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Oklahoma Statutes

§82-1085.71. Purpose.

In addition to the financial assistance programs established under Sections 1085.31 through 1085.49 and Sections 1085.51 through 1085.65 of this title pursuant to Section 39 of Article X of the Oklahoma Constitution, it is the intention of the Legislature to establish a Drinking Water Treatment Revolving Loan Account to implement the federal Safe Drinking Water Act. Added by Laws 1994, c. 191, § 1, eff. July 1, 1994.

§82-1085.72. Definitions.

For the purposes of this act:

1. "Drinking water treatment project" means:
    - a. any engineering undertaking or work to control or develop drinking water treatment facilities of eligible entities for all useful and lawful purposes,
    - b. any system necessary to improve or develop drinking water supply, treatment or distribution capabilities, or
    - c. any implementation of water source protection programs as authorized by the federal Safe Drinking Water Act and this act;
  2. "Investment certificate" means any note or bond, including any renewal note or refunding bond, authorized and issued by the Board pursuant to the provisions of this act;
  3. "Eligible entity" means any city, town, county or the State of Oklahoma, and any rural water district, public trust, master conservancy district, any other political subdivision or any combination thereof;
  4. "Board" means the Oklahoma Water Resources Board;
  5. "Department" means the Department of Environmental Quality; and
  6. "Safe Drinking Water Act" means the federal Safe Drinking Water Act as exists on the effective date of this act, as may be amended, or any successor statute.
- Added by Laws 1994, c. 191, § 2, eff. July 1, 1994.

§82-1085.73. Creation - Monies and other sums - Investments.

A. Within the Water Resources Fund created pursuant to Section 1085.33 of this title, there is hereby created the "Drinking Water Treatment Revolving Loan Account". For purposes of implementing the federal Safe Drinking Water Act, said account shall be the drinking water treatment state revolving

loan fund required to be established by the federal Safe Drinking Water Act. The Drinking Water Treatment Revolving Loan Account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. Monies received pursuant and subject to the restrictions of the federal Safe Drinking Water Act which are eligible for use in state revolving loan funds established to meet the requirements of that act;

2. Monies appropriated to the account;

3. Payments of principal and interest and penalty payments on loans made directly from federal grant monies and state-appropriated monies in the account;

4. Payments of principal and interest and penalty payments on loans made from the proceeds of the sale of investment certificates in the account or as may be provided in applicable bond resolutions or indentures as appropriate;

5. All income from the investment of monies held in the account consistent with applicable bond resolutions or indentures as allowed by the federal Safe Drinking Water Act;

6. Proceeds from the sale of investment certificates issued to provide water treatment loans pursuant to the provisions of this act except as otherwise provided by the applicable bond resolutions or indentures as appropriate; and

7. Any other sums designated for deposit to the account from any source, public or private.

B. The principal amounts of the federal capitalization grants, less program set-asides, and state matching funds in the Drinking Water Treatment Revolving Loan Account shall be maintained for providing financial assistance in accordance with the federal Safe Drinking Water Act.

C. The monies in the Drinking Water Treatment Revolving Loan Account shall be used for the purpose of making loans to eligible entities pursuant to the provisions of this act or for such other purposes authorized by the federal Safe Drinking Water Act.

D. The monies placed in the Drinking Water Treatment Revolving Loan Account shall be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, in the manner consistent with the provisions of the federal Safe Drinking Water Act. Monies invested by the State Treasurer shall be available to meet program needs for funding as established by the Department.

E. Notwithstanding the provisions of Section 1085.39 of this title, the Board shall not use funds in the Drinking Water

Treatment Revolving Loan Account established in the Water Resources Fund to make grants.

Added by Laws 1994, c. 191, § 3, eff. July 1, 1994. Amended by Laws 1997, c. 186, § 1, emerg. eff. May 15, 1997.

§82-1085.74. Authorized uses of funds in account.

