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## **CHAPTER 46-12.8**

# **Water Projects Revolving Loan Fund**

### **§ 46-12.8-1. Legislative findings.**

(a) It is hereby found that there exists and will in the future exist within the state of Rhode Island the need to construct and reconstruct facilities related to and acquire watershed protection land in connection with the provision of safe drinking water throughout the state of Rhode Island.

(b) It is hereby further found that to provide financial assistance for the acquisition, design, planning, construction, enlargement, repair, protection or improvement of public drinking water supplies or treatment facilities, including any of those actions required under the federal Safe Drinking Water Act of 1974, 42 U.S.C., §§ 300f – 300j-9, including the Safe Drinking Water Act (SDWA) amendments of 1996 (Pub. L. 104-182) and any amendments thereto, it is necessary to establish a revolving loan fund program to provide a perpetual source of low cost financing for safe drinking water projects.

(c) It is hereby further found that to secure maximum benefit to the state from a safe drinking water revolving loan fund, it is necessary to place such fund within the jurisdiction and control of the Rhode Island infrastructure bank, which agency presently runs the state's revolving fund with respect to the state's wastewater pollution abatement program, which agency shall exclusively administer the financing portion of the safe drinking water revolving loan fund, but which shall nevertheless work, as necessary, with the department of environmental management, the water resources board, the Rhode Island department of health, the division of public utilities and carriers and any other agency or instrumentality of the state or federal government with responsibility for the development or supervision of water supply facilities within the state.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1; P.L. 1998, ch. 328, § 1; P.L. 2007, ch. 340, § 44; P.L. 2015, ch. 141, art. 14, § 19.)

### **§ 46-12.8-2. Definitions.**

(a) "Agency" means the Rhode Island infrastructure bank.

(b) "Approved project" means any project or portion thereof of a governmental unit or privately organized water supplier that has been issued a certificate of approval by the department for assistance through the agency; and, notwithstanding the foregoing, shall include safe drinking water projects funded outside of the drinking water state revolving fund without the requirement of the issuance of a certificate of approval.

(c) "Department" means the department of health.

(d) "Local governmental obligations" means bonds, notes or other evidences of indebtedness in fully marketable form issued by a governmental unit to evidence a loan from the agency in accordance with this chapter or otherwise as provided herein.

(e) "Local governmental unit" means any town, city, district, commission, agency, authority, board or other political subdivision or instrumentality of the state or of any political subdivision thereof responsible for the ownership or operation of water supply facilities within the state.

(f) "Obligations of private water companies" means bonds, notes or other evidences of indebtedness, of private water companies, in fully marketable form.

(g) "Privately organized water supplier" means any water company not owned or operated by a local governmental unit, existing under the laws of the state, and in the business of operating a safe drinking water facility.

(h) "Water supply facility or facilities" means water reservoirs, wells and well sites, transmission or distribution system, any and all real estate or interests in real estate held in connection therewith, all equipment and improvements held in connection therewith, and any property or interests therein, real, personal or mixed, used or held on to be used in connection therewith.

(i) "Financial assistance" means any form of financial assistance other than grants provided by the agency to a local governmental unit or private water company in accordance with this chapter for all or any part of the cost of an approved project, including, without limitation, temporary and permanent loans, with or without interest, grants, guarantees, insurance, subsidies for the payment of debt service on loans, lines of credit, and similar forms of financial assistance; provided, however, notwithstanding the foregoing, for purposes of capitalization grant awards made available to the agency pursuant to the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), or as otherwise required in connection with other capitalization grant awards made available to the agency, financial assistance shall also include principal forgiveness and negative interest loans.

#### History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1; P.L. 2009, ch. 5, art. 3, § 2; P.L. 2010, ch. 179, § 2; P.L. 2015, ch. 141, art. 14, § 19.)

**§ 46-12.8-3. Additional powers of agency in connection with administration of safe drinking water revolving fund.**

The agency shall have all powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, so far as apt, the general powers of the agency as set forth in chapter 12.2 of this title and, without limiting the generality of the foregoing, the powers:

- (1) To receive and apply its revenues to the purposes of this chapter without appropriation or allotment by the state or any political subdivision thereof;
- (2) To borrow money, issue bonds, notes or other evidences of indebtedness, and apply the proceeds thereof, as provided in this chapter, and to pledge or assign or create security interests in revenues, funds, and other property of the agency and otherwise as provided in this chapter, to pay or secure any such bonds, notes or other evidences of indebtedness; and to invest any funds held in reserves or in the safe drinking water revolving loan fund or any revenues or funds not required for immediate disbursement, in such investments as may be legal investments for funds of the state;
- (3) To obtain insurance and to enter into agreements of indemnification necessary or convenient to the exercise of powers under this chapter;
- (4) To enter into contracts, arrangements and agreements with other persons, and execute and deliver all instruments necessary or convenient to the exercise of its powers under this chapter; such contracts and agreements may include without limitation, loan agreements with local governmental units and private water companies, operating plans and other agreements contemplated by this chapter, grant agreements, contracts for financial assistance or other forms of assistance from the state or the United States, and trust agreements and other financing agreements and instruments pertaining to any bonds, notes or other evidences of indebtedness issued in accordance with the provisions of this chapter;
- (5) To provide financial assistance to local governmental units and private water companies to finance costs of approved projects, and to acquire and hold local governmental obligations and the obligations of private water companies at such prices and in such manner as the agency shall deem advisable, and sell local governmental obligations and the obligations of private water companies acquired or held by it at prices without relation to cost and in such manner as the agency shall deem advisable, and to secure its own bonds, notes or other evidences of indebtedness with such obligations, all as provided in this chapter;
- (6) To acquire, own, lease as tenant, or hold real, personal or mixed property or any interest therein for its own office; and to improve, rehabilitate, sell, assign, exchange, lease as landlord, mortgage or otherwise dispose of or encumber the property; and
- (7) To do all things necessary or convenient or desirable for carrying out the purpose of this chapter or the powers expressly granted or necessarily implied by this chapter.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

