to water pollution control revolving loan funds established by the respective states, including the CWSRF.

Acts 2010, No. 296, §1, eff. June 17, 2010.

### §2302. Clean Water State Revolving Fund; established

A. The Clean Water State Revolving Fund is hereby established and shall be maintained and operated by the department. Grants from the federal government allotted to the state for the capitalization of the CWSRF, and state funds when required, or otherwise made available, shall be deposited directly in or credited to the account of the CWSRF in compliance with the terms of the federal or state grant. The CWSRF shall provide assistance to eligible recipients for any activities of the CWSRF as may be permitted by the federal act or federal regulations and by this Chapter.

B. The department is authorized to enter into contracts and other agreements in connection with the operation of the CWSRF including but not limited to credit enhancement devices, guarantees, pledges, interest rate swap agreements, contracts and agreements with federal agencies, political subdivisions, public trusts, agencies or commissions of the state, and other parties to the extent necessary or convenient for the implementation of the CWSRF. The department shall maintain full authority for the operation of the CWSRF in accordance with applicable federal and state law.

Acts 2010, No. 296, §1, eff. June 17, 2010.

### §2303. Clean Water State Revolving Fund; authorized activities

A. Money in or credited to the account of or to be received by the CWSRF, including sums to be received pursuant to letters of credit or from any other source, shall be expended, committed, or pledged, in a manner consistent with terms and conditions of the grants and other sources of such deposits, credits, and letters of credit, and of all applicable federal and state law and may be used:

- (1) To make loans to eligible recipients, or to purchase debt obligations using federal funds or funds on deposit in, credited to, or to be received by the CWSRF, including from the proceeds of letters of credit, at or below market interest rates for a period not to exceed thirty years from the completion of the construction of a project approved by the department.
- (2) To offer and to make or enter into loan guarantees for eligible recipients.
- (3) To provide payments to reduce interest on loans and loan guarantees to eligible recipients.
- (4) To provide additional subsidization to eligible recipients in the form of bond interest subsidies, forgiveness of principal, negative interest loans or grants, or any combination of these.
- (5) To provide bond guarantees to eligible recipients.
- (6) To provide assistance to eligible recipients with respect to the nonfederal share of the costs of a project.
- (7) To finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of projects for eligible recipients as may be approved by the department.
- (8) To provide financial assistance to eligible recipients for the construction and rehabilitation of a project on the state priority list.
- (9) To secure principal, interest, and premium if any, on bonds or other evidence of indebtedness issued by the department, or any agency, commission, authority, or public corporation of the

state, by any public trust or by any other entity having the authority to issue debt for or on behalf of the state, or any political subdivision of the state if the proceeds of such bonds are deposited in the CWSRF, if the proceeds of such bonds are used to pay for a project approved by the department, or if the proceeds of such bonds are used to refund any obligation the proceeds of which are used to pay for an approved project to the extent provided and allowed by the terms of the federal grant.

(10) To make, enter into, or provide for loan guarantees for similar revolving funds established by instrumentalities, public trusts or agencies of the state, political subdivisions, or intermunicipal or interstate agencies.

(11) To purchase or refinance, at or below market rates, debt incurred by political subdivisions for wastewater treatment projects, where such debt obligations were incurred after March 7, 1985.

(12) To improve credit market access by guaranteeing, arranging, or purchasing bond insurance or other credit enhancement devices for debt obligations issued by the department, or any eligible recipient issued for a purpose authorized by this Section.

(13) To provide any other assistance or to fund any other programs which the federal government authorizes by law, regulation, or the terms of any grants.

(14) To fund the administrative expenses of the department related to the CWSRF.

(15) To provide for any other expenditure consistent with the federal grant program and state law, including grants.

B. Money not currently needed for the operation of the Clean Water State Revolving Fund or otherwise dedicated may be invested in an interest-bearing account. All such interest earned on investments shall be credited to the Clean Water State Revolving Fund.

Acts 2010, No. 296, §1, eff. June 17, 2010.

#### §2304. Clean Water State Revolving Fund; political subdivisions and public trusts; loans

A. Notwithstanding any provisions of law to the contrary, and in addition to the authority to borrow money or incur debt under any other provisions of law, any political subdivision or public trust is hereby authorized to borrow money from and incur debt payable to the CWSRF in accordance with the provisions hereof and subject to the approval of the State Bond Commission. This Section shall not be deemed to be the exclusive authority under which political subdivisions or public trusts may borrow money from or incur indebtedness to the CWSRF.

B. All bonds, notes, or other evidence of indebtedness of any political subdivisions and public trusts issued to represent an obligation to repay a CWSRF loan shall be authorized and issued pursuant to a resolution or ordinance of the governing authority of such entity, which shall prescribe the form and details thereof, including the terms, security for, manner of execution, repayment schedule, and redemption features thereof and such resolution or ordinance may provide that an officer of such entity may execute in connection with such obligation any related contract including but not limited to a credit enhancement device, indenture of trust, loan agreement, pledge agreement, or other agreement or contract needed to accomplish the purposes for which said indebtedness is given. Any such resolution or ordinance shall set forth the maximum principal amount, the maximum interest rate, the maximum redemption premium, if any, and the maximum term of such indebtedness.