A. All funds available in the Drinking Water Treatment Revolving Loan Account shall first be used to assure maintenance of progress towards compliance with enforceable deadlines, goals and requirements of the Oklahoma Environmental Quality Code and the federal Safe Drinking Water Act.

B. The Board shall use the Drinking Water Treatment Revolving Loan Account only as provided by the federal Safe Drinking Water Act for the following purposes:

1. To make a loan to an eligible entity if:
  - a. the loan application, project and planning documents have been approved by the Department or Board,
  - b. the loan is made at or below market interest rates, including interest-free loans, at terms consistent with the federal Safe Drinking Water Act,
  - c. principal and interest payments will begin not later than one (1) year after completion of any drinking water treatment project and all loans will be fully amortized consistent with the federal Safe Drinking Water Act,
  - d. the Drinking Water Treatment Revolving Loan Account will be credited with all payments of principal of and interest on all loans,
  - e. the applicant demonstrates to the satisfaction of the Board the legal, managerial and financial capability to assure sufficient revenues to pay debt service,
  - f. the recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan, and
  - g. the recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the treatment works, and to submit the audit report to the Board on a scheduled annual basis;
2. To buy or refinance eligible entity obligations at or below market rates where the debt obligation was incurred after July 1, 1993;

3. To guarantee or purchase insurance for eligible entities if the guarantee or insurance would improve access to market credit or reduce interest rates;

4. As a source of revenue or security for the payment of principal of and interest on any investment certificate issued by the Board. The proceeds of the sale of such investment certificates shall be deposited in the Drinking Water Treatment Revolving Loan Account in compliance with applicable bond resolutions or indentures authorizing the sale;

5. To earn interest on accounts established under the Drinking Water Treatment Revolving Loan Account; and

6. For such other purpose or in such other manner, as is determined by the Board to be an appropriate use of the Drinking Water Treatment Revolving Loan Account and which has been specifically approved by the Environmental Protection Agency pursuant to the federal Safe Drinking Water Act.

Added by Laws 1994, c. 191, § 4, eff. July 1, 1994. Amended by Laws 1997, c. 186, § 2, emerg. eff. May 15, 1997.

§82-1085.75. Powers and duties of Department.

A. In addition to other powers and duties provided by law, the Department of Environmental Quality shall have the power and duty to:

1. Prepare and maintain the priority list for treatment works;

2. Review and assess the planning documents for and cost effectiveness of drinking water treatment projects on the priority list;

3. Determine drinking water treatment project feasibility and the entities' eligibility to receive funding from the Drinking Water Treatment Revolving Loan Account;

4. Determine which projects should be referred to the Board for loans from the Drinking Water Treatment Revolving Loan Account;

5. Perform any required environmental review and make any required environmental determinations in accordance with any necessary environmental review process approved by the Environmental Protection Agency;

6. Provide oversight and technical assistance during the planning, design, and construction phase of the drinking water treatment project for which the entity is applying for such loan;

7. Be the instrumentality to make application to the Environmental Protection Agency for the capitalization grant and enter into the capitalization grant agreement, and be the recipient of the capitalization grant; and

8. Assess the technical capability of an applicant to ensure compliance with the federal Safe Drinking Water Act over the long term.

B. In determining the cost effectiveness of any drinking water treatment project, the Department shall require the preparation of a cost effective analysis of feasible drinking water treatment or conveyance alternatives capable of meeting state and federal drinking water standards and public health requirements while recognizing environmental and other nonmonetary considerations determined to be relevant by the Department.

Added by Laws 1994, c. 191, § 5, eff. July 1, 1994. Amended by Laws 1997, c. 186, § 3, emerg. eff. May 15, 1997.

§82-1085.76. Eligibility and priority of entities for drinking water treatment projects - Rules.