**§ 46-12.8-4. Establishment of safe drinking water revolving loan fund, sources of funds, permitted uses.**

(a) The agency shall be the instrumentality of the state for administration of the safe drinking water revolving loan fund, and such other funds it holds or for which it is responsible, and, in conjunction with the department, is empowered to and shall take all action necessary or appropriate to secure to the state the benefits of any other federal or state legislation pertaining to the funds and to the financing of approved projects. Without limiting the generality of the foregoing and other powers of the agency provided in this chapter, the agency is empowered to and shall:

(1) Cooperate with any appropriate federal agencies in all matters related to administration of the safe drinking water revolving loan fund and, pursuant to the provisions of this chapter, administer the fund and receive and disburse such funds from any such agencies and from the state as may be available for the purpose of the safe drinking water revolving loan fund.

(2) In cooperation with the department, prepare and submit to any appropriate federal agencies, the department and the governor, annual and other reports and audits required by law.

(3) Subject to the provisions of this chapter, make, and enter into binding commitments to provide financial assistance to local governmental units and private water companies from amounts on deposit in the safe drinking water revolving loan fund and from other funds of the agency.

(4) Establish and maintain fiscal controls and accounting procedures conforming to generally accepted government accounting standards sufficient to ensure proper accounting for receipts and disbursements from the safe drinking water revolving loan fund and other funds it holds or for which it is responsible and, with the approval of the department, adopt such rules, regulations, procedures, and guidelines which it deems necessary to assure that local governmental units and private water companies administer and maintain approved project accounts and other funds and accounts relating to financial assistance in accordance with generally accepted government accounting standards.

(b) The agency shall establish and set up on its books a special fund, designated the safe drinking water revolving loan fund, to be held in trust and to be administered by the agency solely as provided in this chapter and in any trust agreement securing bonds of the agency issued under the chapter. The agency shall credit to the safe drinking water revolving loan fund or one or more accounts therein:

(1) All amounts appropriated or designated to the agency by the state or federal government for purposes of the fund;

- (2) All loan repayments and other payments received by the agency on any loans, local governmental obligations and the obligations of private water companies;
  - (3) All investment earnings on amounts credited to the fund;
  - (4) All sums collected as water quality protection charges as provided in chapter 15.3 of this title;
  - (5) All sums paid to the water development fund established pursuant to chapter 15.1 of this title;
  - (6) All proceeds of bonds of the agency issued under this chapter to the extent required by any trust agreement for such bonds;
  - (7) All other monies which are specifically designated for this fund, including, amounts from gifts, bequests, administrative, civil and criminal penalties, or other funds from any public or private sources; and
  - (8) Any other amounts required by the provisions of this chapter, or any other law or by any trust agreement pertaining to bonds to be credited to the fund or which the agency in its discretion shall determine to credit thereto.
- (c) Except to the extent limited by law, and subject to the provisions of this chapter, and to any agreements with the holders of any bonds of the agency or any trustee therefor, amounts held by the agency for the account of the safe drinking water revolving loan fund shall be applied by the agency, either by direct expenditure, disbursement, or transfer to one or more other funds and accounts held by the agency or maintained under any trust agreement pertaining to bonds, either alone or with other funds of the agency, to the following purposes:
- (1) To provide financial assistance to local governmental units and to private water companies to finance costs of approved projects, and to refinance the costs of such projects, subject to terms and conditions, if any, as are determined by the department;
  - (2) To purchase or refinance debt obligations of the local governmental units and private water companies, or to provide guarantees, insurance or similar forms of financial assistance for such obligations;
  - (3) To fund reserves for bonds of the agency and to purchase insurance and pay the premiums therefor, and pay fees and expenses of letters or lines of credit and costs of reimbursement to the issuers thereof for any payments made thereon or on any insurance, and to otherwise provide security for, and a source of payment for, by pledge, lien, assignment, or otherwise bonds of the agency issued in accordance with this chapter; and
  - (4)(i) To pay expenses of the agency and the department in administering the fund and the financial assistance programs of the agency authorized by this chapter. As part of the annual appropriations bill, the department shall set forth the gross amount of expenses received from the

agency and a complete, specific breakdown of the sums retained and/or expended for administrative expenses.

(ii) By way of illustration, not by limitation, in the personnel area, the breakdown of administrative expenses should contain the number of personnel paid, the position numbers of the personnel, and whether or not the position is a new position or a position which had been funded previously by federal funds or a position which had been previously created but unfunded.

(d) Subject to any express limitation of this chapter pertaining to expenditure or disbursement of funds or accounts held by the agency, funds or accounts held by the agency may be transferred to any other fund or account held by the agency for the purposes of this chapter and expended or disbursed for purposes permitted by such fund or account.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

#### **§ 46-12.8-5. Procedure for application, approval, and award of financial assistance.**

(a) Any local governmental unit or privately organized water supplier may apply to the agency for financial assistance in accordance with this chapter to finance all or any part of the cost of an approved project. The agency shall not award financial assistance to such local government unit or privately organized water supplier hereunder until and unless the department shall have issued a certificate of approval of the project or portion thereof for which such financial assistance has been sought. Notwithstanding the foregoing, for safe drinking water projects funded outside of the drinking water state revolving fund, the Agency may provide financial assistance without the requirement of the issuance of a certificate of approval.