C. Notwithstanding any other provision of law to the contrary, any political subdivision, or public trust upon entering into a loan from the CWSRF under this Section may dedicate and pledge a portion of any revenues it has available to it including but not limited to revenues from the general revenue fund, sales taxes, user fees, assessments, parcel fees, or property taxes of the political subdivision for a term not exceeding thirty years for repayment of the principal of, interest on, and any premium, administrative fee, or other fee or cost imposed by the department in connection with such loan; provided that any loan made solely for the purpose of financing the cost of facility planning and the preparation of plans, specifications, and estimates for construction of projects approved by the department shall have a term not to exceed five years from the date thereof.

D. Any evidence of indebtedness authorized pursuant to the provisions of this Chapter shall bear a rate or rates of interest that shall not exceed the rate or rates set forth in the resolution or ordinance authorizing and providing for the issuance thereof. Any such rate or rates of interest may be at fixed, variable, or adjustable rates.

E. Bonds, notes, or other evidence of indebtedness of a political subdivision shall be sold at a private, negotiated sale to the CWSRF at such price or prices, including premiums and discounts as shall be authorized in the resolution or ordinance of the borrower and agreed to by the department. The general laws of the state governing fully registered securities of public entities shall be applicable to the bonds, notes, or other evidence of indebtedness issued pursuant to this Section.

F. All resolutions or ordinances authorizing the issuance of bonds, notes, or other evidence of indebtedness of a political subdivision hereunder shall be published once in the official journal of the borrower. It shall not be necessary to publish exhibits to such resolution or ordinance, but such exhibits shall be made available for public inspection at the offices of the governing authority of the borrower at reasonable times and such fact must be stated in the publication. For a period of thirty days after the date of such publication, any persons in interest may contest the legality of the resolution or ordinance authorizing such evidence of indebtedness and any provisions thereof made for the security and payment thereof. After such thirty-day period no one shall have any cause or right of action to contest the regularity, formality, legality, or effectiveness of said resolution or ordinance and the provisions thereof or of the bonds, notes, or other evidence of indebtedness authorized thereby for any cause whatsoever. If no suit, action, or

proceeding is begun contesting the validity of the bonds, notes, or other evidence of indebtedness authorized pursuant to such resolution or ordinance within the thirty days prescribed in this Subsection, the authority to issue the bonds, notes, or other evidence of indebtedness, or to provide for the payment thereof, and the legality thereof, and all of the provisions of the resolution or ordinance and such evidence of indebtedness shall be conclusively presumed, and no court shall have authority or jurisdiction to inquire into any such matter.

G. Bonds, notes, or other evidence of indebtedness of a political subdivision issued under the authority of this Section shall be exempt from all taxation for state, parish, municipal, or other purposes. Such bonds, notes, or other evidence of indebtedness shall be legal and authorized investments for banks, savings banks, insurance companies, any other financial institution, tutors of minors, curators of interdicts, trustees, and other fiduciaries. Such bonds, notes, or other evidence of indebtedness may be used for deposit with any officer, board, or political subdivision of the state, in any case where, by present or future laws, deposit of security is required for state funds.

H. The department may by suit, action, mandamus, or other proceedings, protect and enforce any covenant relating to and the security provided in connection with any indebtedness issued pursuant to this Section, and may by suit, action, mandamus, or other proceedings enforce and compel performance of all of the duties required to be performed by the governing body and officials of any borrower hereunder and in any proceedings authorizing the issuance of such bonds or other evidences of indebtedness.

Acts 2010, No. 296, §1, eff. June 17, 2010.

§2305. Authority of the department; incur debt; issue and undertake guarantees of debt of other entities

A. The department is hereby authorized to issue, incur, and deliver debt evidenced by bonds, notes, or other evidences of indebtedness, payable from or secured by sums deposited in, credited to, or to be received in, including sums received pursuant to letters of credit, by the department in the CWSRF.

B. The department is further authorized to undertake and to issue and deliver evidences of its guarantee of the debt of other entities and is authorized to enter and execute pledges of the sums deposited in, credited to, or to be received in the CWSRF, including payments pursuant to letters of credit, to secure the debt of other entities. Such bonds, notes, or other evidences of indebtedness, such guarantees, and such pledges issued and delivered pursuant to the authority hereof shall constitute special and limited obligations of the department, and shall not be secured by the full faith and credit of the state, any source of revenue of the state other than those sums on deposit in, credited to, or to be received in the CWSRF, including payments to be made pursuant to letters of credit. It is hereby found and determined that such bonds, notes, or other evidences of indebtedness, guarantees, and pledges shall constitute revenue bonds, debts, or

obligations within the meaning of Article VII, Section 6(C) of the Constitution of Louisiana and shall not constitute the incurring of state debt thereunder.

C. Withdrawals from the CWSRF to pay debt service on any bond, note, or other evidence of indebtedness, obligation of guarantee of any debt, or pledge to secure any debt does not constitute and shall not be subject to annual appropriation by the legislature as provided by Article III, Section 16 of the Constitution of Louisiana.