The Environmental Quality Board shall prescribe such rules as may be necessary for determining the eligibility and priority of entities for drinking water treatment projects in order to receive loans made pursuant to the federal Safe Drinking Water Act and from the Drinking Water Treatment Revolving Loan Account. At a minimum, such rules shall:

1. Ensure the fair and equitable prioritization of entities eligible for loans made pursuant to the provisions of this act;

2. Be in conformance with applicable provisions of the Oklahoma Environmental Quality Code and the federal Safe Drinking Water Act;

3. Require that to be approved, an applicant needs or will need the drinking water treatment project loan to comply with rules adopted by the Environmental Quality Board pursuant to the Oklahoma Environmental Quality Code; and

4. Require the drinking water treatment project to:

a. comply with minimum standards and requirements of the federal Safe Drinking Water Act or any similar or successor statute,

b. meet the Department's rules for drinking water and established environmental review criteria as provided for by applicable federal law, and

c. meet any other consideration deemed necessary by the Department.

Added by Laws 1994, c. 191, § 6, eff. July 1, 1994.

§82-1085.77. Powers and duties of Board.

A. In addition to other powers and duties provided by law, the Board shall have the power and duty to:

1. Manage, maintain, expend and otherwise administer monies in the Water Resources Fund and any accounts or subaccounts

therein, except as otherwise provided by paragraph 2 of this subsection, pursuant to the provisions of Sections 1085.31 through 1085.39 of this title;

2. Manage, maintain, expend and otherwise administer monies in the Drinking Water Treatment Revolving Loan Account pursuant to the statutory authority of the Oklahoma Water Resources Board and shall manage the account so as to make available the amounts necessary to fund loans to eligible entities entitled to receive funding;

3. Establish separate accounts and subaccounts within the Water Resources Fund and provide that such accounts be segregated and used for specified purposes or held as security for designated obligations;

4. Issue investment certificates to provide necessary funds for the Drinking Water Treatment Revolving Loan Account pursuant to the provisions of subsection B of this section;

5. Enter into binding loan agreements with the eligible entities; and

6. Transfer, when necessary, monies from the Drinking Water Treatment Revolving Loan Account to the Statewide Water Development Revolving Fund to be used for security or collateral for investment certificates issued for the Drinking Water Treatment Revolving Loan Account. The monies so transferred and the interest income from such monies shall be restricted for use to those programs authorized by the federal Safe Drinking Water Act. The Board shall establish such accounts and subaccounts within the Statewide Water Development Revolving Fund necessary to implement the provisions of this paragraph.

B. The Board may issue investment certificates to provide necessary funds for the Drinking Water Treatment Revolving Loan Account; provided that said issuance shall be governed by the provisions of Section 1085.33 and Section 1085.37 of this title. The Board shall not issue such investment certificates unless:

1. The Board has determined that the issuance of the investment certificates is an economical way to provide loan funds to meet the demand for funding and is beneficial for the long term stability of the fund. Prior to issuance of any such bonds, the Board shall fully consider all comments submitted by the public concerning issuance of the bonds; and

2. The issuance of such certificates has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act. Added by Laws 1994, c. 191, § 7, eff. July 1, 1994.

§82-1085.78. Repealed by Laws 1997, c. 186, § 8, emerg. eff. May 15, 1997.

§82-1085.79. Application of Oklahoma Bond Oversight and Reform Act.

An investment certificate shall not be issued under Sections 1085.31 through 1085.39 of Title 82 of the Oklahoma Statutes or pursuant to the provisions of this act unless the issuance has been reviewed and approved pursuant to the Oklahoma Bond Oversight and Reform Act.

Added by Laws 1994, c. 191, § 9, eff. July 1, 1994.

§82-1085.80. Annual audit.

The Department, with the cooperation of the Board, shall cause to be completed an annual audit of any expenditures from the Drinking Water Treatment Revolving Loan Account.

Added by Laws 1994, c. 191, § 10, eff. July 1, 1994.

§82-1085.81. Default in payments.