(b) If the department shall determine, in accordance with rules and regulations promulgated pursuant to this chapter, that an application for financial assistance or portion thereof shall be approved, it shall deliver to the agency a certificate of approval of the project or a portion thereof which shall specify the project or portion thereof eligible for financial assistance and such other terms, conditions and limitations with respect to the construction and operation of the project as the department shall determine. The agency shall specify, among other things, the type and amount of financial assistance to be provided from the safe drinking water revolving loan fund, the amount, if any, of subsidy assistance to be granted, the amount, if any, of other financial assistance permitted by this chapter to be provided, and such other terms, conditions, and limitations on the financial assistance, the expenditure of loan proceeds, and the construction and operation of the project as the agency shall determine or approve.

(c) In addition to the authority provided by law, the department shall be responsible for, and shall have all requisite power to, review and approve reports and plans for safe drinking water projects and approved projects, or any part thereof, for which financial assistance has been applied or granted in accordance with this chapter from the safe drinking water revolving fund, to enter into

contracts with local governmental units and private water companies relative to approved projects, including, without limiting the generality of the foregoing, the costs of approved projects eligible for financial assistance, grants, and other terms, conditions and limitations with respect to the construction and operation of the project, and to inspect the construction and operation of approved projects in compliance with approved plans. Without limiting the generality of the foregoing, in connection with the exercise of its powers and performance of its duties under this chapter, the department shall have all the powers provided by law to the department and its director. The department shall adopt rules, regulations, procedures, and guidelines to carry out the purposes of this chapter and for the proper administration of its powers and duties under this chapter. The rules, regulations, procedures, and guidelines shall include among other things, criteria for determining those safe drinking water projects, to be approved for financial assistance from the safe drinking water revolving fund and specification of eligible costs of the projects. In order to provide for the expenses of the department under this chapter, the agency shall transfer to the department for application to the expenses an amount from the safe drinking water revolving loan fund equal to an amount as the agency and the department shall reasonably determine. The agency and the department shall enter into an operating agreement and amend the same, from time to time, allocating their respective rights, duties, and obligations with respect to the award of financial assistance and grants to finance approved projects under this chapter and establishing procedures for the application, approval, and oversight of projects, financial assistance, and grants.

(d) Upon issuance of a certificate of approval, the agency shall award as soon as practicable the financial assistance from the safe drinking water revolving fund to the local governmental unit or privately organized water supplies for any approved project specified in the certificate; provided, however, the agency may decline to award any financial assistance which the agency determines will have a substantial adverse effect on the interests of holders of bonds, notes or other evidences of indebtedness of the agency or the interests of other participants in the financial assistance program, or for other good and sufficient cause affecting the finances of the agency. All financial assistance shall be made pursuant to a loan agreement between the agency and the local governmental unit or privately organized water supplier, acting by and through the officer or officers, board, committee, or other body authorized by law, or otherwise its chief executive officer, according to the terms and conditions of the certificate of approval and such other terms and conditions as may be established by the agency, and each loan shall be evidenced and secured by the issue to the agency of the local governmental obligations or obligations of the privately organized water supplier, in fully marketable form in principal amount, bearing interest at the rate or rates specified in the applicable loan agreement, and shall otherwise bear such terms and conditions as authorized by this chapter and the loan agreement.

(e) The agency shall adopt rules, regulations, procedures, and guidelines for the proper administration of its financial assistance programs and the provision of financial assistance under this chapter. The rules, regulations, procedures, and guidelines shall be consistent with any rules, regulations, procedures, and guidelines adopted by the department, and may include, without limitation, forms of financial assistance applications, loan agreements, and other instruments, and provisions for submission to the agency and the department by a local governmental unit or a privately organized water supplier of the information regarding the proposed safe drinking water project, the distribution system of which it is a part, and the local governmental unit or privately

organized water supplies as the agency or the department shall deem necessary to determine the eligibility of a project, for financial assistance under this chapter, the financial feasibility of a project, and the sufficiency of general revenues or system revenues to secure and pay the loan and the local governmental obligations or obligations of the privately organized water supplier issued to evidence the same.

(f) In addition to other remedies of the agency under any loan agreement or otherwise provided by law, the agency may also recover from a local governmental unit or privately organized water supplier, in an action in superior court, any amount due the agency together with any other actual damages the agency shall have sustained from the failure or refusal of the local governmental unit or privately organized water supplier to make the payments.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1; P.L. 2015, ch. 141, art. 14, § 19.)

#### **§ 46-12.8-6. Authorization to expend funds available for local grants.**

In addition to the financial assistance provided by the agency to local governmental units and private water companies for approved projects in accordance with this chapter, the department is hereby authorized to expend funds otherwise available for grants to local governmental units and private water companies to the extent permitted by federal and state law. The department is authorized and directed to expend funds from its portion of federal capitalization grants to conduct baseline testing of the drinking-water-supply systems of each local governmental unit responsible for the ownership or operation of water-supply facilities within the state, or privately organized water suppliers, that provide drinking water to more than one municipality, for compliance with all state and federal laws, rules, and regulations pertaining to lead and copper levels in drinking water supplies. The department is further authorized and directed to expend funds from its portion of federal capitalization grants to conduct testing of water supplies at all public schools serving students from pre-K to grade 12 and state-licensed daycare facilities in the state of Rhode Island for compliance with all state and federal laws, rules, and regulations pertaining to lead and copper levels in drinking-water supplies. The department shall report its findings to the speaker of the house and senate president by April 30, 2017, which report shall include a plan for ensuring compliance with all state and federal laws, rules, and regulations pertaining to lead and copper levels in drinking-water supplies.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1; P.L. 2016, ch. 439, § 1; P.L. 2016, ch. 440, § 1.)