D. The department is hereby authorized to issue, execute, and deliver refunding bonds, notes, or other evidences of indebtedness for the purpose of refunding, readjusting, restructuring, refinancing, extending, or unifying in whole or any part of its outstanding obligations, and the department is also authorized to issue short-term revenue notes for the purposes of anticipating any revenues to be received by the department in connection with the CWSRF.

Acts 2010, No. 296, §1, eff. June 17, 2010.

§2306. Manner of authorizing, issuing, executing, and delivering debt or guarantees of debt of other entities

A. All bonds, notes, or other evidences of indebtedness, guarantees of the debt of other entities or pledges of assets to the payment of debts of other entities shall be authorized and issued pursuant to an executive order issued by the secretary of the department, and such executive order shall include a statement as to the maximum principal amount of any such obligation, guarantee, or pledge, the maximum interest rate to be incurred or borne by such obligation or guaranteed by such obligation, the maximum redemption premium, if any, and the maximum term in years for such evidence of indebtedness, obligation, guarantee, or pledge, and such executive order shall prescribe the form, anticipated terms, security, manner of execution, redemption features, and method of fixing the final details thereof. Such executive order may provide that the secretary or his designee shall execute in connection with any such obligation any other related contract including but not limited to credit enhancement devices, indentures of trust, pledge agreements, loan agreements, or any other ancillary agreements or contracts needed to accomplish the purposes for which said evidence of indebtedness, guarantee, or pledge is given in substantially the form attached to said executive order but which final indenture, guarantee, pledge, or other contract or agreement may contain such changes, additions, and deletions as shall, in the sole opinion of the designated officer of the department executing any such contract, be determined to be appropriate under the circumstances. The bonds, notes, other evidences of indebtedness, and obligations issued under the provisions of this Section shall be subject to the general laws of the state regarding defeasance and fully registered securities of public entities.

B. Bonds, notes, or other evidences of indebtedness of the department may bear, and the department may guarantee or pledge the assets of the CWSRF to the payment of debt of other entities that bear, a rate or rates of interest at fixed, variable, or adjustable rates. Any such obligation may be noninterest bearing in the form of capital appreciation obligations.

C. Bonds, notes, or other evidences of indebtedness of the department shall be sold by the State Bond Commission at either public or private sale and may be sold at such price or prices, including premiums and discounts, as may be determined to be in the best interest of the department by the secretary, with the approval of the State Bond Commission. If any such evidences of indebtedness are to be sold at a public sale, a notice of the sale shall be published in accordance with the provisions of R.S. 39:1426 and shall be awarded to the best bidder therefor by the State Bond Commission, but the State Bond Commission may reject any and all bids received.

D. The department may, in connection with the sale of any bonds, notes, or other evidences of indebtedness, use municipal bond insurance, bank guarantees, surety bonds, letters of credit, interest rate swap agreements, and other devices to enhance the credit quality of any such obligations, the cost of which may be paid from the proceeds of the bonds, notes, or other evidences of indebtedness or other lawfully available funds. Such credit enhancement devices may be entered into prior to, at the time of, or subsequent to, the issuance of any such obligations.

E. All executive orders of the secretary authorizing the issuance of bonds, notes, or other evidences of indebtedness of the department shall be published once in the official journal of the state. It shall not be necessary to publish exhibits to any such executive order, but such exhibits shall be made available for public inspection at the offices of the secretary of the department at reasonable times and such fact must be stated in the publication. For a period of thirty days after the date of such publication any persons in interest may contest the legality of the executive order and any provisions thereof made for the security and payment of any such bonds, notes, or other obligations, guarantees, or pledges. After such thirty-day period, no one shall have any cause or right of action to contest the regularity, formality, legality, or effectiveness of said executive order and the provisions thereof or of the bonds, notes, or other evidence of indebtedness authorized thereby or any guarantee or pledge authorized thereby for any cause whatsoever. If no suit, action, or proceeding is begun contesting the validity of the bonds, notes, or other obligations authorized pursuant to such executive order within the thirty days herein prescribed, the authority to issue the bonds, notes, or other obligations, to enter into the guarantee, or to make the pledge to provide for the payment thereof, and the legality thereof, and of all the provisions of the executive order shall be conclusively presumed, and no court shall have authority or jurisdiction to inquire into any such matter.

F. Bonds, notes, or other evidences of indebtedness issued under the authority of this Section or Chapter 32 of Title 40 of the Louisiana Revised Statutes of 1950, shall be exempt from all taxation for state, parish, municipal, or other purposes. Such bonds, notes, or other evidences of indebtedness may be used for deposit with any officer, board, or other political subdivision of the state, in any case where, by present or future laws, deposit of security is required for state funds.

G. Notwithstanding the provisions of this Chapter, the department shall not directly issue any bonds, notes, or other evidences of indebtedness except to any commission, authority, or public corporation of the state, any public trust, political subdivision of the state, or any other entity having the authority to issue debt for or on behalf of the state, or any other political subdivision of the state.

Acts 2010, No. 296, §1, eff. June 17, 2010.