In the event of a default in payment of the principal or interest on loans made from the Drinking Water Treatment Revolving Loan Account pursuant to this act, the Attorney General is empowered and it shall be his or her duty to take action to collect amounts due to the account. The Attorney General shall institute appropriate proceedings by mandamus or other legal remedies to compel the defaulting party and its officers, agents, and employees to cure the default by appropriate means, including performing duties that they are legally obligated to perform. Those proceedings shall be brought and venue shall be in the district court of Oklahoma County.

Added by Laws 1994, c. 191, § 11, eff. July 1, 1994.

§82-1085.82. Joint operating agreement between Department and Board.

In order to comply with the requirements of federal and state laws, the Department of Environmental Quality and the Oklahoma Water Resources Board shall enter into a written joint operating agreement to carry out with efficiency their respective duties under this act. At a minimum, the agreement shall provide for the following:

1. Joint procedures consistent with this act to establish criteria for determining the interest rates on loans to be made from the Drinking Water Treatment Revolving Loan Account. Such criteria may incorporate applicable United States Environmental Protection Agency and Rural Development Administration guidelines for financial assistance; and

2. Submission of an annual joint report by the Department and the Board to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate

within one hundred twenty (120) days of the end of each fiscal year concerning the Drinking Water Treatment Revolving Loan Account and implementation of the provisions of this act. The report shall contain information to show the actual use and the recipients of loans made from the Drinking Water Treatment Revolving Loan Account. In addition, the report shall contain five-year demand projections on anticipated loan funds required and ten-year and twenty-year projections as to possible funding needs for drinking water treatment projects which may be eligible for financial assistance pursuant to this act. Added by Laws 1994, c. 191, § 12, eff. July 1, 1994. Amended by Laws 1997, c. 186, § 4, emerg. eff. May 15, 1997.

§82-1085.83. Annual intended use plan and biennial report.

A. The Department of Environmental Quality shall prepare an annual intended use plan with the cooperation of the Board and shall submit such plan to the United States Environmental Protection Agency. The plan shall contain all information required by pertinent provisions of the federal Safe Drinking Water Act and may contain such other information as the Department may determine. An opportunity for public review of and comment on the plan before submittal shall be provided.

B. The Department shall prepare a biennial report with the cooperation of the Board and shall submit such report to the United States Environmental Protection Agency. The biennial report shall contain all information required by pertinent provisions of the federal Safe Drinking Water Act and may contain such other information as required by the Capitalization Grant Agreement.

Added by Laws 1994, c. 191, § 13, eff. July 1, 1994. Amended by Laws 1997, c. 186, § 5, emerg. eff. May 15, 1997.

§82-1085.84. Repealed by Laws 1997, c. 186, § 8, emerg. eff. May 15, 1997.

§82-1085.84A. Drinking Water Treatment Loan Administrative Fund.

A. In order to administer the Drinking Water Treatment Revolving Loan Account, there is hereby created in the State Treasury a "Drinking Water Treatment Loan Administrative Fund". The Drinking Water Treatment Loan Administrative Fund shall be set apart from all other Board accounts and funds and shall be a permanent and perpetual fund not subject to fiscal year limitations. The Drinking Water Treatment Loan Administrative Fund shall consist of monies deposited into the fund from the following sources:



1. Application processing and loan administrative fees collected by the Board on Drinking Water Treatment Revolving Loan Account loans; and

2. Any other funds, whether public or private, that have been designated by the source thereof for deposit in the Drinking Water Treatment Loan Administrative Fund.

B. Monies in, or investment income derived from, the Drinking Water Treatment Loan Administrative Fund shall be restricted and used solely for the purpose of administering the Drinking Water Treatment Revolving Loan Account or as otherwise authorized by the federal Safe Drinking Water Act or guidance or regulations promulgated thereunder. Monies in the Drinking Water Treatment Loan Administrative Fund, or investment income derived therefrom, shall be used by the Board and Department in carrying out their responsibilities as provided in the written annual joint operating agreement identified in Section 1085.82 of Title 82 of the Oklahoma Statutes and shall be subject to annual designation by the State Legislature.