#### **§ 46-12.8-7. Power of local governmental units.**

Notwithstanding any provision of general law, special law or municipal charter to the contrary:



(1) In addition to authority granted otherwise by this chapter and in any bond act or other law, a local governmental unit, acting by and through the officer or officers, board, committee, or other body authorized by law, if any, or otherwise the chief executive officer, shall have the power to:

(i) Issue local governmental obligations as provided herein

(A) If and to the amount authorized by a bond act or

(B) Without limitation as to the amount, if issued as limited obligations, pursuant to § 46-12.8-9;

(ii) Plan, design, acquire, construct, operate, maintain, and otherwise undertake any safe drinking water project subject to the rules, regulations, procedures, and guidelines of the department in effect from time to time and the requirements of any other applicable law;

(iii) Apply for, accept, and expend, financial assistance and grants for the purpose of financing costs of safe drinking water projects subject to the rules, regulations, procedures, and guidelines of the agency and the department in effect from time to time, the provisions of the applicable loan agreement, and the requirements of other applicable law;

(iv) Authorize, execute, deliver, and comply with loan agreements, trust agreements, grant agreements, and other agreements, and instruments with the agency, the department, and other persons relating to financial assistance and grants hereunder, and the issue of local governmental obligations to evidence loans, and perform the same;

(v) Receive, apply, pledge, assign, and grant security interests in its general revenues and drinking water system revenues to secure its obligations under local governmental obligations and other financial assistance; and

(vi) Fix, revise, charge, and collect such fees, rates, rents, assessments, and other charges of general or special application for the costs and/or use of any approved project, the drinking water system of which it is a part, and any other revenue producing facilities from which the local governmental unit may derive drinking water system revenues, or for the services provided thereby, as it shall deem necessary to meet its obligations under any loan agreement or local governmental obligations outstanding or otherwise to provide for the costs and/or operation of the project and the system.

(2) In order to provide for the collection and enforcement of fees, rates, rents, assessments, and other charges for the operation of any approved project, the drinking water system of which it is a part, and any other revenue producing facilities from which the local governmental units may derive drinking water system revenues, in addition to any other authority provided by law or any bond act applicable to a particular local governmental unit, local governmental units are hereby granted all the powers and privileges granted to them by the general laws of the state with respect to any similar fee, rate, rent, assessment, or other charge. All unpaid fees, rates, rents, assessments, and other charges shall be a lien upon the real estate served for which the unpaid fees, rates, rents, assessments, or other charges have been made. A lien shall arise and attach as of the due date of each unpaid fee, rate, rent, assessment, or other charge. The lien shall be

superior to any other lien other than a tax lien, encumbrance, or interest in the real estate, whether by way of mortgage, attachment, or otherwise, except easements and restrictions. In the case of a life estate, the interest of the tenant for life shall first be liable for the unpaid fees, rates, rents, assessments, or other charges. The local governmental unit may enforce the lien by advertising and selling any real estate liable for unpaid fees, rents, assessments, and other charges in the manner provided for the enforcement of liens for unpaid taxes by chapter 9 of title 44.

(3) Any city or town and any other local governmental unit acting by and through the officer or officers, board, committee, other body authorized by law, or otherwise the chief executive officer, may enter into agreements with the agency and the department regarding the operation of a pricing system adopted under any applicable law for the services provided by any approved project, the drinking water system of which it is a part, and any other revenue producing facilities from which the local governmental unit may derive drinking water system revenues. The agreements may include, without limitation, provisions defining the costs of services, the approved project, and the drinking water system and other facilities, and covenants or agreements, regarding the fixing and collection of fees, rates, rents, assessments and other charges for the costs and the maintenance of the pricing system at levels sufficient to pay or provide for all the costs and any payments due the agency under any loan agreement or local governmental obligations.

(4) Any city or town and any other local governmental unit acting by and through the officer or officers, board, committee, or other body authorized by law, or otherwise the chief executive officer, may enter into agreements with the agency and the department regarding the operation of an enterprise fund established for any approved project, the drinking water system of which it is a part, and any other revenue producing facilities from which the local governmental unit may derive drinking water system revenues, and other amounts credited thereto, the establishments of reserves and other accounts and funds, and the application of any surplus funds.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

#### **§ 46-12.8-8. Authority of local governmental units to issue obligations – Terms.**

(a) In addition to the powers of any local governmental unit provided in any bond act, whenever a local governmental unit has applied for and accepted a loan from the agency and entered into a loan agreement therefor, any local governmental obligations issued by the local governmental unit to evidence the loan may be issued in accordance with, and subject to the limitations of this chapter, notwithstanding the provisions of the bond act authorizing the obligation or any other general or special law or provision of municipal charter to the contrary. The provisions of this chapter shall apply to the issuance of local governmental obligations issued under the authority of any bond act, whether heretofore or hereafter enacted. Notwithstanding the foregoing, no local governmental obligation shall be issued unless authorized by a vote of the body or bodies

required by the charter, ordinances, or laws governing the local governmental unit, or the applicable bond act for the authorization of indebtedness of the local governmental unit.

(b) Local governmental obligations issued by any local governmental unit shall be dated, may bear interest at such rate or rates, including rates variable, from time to time, subject to such minimum or maximum rate, if any, as may be determined by such index or other method of determination provided in the applicable loan agreement, shall mature in such amount or amounts and at such time or times, not later than the maximum dates, if any, provided herein, and may be made redeemable in whole or in part before maturity at the option of the local governmental unit or at the option of the agency, at such price or prices and under such terms and conditions as may be fixed in the loan agreement prior to the issue of the local governmental obligations. Local governmental obligations may be issued as serial bonds or term bonds or any combination thereof with such provision, if any, for sinking funds for the payment of bonds as the local governmental unit and the agency may agree. The local governmental obligations may be sold at private sale and may be in such form, payable to the bearer thereof or the registered owner, whether certificated or uncertificated, be in such denominations, payable at such place or places, within or without the state, and otherwise bear such terms and conditions not inconsistent with this chapter, as provided in the applicable loan agreement or as the agency and the local governmental unit shall otherwise agree. The local governmental obligations may be issued in principal amount equal to the loan evidenced thereby or at such discount as the agency and the local governmental unit shall agree.

(c) Local governmental obligations shall be payable within a period not exceeding the greater of the period, if any, specified in the applicable bond act or the useful life of the approved project financed by such obligations as determined by the department, or if incurred to finance more than one project, the average useful life of the projects. Except as otherwise provided in this chapter, the local governmental obligations shall be payable by such equal, increasing, or decreasing installments of principal, annual or otherwise, as will extinguish the obligations at maturity, the first installment to be payable no later than one year after the date of issuance of the obligations or one year after the date of completion of the approved project financed by the obligations, as determined by the department, whichever date is later, and the remaining installments of principal, if any, to be in such amounts and payable on such dates as the agency and the local governmental unit shall agree.

(d) If a local governmental unit has authorized borrowing in accordance with this chapter and the issuance of local governmental obligations to evidence the borrowing under any bond act, the local governmental unit may, subject to the applicable loan agreement and with the approval of the agency, issue notes to the agency in anticipation of the loan. The issuance of the notes shall be governed by the provisions of this chapter relating to the issue of bonds other than notes, to the extent applicable, provided the maturity date of the notes shall not exceed five (5) years from the date of issue of the notes, or the expected date of completion of the approved project financed thereby as determined by the department, if later. Notes issued for less than the maximum maturity date may be renewed by the issue of other notes maturing no later than the maximum maturity date.

(e) A local governmental unit may issue local governmental obligations to refund or pay at maturity or earlier redemption any local governmental obligations outstanding under any loan agreement, or to refund or pay any other debt of the local governmental unit issued to finance the approved project to which the loan agreement pertains. The refunding local governmental obligations may be issued in sufficient amounts to pay or provide for the principal of the obligations refunded, any redemption premium thereon, any interest accrued and to accrue to the date of payment of the obligations, the costs of issuance of the refunding obligations and any reserves required by the applicable loan agreement. The issue of refunding local governmental obligations, the amount and dates of maturity or maturities of local governmental obligations, the amount and dates of maturity or maturities and other details thereof, the security therefor, and the rights, duties, and obligations of the local governmental unit in respect to the same shall be governed by the provisions of this chapter relating to the issue of local governmental obligations other than refunding obligations as this chapter may be applicable.

(f) Except as otherwise provided in § 46-12.8-9, the applicable bond act, or by agreement between the agency and a local governmental unit, all local governmental obligations issued in accordance with this section shall be general obligations of the local governmental unit issuing the obligations for which its full faith and credit are pledged and for the payment of which all taxable property in the local governmental unit shall be subject to ad valorem taxation without limit as to rate or amount except as otherwise provided by law.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

**§ 46-12.8-9. Power of local governmental units to issue limited obligations payable from drinking water system revenues.**

(a) If required by the applicable loan agreement, and notwithstanding any general or special law, municipal charter, ordinance or local law to the contrary, local governmental obligations may be authorized and issued as limited obligations payable solely from drinking water system revenues pledged to their payment in accordance with § 46-12.8-10. Notwithstanding § 45-12-2 or any general or special law, municipal charter, ordinance or local law to the contrary, all local governmental units shall have the power to authorize and issue local governmental obligations payable solely from drinking water system revenues pursuant to this section without limit as to amount, and the amount of principal and premium, if any, and interest on the obligations shall not be included in the computation of any limit on the indebtedness of the local governmental unit or on the total taxes which may be levied or assessed by the local governmental unit in any year or on any assessment, levy, or other charge made by the local governmental unit on any other political subdivision or instrumentality of the state. Limited obligations shall be authorized by the affirmative vote of the legislative body of the local governmental unit, notwithstanding the provisions of any general or special law, municipal charter, ordinance or local law requiring further approval of general obligations of the local governmental unit and this chapter shall constitute the bond act for the authorization and issuance of the local governmental obligations payable solely from drinking water system revenues by local governmental units. Any local

governmental obligations issued in accordance with this section that are payable solely from drinking water system revenues shall recite on their face that they are limited obligations payable solely from drinking water system revenues pledged to their payment and that they are not secured by a pledge of the full faith and credit of the local governmental unit.

(b) The authorization, issuance and sale of local governmental obligations in accordance with this section, the maturity or maturities and other terms of the obligations, the security for the obligations, the rights of the holders of the obligations, and the rights, duties, and obligations of the local governmental unit in respect of the same, and the form details and manner of sale of the obligations shall be governed by the provisions of this chapter relating to local governmental obligations generally to the extent applicable and not inconsistent with this section.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1; P.L. 2001, ch. 359, § 1.)

#### **§ 46-12.8-10. Trust agreements pertaining to local governmental obligations.**

(a) Notwithstanding any general or special law to the contrary, local governmental obligations issued in accordance with this chapter may be secured by one or more trust agreements, including, or in addition to the applicable loan agreement, between the local governmental unit and a corporate trustee, which may be a trust company or bank having the powers of a trust company within or without the state, or directly between the agency and the local governmental unit. Any trust agreement shall be in such form and shall be executed as provided in the applicable loan agreement or as otherwise agreed to between the agency and the local governmental unit.