C. The monies placed in the Drinking Water Treatment Loan Administrative Fund may be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, all in a manner consistent with the federal Safe Drinking Water Act or regulations promulgated thereunder. The Oklahoma Water Resources Board may transfer to the Drinking Water Treatment Loan Administrative Fund income derived from investment of the fund. Monies invested by the State Treasurer shall be available to meet administrative funding needs.

D. The Board is authorized to transfer monies from the Drinking Water Treatment Loan Administrative Fund into the Drinking Water Treatment Revolving Loan Account to be utilized for purposes consistent with the federal Safe Drinking Water Act.

E. The Board shall cause to be completed an annual audit of any expenditures from the Drinking Water Treatment Loan Administrative Fund.

Added by Laws 1997, c. 186, § 6, emerg. eff. May 15, 1997.

§82-1085.91. Legislative intent.

In addition to the financial assistance program established under Sections 1085.31 through 1085.49, 1085.51 through 1085.65, and 1085.71 through 1085.84A of Title 82 of the Oklahoma Statutes pursuant to Section 39 of Article X of the Oklahoma Constitution, it is the intention of the Legislature to

establish a Flood Hazard Mitigation Financial Assistance Program. Financing projects to mitigate flooding is hereby declared to be a public purpose.

Added by Laws 1999, c. 57, § 13, eff. July 1, 1999.

§82-1085.92. Definitions.

As used in the Flood Hazard Mitigation Financial Assistance Program:

1. "Flood hazard mitigation projects" means those projects designed to correct, alleviate or eliminate a condition or situation which poses a repetitive threat to life, property, or public safety from the effects of a flood disaster;

2. "Eligible entity" means any city, town, county, or the State of Oklahoma, and any rural water or sewer district, irrigation district, public trust, master conservancy district, or other political subdivision or any combination thereof;

3. "Board" means the Oklahoma Water Resources Board; and

4. "Department" means the Oklahoma Department of Civil Emergency Management.

Added by Laws 1999, c. 57, § 14, eff. July 1, 1999.

§82-1085.93. Flood Hazard Mitigation Account - Source, use and investment of monies.

A. In addition to other lawful purposes, monies placed in the Statewide Water Development Revolving Fund, exclusive of such amounts of interest derived from investment deposits necessary to maintain the grant account at its maximum amount as provided in Section 1085.40 of this title, may be used by the Board for flood hazard mitigation projects pursuant to the Flood Hazard Mitigation Financial Assistance Program.

B. Within the Water Resources Fund created pursuant to Section 1085.33 of Title 82 of the Oklahoma Statutes, there is hereby created the "Flood Hazard Mitigation Account". The account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. All monies appropriated to the account;

2. Interest income from deposits made to the Statewide Water Development Revolving Fund for the purpose of flood hazard mitigation;

3. All income from the investment of monies held in the account consistent with applicable bond resolutions or indentures; and

4. Any other sums designated for deposit to the account from any source, public or private.

C. The monies in the account shall be used by the Oklahoma Department of Civil Emergency Management and the Oklahoma Water Resources Board after receipt of recommendations from the State

Hazard Mitigation Team, to implement flood hazard mitigation projects, including but not limited to providing grants or loans to eligible entities to:

1. Acquire land or a conservation easement from a willing seller or grantor in order to mitigate flood hazards; or
2. Implement voluntary, incentive-based flood hazard mitigation measures in order to facilitate compliance with state or national regulations.

D. Monies in, or investment income derived from, the Flood Hazard Mitigation Account which is used to match any grant funds provided by the Federal Emergency Management Agency shall be restricted and used consistent with Federal Emergency Management Agency procedures or guidance or regulations promulgated thereunder for flood hazard mitigation projects.

E. Monies in the Flood Hazard Mitigation Account, or investment income derived therefrom, shall be used by the Oklahoma Water Resources Board and the Oklahoma Department of Civil Emergency Management in carrying out their responsibilities as provided in a written annual joint operating agreement which shall include, among other matters, a budget for administering the Oklahoma Flood Hazard Mitigation Program.

F. The monies placed in the Flood Hazard Mitigation Account may be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, all in a manner consistent with the federal Safe Drinking Water Act or regulations promulgated thereunder. The Board may transfer to the Flood Hazard Mitigation Account income derived from investment of the fund. Monies invested by the State Treasurer shall be available to implement flood hazard mitigation projects.

G. The Board shall cause to be completed an annual audit of any expenditures from the Flood Hazard Mitigation Account, and such audit cost shall be included in the budget for administering the Oklahoma Flood Hazard Mitigation Program. Added by Laws 1999, c. 57, § 15, eff. July 1, 1999.

§82-1085.94. Powers and duties of Water Resources Board.

A. In addition to other powers and duties provided by law, the Oklahoma Water Resources Board shall have the power and duty to:

1. After receipt from the Department of Civil Emergency Management, process applications for grant funds or loans from the Flood Hazard Mitigation Account and enter into grant or loan agreements for use of such funds;

2. Promulgate rules as deemed necessary by the Board to administer the Flood Hazard Mitigation Financial Assistance Program;

3. Utilize the priority listing of applicants compiled by the Oklahoma Department of Civil Emergency Management after recommendations from the State Hazard Mitigation Team in considering grant applications;

4. a. Issue investment certificates, in accordance with the provisions of Sections 1085.33 and 1085.37 of Title 82 of the Oklahoma Statutes and the Oklahoma Bond Oversight and Reform Act, to provide necessary funds first to meet the demand for loan funding from the Flood Hazard Mitigation Financial Assistance Program; provided, any investment certificate proceeds not needed for such demand may be used by the Board, as needed, for funding other financial assistance programs authorized in Title 82 of the Oklahoma Statutes, and

b. Enter into loan agreements with and make loans from the proceeds of investment certificates to eligible entities for flood hazard mitigation projects upon terms not inconsistent with the provisions of Section 1085.36 of Title 82 of the Oklahoma Statutes; and

5. Enter into agreements with the Oklahoma Department of Civil Emergency Management or other state or federal agencies as deemed necessary by the Board to monitor and measure flood events.

B. In addition to other powers and duties provided by law, the Oklahoma Department of Civil Emergency Management shall consider the recommendations, if any, of the State Hazard Mitigation Team prior to:

- a. promulgation of rules providing for and establishing a priority listing of grant and loan applicants for flood hazard mitigation projects subject to the Oklahoma Civil Defense and Emergency Resources Management Act, and
- b. determining eligibility of those entities authorized to receive funding from the Flood Hazard Mitigation Account.

Added by Laws 1999, c. 57, § 16, eff. July 1, 1999. Amended by Laws 1999, c. 413, § 9, eff. Nov. 1, 1999.

§82-1085.95. Use of loans and grants in conjunction with other financial assistance - Subagreements with owners of private property.

A. Loans and grants under the Flood Hazard Mitigation Financial Assistance Program may be used in conjunction with other financial assistance available from the Oklahoma Water Resources Board.

B. If a flood hazard mitigation project includes activities to be conducted on privately owned real property, the loan or grant agreement between the Board and the eligible entity that receives the grant shall contain a provision about any necessary subagreements with the owners of the property.

Added by Laws 1999, c. 57, § 17, eff. July 1, 1999.

§82-1085.96. Use of monies for security and collateral for investment certificates.

Monies appropriated to the Statewide Water Development Revolving Fund for the purpose of flood hazard mitigation, in addition to such purpose, may be used by the Oklahoma Water Resources Board for security and collateral for investment certificates issued by the Board pursuant to Section 16 of this act.

Added by Laws 1999, c. 57, § 18, eff. July 1, 1999.