(b) Any trust agreement directly or indirectly securing local governmental obligations may, in addition to other security provided by law, pledge or assign, and create security interests in, all or any part of the general revenues of the local governmental unit. Any trust agreement may contain such provisions for protecting and enforcing the rights, security, and remedies of the agency, or other holders of the local governmental obligations, as may be determined by the agency including, without limitation, provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, and covenants setting forth the duties of, and limitations on, the local governmental unit in relation to the custody, safeguarding, investment, and application of moneys, including general revenues and drinking water system revenues, the issue of additional and refunding local governmental obligations and other bonds, notes, or other obligations on a parity or superior thereto, the establishment of reserves, the establishment of sinking funds for the payment of local governmental obligations, and the use of surplus proceeds of local governmental obligations. A trust agreement securing local governmental obligations issued in accordance with § 46-12.8-9 may also include covenants and provisions not in violation of law regarding the acquisition, construction, operation, and carrying out of the approved project financed by the obligations, the drinking water system of which it is a part, and any other revenue producing facilities from which the local governmental unit may

derive drinking water system revenues, the fixing and collection of drinking water system revenues, and the making and amending of contracts relating thereto.

(c) In addition to other security provided herein or otherwise by law, any local governmental obligations issued under authority of this chapter may be secured, in whole or in part, by insurance or by letters or lines of credit or other credit facilities issued by any insurance company, bank, trust company, or other financial institution, within or without the state, and a local governmental unit may pledge or assign any of its general revenues or drinking water system revenues, as appropriate, as security for the reimbursement to the issuers of insurance, letters or lines of credit or other credit facilities of any payments made thereunder.

(d) Any trust agreement may set forth the rights and remedies of the agency or other holders of the local governmental obligations secured thereby and of any trustee or other fiduciary thereunder.

(e) In addition to any other remedies provided under the applicable loan agreement or otherwise by law, the agency and any other holder of local governmental obligations issued under the provisions of this chapter, and any trustee under any trust agreement securing the obligations may bring suit in the superior court upon the local governmental obligations, and may, either at law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief, including, in the case of local governmental obligations issued in accordance with § 46-12.8-9, proceedings for the appointment of a receiver to take possession and control of the approved project financed thereby, the drinking water system of which it is a part, or any other revenue producing facilities from which the local governmental unit may derive drinking water system revenues, to operate and maintain the system or facility in compliance with law, to make any necessary repairs, renewals, and replacements and to fix, revise, and collect drinking water system revenues, protect, and enforce any and all rights under the laws of the state or granted in this chapter or under any trust agreement, and may enforce and compel the performance of all duties required by this chapter, the loan agreement, the applicable bond act, or the trust agreement to be performed by the local governmental unit or any officer thereof.

(f) A pledge of general revenues or drinking water system revenues in accordance with this chapter shall constitute a sufficient appropriation thereof for the purposes of any provision for appropriation for so long as the pledge shall be in effect, and, notwithstanding any general or special law or municipal charter to the contrary, the revenues shall be applied as required by the pledge and the trust agreement evidencing the revenues without further appropriation.

(g) A pledge or assignment of general revenues, other than drinking water system revenues, may be made only to secure general obligations of a local governmental unit.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

**§ 46-12.8-11. Bonds of the agency.**

(a) The agency may provide by resolution of the board of directors for the issuance, from time to time, of bonds, notes or any other evidences of indebtedness of the agency for any of its corporate purposes or for the borrowing of money in anticipation of the issuance of the bonds. Bonds issued by the agency may be issued as general obligations of the agency or as special obligations payable solely from particular revenues or funds as may be provided for in any trust agreement or other agreement securing bonds. The agency may also provide by resolution of the board of directors for the issuance, from time to time, of temporary notes in anticipation of the revenues to be collected or received by the agency, including, without limitation, in anticipation of any payments to the agency from the state, or in anticipation of the receipt of other grants or aid. The issue of notes shall be governed by the provisions of this chapter relating to the issue of bonds of the agency other than temporary notes as this chapter may be applicable; provided, however, that notes issued in anticipation of revenues shall mature no later than one year from their respective dates, or the date of expected receipt of the revenues, if later, and notes issued in anticipation of grants, or other aid and renewals thereof, shall mature no later than six (6) months after the expected date of receipt of the grant or aid.

(b) The bonds of each issue shall be dated, may bear interest at such rate or rates, including rates variable from time to time as determined by such index, banker's loan rate, or other method determined by the agency, and shall mature or otherwise be payable at such time or times, as may be determined by the agency, and may be made redeemable before maturity at the option of the agency or the holder thereof at such price or prices and under such terms and conditions as may be fixed by the agency. The agency shall determine the form of bonds, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds, and the place or places of payment of principal, redemption premium, if any, and interest, which may be paid at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds shall cease to be the officer before the delivery thereof, the signature or facsimile shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until delivery. The agency may provide for authentication of bonds by a trustee, fiscal agent, registrar, or transfer agency. Bonds may be issued in bearer or in registered form, or both, and if notes, may be made payable to the bearer or to order, as the agency may determine. The agency may also establish and maintain a system of registration for any bonds whereby the name of the registered owner, the rights evidenced by the bonds, the transfer of the bonds, and the rights and other similar matters, are recorded in books or other records maintained by or on behalf of the agency, and no instrument evidencing the bonds or rights need be delivered to the registered owner by the agency. A copy of the books or other records of the agency pertaining to any bond registered under a registration system certified by an authorized officer of the agency or by the agent of the agency maintaining the system shall be admissible in any proceeding without further authentication. The board of directors may by resolution delegate to any member or officer of the agency, or any combination thereof, the power to determine any of the matters set forth in this section. In the discretion of the agency, bonds of the agency may be issued with such terms as will cause the interest thereon to be subject to federal income taxation. The agency may sell its bonds in such manner, either at public or private sale, for the price, at the rate or rates of interest, or at discount in lieu of interest, as it may determine will best affect the purposes of this chapter.

(c) The agency may issue interim receipts or temporary bonds, exchangeable for definitive bonds, when the bonds shall have been executed and are available for delivery. The agency may also provide for the replacement of any bonds which shall have become mutilated or shall have been destroyed or lost. The agency, by itself or through such agency as it may select, may purchase and invite offers to tender for purchase any bonds of the agency at any time outstanding; provided, however, that no purchase by the agency shall be made at a price, exclusive of accrued interest, if any, exceeding the principal amount thereof or, if greater, the redemption price of the bonds when next redeemable at the option of the agency, and may resell any bonds so purchased in such manner and for such price as it may determine will best effect the purposes of this chapter.

(d) In the discretion of the board of directors, any bonds issued hereunder may be secured by a trust agreement in such form and executed in such manner as may be determined by the board of directors, between the agency and the purchasers or holders of the bonds, or between the agency and a corporate trustee which may be any trust company or bank having the powers of a trust company within or without the state. The trust agreement may pledge or assign, in whole or in part, any loan agreements and local governmental obligations, and the revenues, funds, and other assets or property held or to be received by the agency, including without limitation all moneys and investments on deposit from time to time in the safe drinking water revolving loan fund, and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the agency, and the proceeds thereof. The trust agreement may contain such provisions for protecting and enforcing the rights, security, and remedies of the bondholders as may be reasonable and proper including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include the acceleration of maturities, restrictions on the individual right of action by bondholders, and covenants setting forth the duties of and limitations on the agency in relation to the custody, safeguarding, investment, and application of moneys, the enforcement of loan agreements and local governmental obligations, the issue of additional or refunding bonds, the fixing, revision, charging, and collection of charges, the use of any surplus bond proceeds, the establishment of reserves, and the making and amending of contracts.

(e) In the discretion of the board of directors, any bond issued under authority of this chapter may be issued by the agency in the form of lines of credit or other banking arrangements under terms and conditions, not inconsistent with this chapter, and under such agreements with the purchasers or makers thereof or any agent or other representative of such purchasers or makers, as the board of directors may determine to be in the best interest of the agency. In addition to other security provided herein or otherwise by law, bonds issued by the agency under any provision of this chapter may be secured, in whole or in part, by financial guarantees, by insurance, or by letters or lines of credit issued to the agency or a trustee or any other person, by any bank, trust company, insurance or surety company, or other financial institution, within or without the state, and the agency may pledge or assign, in whole or in part, any loan agreements and any local governmental obligations or obligations of any privately organized water supplier, and the revenues, funds, and other assets and property held or to be received by the agency, and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the agency, and the proceeds thereof,



as security for the guarantees or insurance or for the reimbursement by the agency to any issuer of the line or letter of credit.

(f) It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds, revenues, or other moneys under a trust agreement of the agency, and to furnish indemnification and to provide security as may be required by the agency. It is hereby declared that any pledge or assignment made by the agency under this chapter is an exercise of the governmental powers of the agency, and loan agreements, local governmental obligations, the obligations of private water companies, revenues, funds, assets, property, and contract or other rights to receive the same and the proceeds thereof, which are subject to the lien of a pledge or assignment created under this chapter, shall not be applied to any purposes not permitted by the pledge or assignment.

(g) Any holder of a bond issued by the agency under the provisions of this chapter and any trustee or other representative under a trust agreement securing the trustee or representative, except to the extent the rights herein given may be restricted by the trust agreement, may bring suit upon the bonds in the superior court and may, either at law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief, protect and enforce any and all rights under the laws of the state or granted hereunder or under the trust agreement, and may enforce and compel performance of all duties required by this chapter or by the trust agreement, to be performed by the agency or by any officer thereof.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

#### **§ 46-12.8-12. Refunding bonds.**

The agency may issue refunding bonds for the purpose of paying any of its bonds issued pursuant to this chapter at or prior to maturity or upon acceleration or redemption or purchase and retirement. Refunding bonds may be issued at such times at or prior to the maturity, redemption, or purchase and retirement of the refunded bonds as the board of directors deems to be in the interest of the agency. Refunding bonds may be issued in sufficient amounts to pay or provide for payment of the principal of the bonds being refunded, together with any redemption premium thereon, any interest or discount accrued or to accrue to the date of payment of the bonds, the costs of issuance of the refunding bonds, the expenses of paying, redeeming, or purchasing the bonds being refunded, the costs of holding and investing proceeds of refunding bonds pending payment, redemption, or purchase and reserves for debt service or other expenses from the proceeds of refunding bonds as may be required by a trust agreement securing the bonds. Pending application, the proceeds of the refunding bonds may be placed in escrow. The issue and sale of refunding bonds, the maturities, and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties, and obligations of the agency in respect of the same shall be governed by the provisions of this chapter relating to the issue of bonds other than refunding bonds insofar as this chapter may be applicable.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

**§ 46-12.8-13. Bonds eligible for investment.**

Bonds issued by the agency under this chapter and local governmental obligations issued hereunder are hereby made securities in which all public officers and agencies of the state and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly invest funds, including capital in their control or belonging to them. The bonds and local governmental obligations are hereby made securities which may properly be deposited with and received by any state or municipal officer of any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state or any political subdivision is now or may hereafter be authorized by law.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1; P.L. 2007, ch. 340, § 44.)

**§ 46-12.8-14. No additional consent required.**

Except as provided in this section, bonds of the agency, local governmental obligations and obligations of private water companies may be issued under this chapter without obtaining the consent of any executive office, department, division, commission, board, bureau, or agency of the state or any political subdivision thereof, and without any other proceedings or the happening of any condition, or acts other than those proceedings, conditions, or acts which are specifically required therefor hereunder or under any applicable bond act, and the validity of and security for any bonds issued by the agency pursuant to this chapter, and any local governmental obligations issued in accordance herewith, shall not be affected by the existence or nonexistence of any consent or other proceedings, conditions, or acts. Nothing in this chapter shall exempt the agency from the provisions of chapter 10.1 of title 42.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

**§ 46-12.8-15. Bonds not obligations of the state.**

Bonds issued by the agency under the provisions of this chapter shall not be deemed to be a debt or a pledge of the faith and credit of the state or of any of its political subdivisions, but shall be payable solely from the revenues, funds, assets, and other property of the agency from which

they are made payable pursuant to this chapter. Bonds issued by the agency under the provisions of this chapter shall recite that neither the state nor any political subdivision thereof shall be obligated to pay the bonds, and that neither the faith and credit nor the taxing power of the state or of any political subdivision thereof is pledged to the payment of the principal of or interest on the bonds. Further, every bond shall recite whether it is a general obligation of the agency, or a special obligation thereof payable solely from particular revenues, funds, assets, or other property pledged to its payment.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

#### **§ 46-12.8-16. Lien status recording.**

(a) Notwithstanding any provision of any other law, including the Uniform Commercial Code:

(1) Any pledge or assignment of revenues of any kind, funds, loan agreements, local governmental obligations, obligations of private water companies, property, or assets made pursuant to the provisions of this chapter by the agency, any local governmental unit, or any privately organized water supplier hereunder, shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise, whether or not the parties have notice thereof, and shall be deemed continuously perfected from the time it is made;

(2) No filing of any kind with respect to a pledge or assignment need be made under the Uniform Commercial Code, or otherwise;

(3) Unless otherwise provided in the loan agreement, a pledge of revenues of any kind shall be deemed to include a pledge of any accounts or general intangibles from which the pledged revenues are derived, whether existing at the time of the pledge or thereafter coming into existence, and whether held at the time of the pledge or thereafter acquired by the agency, local governmental unit or privately organized water supplier, and the proceeds of the accounts or general intangibles; and

(4) The pledge of revenues of any kind, accounts, and general intangibles shall be subject to the lien of the pledge without delivery or segregation, and the lien of the pledge shall be valid and binding against all parties having claims of contract or tort or otherwise against the agency or local governmental unit.

(b) A pledge of revenues of any kind under this chapter shall constitute a sufficient appropriation thereof for the purposes of any provision for appropriation, and the revenues may be applied as required by the pledge without further appropriation.

(c) For the purposes of this section the word "pledge" shall be construed to include the grant of a security interest under the Uniform Commercial Code.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

**§ 46-12.8-17. Bonds and local government obligations as investment securities.**

Notwithstanding any of the provisions of this chapter or any recitals in any bonds or local governmental obligations issued hereunder, all bonds and local governmental obligations shall be deemed to be investment securities under the Uniform Commercial Code.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

**§ 46-12.8-18. Proceeds received by agency as trust funds.**

All money received by the agency pursuant to the provisions of this chapter, whether as proceeds from the issue of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this chapter.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

**§ 46-12.8-19. Tax exemption.**

Bonds issued by the agency and local governmental obligations issued by any local governmental unit in accordance with this chapter, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation by and within the state. The agency shall not be required to pay any taxes, assessments, or excises upon its income, existence, operation, or property.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

**§ 46-12.8-20. Duration of agency – Termination.**

The agency and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the agency shall have the bonds outstanding in accordance with this chapter, unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the agency, the title to all funds and other

properties owned by it, which remain after provision for payment or satisfaction of all bonds of the agency, shall vest in the state. The obligations, debts, and liabilities of the agency shall be assumed by and imposed upon the state, and shall be transferred to the general treasurer or to such other successor as the general assembly may designate.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

#### **§ 46-12.8-21. Record keeping financial statements.**

The agency shall, at all times, keep full and accurate accounts of its receipts, expenditures, disbursements, assets, and liabilities with respect to the agency's administration of the safe drinking water revolving loan fund which shall be open to inspection by any officer or duly appointed agent of the state. The agency shall submit an annual report, in writing, to the governor, speaker of the house of representatives, and the president of the senate. The report shall include financial statements relating to the operations, properties, and expenditures of the agency with respect to the agency's administration of the safe drinking water revolving loan fund maintained in accordance with generally accepted accounting principles, so far as applicable, and audited by an independent certified public accounting firm.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1; P.L. 2001, ch. 180, § 149.)

#### **§ 46-12.8-22. Supplemental powers – Inconsistent laws.**

The provisions of this chapter shall be deemed to provide an additional, alternative, and complete method for accomplishing the purposes of this chapter, and shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon the agency, the department, local governmental units and private water companies by other laws; provided, however, that insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, municipal charter, administrative order or regulation, the provisions of this chapter shall be controlling. Any amounts appropriated by this chapter to the agency or the department shall be in addition to any other amounts appropriated to the agency or the department by any other law.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

#### **§ 46-12.8-23. Compliance with federal law.**

Notwithstanding anything to the contrary herein, the provisions of this chapter are limited to the extent required by applicable federal law, as in effect from time to time.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)

**§ 46-12.8-24. Severability – Liberal construction.**

The provisions of this chapter are severable, and if any provision hereof shall be held invalid in any circumstances, any invalidity shall not affect any other provisions or circumstances. This chapter shall be construed in all respects so as to meet any constitutional requirements. In carrying out the purposes and provisions of this chapter, all steps shall be taken which are necessary to meet constitutional requirements. This chapter shall be construed liberally in aid of its purpose and legislative findings.

History of Section.

(P.L. 1993, ch. 313, § 1; P.L. 1993, ch. 396, § 1.)