

Vermont Statutes Title 24. Municipal and County Government, § 4753. Revolving loan funds; authority to spend; report

a) There is hereby established a series of special funds to be known as:

(1) The Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, which shall be used, consistent with federal law, to provide loans for planning and construction of clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, and for implementing related management programs.

(2) The Vermont Pollution Control Revolving Fund, which shall be used to provide loans to municipalities and State agencies for planning and construction of clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way.

(3) The Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund, which shall be used to provide loans to municipalities and certain privately owned water systems for:

(A) planning, designing, constructing, repairing, or improving public water supply systems, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, in order to comply with State and federal standards and protect public health and the environment; and

(B) implementing related management programs.

(4) The Vermont Solid Waste Revolving Fund, which shall be used to provide loans to municipalities (including union municipal districts formed under chapter 121, subchapter 3 of this title) for planning solid

waste handling and disposal facilities as enumerated in [section 2203a](#) of this title, and for constructing publicly owned solid waste handling and disposal facilities as enumerated in [section 2203a](#) of this title.

(5) The Vermont Drinking Water Planning Loan Fund, which shall be used to provide loans to municipalities and privately owned, nonprofit community water systems, for conducting feasibility studies and for the preparation of preliminary engineering planning studies and final engineering plans and specifications for improvements to public water supply systems in order to comply with State and federal standards and to protect public health. The Secretary may forgive up to \$50,000.00 of the unpaid balance of a loan made from the Vermont Drinking Water Planning Loan Fund to municipalities after project construction is substantially completed or upon approval of a plan. The Secretary shall establish amounts, eligibility, policies, and procedures for loan forgiveness in the annual State intended use plan (IUP), as required by the Safe Drinking Water Act, [42 U.S.C. § 300f et seq.](#), with public review and comment prior to finalization and submission to the U.S. Environmental Protection Agency.

(6) The Vermont Drinking Water Source Protection Fund, which shall be used to provide loans to municipalities for purchasing land or conservation easements in order to protect public water sources and ensure compliance with State and federal drinking water regulations.

(7) The Vermont Drinking Water Emergency Use Fund, which shall be within the control of the Secretary. Disbursements from the Fund may be made by the Secretary for costs required to undertake the following emergency actions that the Secretary considers necessary to protect public health:

(A) collecting and analyzing samples of drinking water;

(B) hiring contractors to perform or cause to be performed infrastructure repairs of public water supply systems;

(C) hiring certified operators to perform operational activities at public water supply systems; and

(D) providing or causing to be provided bottled or bulk water for public water supply systems due to problems with quality or quantity, or both.

(8) Deleted by [2007, Adj. Sess., No. 130](#) , [§ 7](#) , eff. May 12, 2008.

(9) The Vermont Drinking Water Revolving Loan Fund, which shall be used to provide loans to a municipality for the design, land acquisition, if necessary, and construction of a potable water supply when a household in the municipality has been disconnected involuntarily from a public water supply system for reasons other than nonpayment of fees.

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with [section 4763b](#) of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in [10 V.S.A. § 1972](#) , or when a designer demonstrates that the wastewater system or potable water supply has a high probability of failing. The amount of up to \$275,000.00 from the fees collected pursuant to [3 V.S.A. § 2822\(j\)\(4\)](#) shall be deposited into this Fund at the beginning of each fiscal year to ensure a minimum balance of available funds of \$275,000.00 exists for each fiscal year.

(b) Each of such funds shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered exclusively for the purpose of this chapter with the exception of transferring funds from the Vermont Drinking Water Planning Loan Fund and the Vermont Drinking Water Source Protection Fund to the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund, and from the Vermont Pollution Control Revolving Fund to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, when authorized by the Secretary. These funds shall be administered by

the Bond Bank on behalf of the State, except that: the Vermont EPA Drinking Water State Revolving Fund shall be administered by VEDA concerning loans to privately owned water systems under subdivisions (a)(3) and (5) of this section; and the Vermont Wastewater and Potable Water Revolving Loan Fund may be administered by a community development financial institution, as that term is defined in [12 U.S.C. § 4702](#), that is contracted with by the State for the purpose of providing loans to individuals for failed wastewater systems and potable water supplies under subdivision (a)(10) of this section. The funds shall be invested in the same manner as permitted for investment of funds belonging to the State or held in the Treasury. The funds shall consist of the following:

- (1) such sums as may be appropriated or transferred thereto from time to time by the General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times as the General Assembly is not in session;
 - (2) principal and interest received from the repayment of loans made from each of such funds;
 - (3) capitalization grants and awards made to the State by the United States of America for any of the purposes for which such funds have been established;
 - (4) interest earned from the investment of fund balances;
 - (5) private gifts, bequests, and donations made to the State for any of the purposes for which such funds have been established; and
 - (6) other funds from any public or private source intended for use for any of the purposes for which such funds have been established.
- (c) In addition to the purposes established in subsection (a) of this section, the various loan funds created herein may be used for one or more of the purposes established in [section 4757](#) of this title.
- (d) Repealed by [2015, Adj. Sess., No. 103](#), § 26, eff. May 12, 2016.

(e) The Secretary may bring an action under this subsection or other available State and federal laws against the owner or permittee of the public water supply systems to seek reimbursement to the Vermont Drinking Water Emergency Use Fund for all disbursements from the Fund made pursuant to subdivision (a)(7) of this section. To the extent compatible with the urgency of the situation, the Secretary shall provide an opportunity for the responsible water system owner or permittee to undertake the necessary actions under the direction of the Secretary prior to making disbursements.

(a) Pollution control. The General Assembly shall approve all categories of awards made from the special funds established by [section 4753](#) of this title for water pollution abatement and facility construction, in order to assure that such awards conform with State policy on water quality and pollution abatement, and with the State policy that municipal entities shall receive first priority in the award of public monies for such construction, including monies returned to the revolving funds from previous awards. To facilitate this legislative oversight, the Secretary of Natural Resources shall annually on or before January 15 report to the House Committees on Corrections and Institutions and on Natural Resources, Fish, and Wildlife and the Senate Committees on Institutions and on Natural Resources and Energy on all awards made from the relevant special funds during the prior and current fiscal years, and shall report on and seek legislative approval of all the types of projects for which awards are proposed to be made from the relevant special funds during the current or any subsequent fiscal year. Where feasible, the specific projects shall be listed. The provisions of [2 V.S.A. § 20\(d\)](#) (expiration of required reports) shall not apply to the report to be made under this subsection.

(b) Repealed by [2015, Adj. Sess., No. 103](#) , § 27, eff. May 12, 2016.

(c) Deleted by [2011, Adj. Sess., No. 161](#) , [§ 15](#) , eff. July 15, 2012.

(d) Loan forgiveness; pollution control. Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Environmental Protection Agency Pollution Control Revolving Fund (CWSRF), the Secretary of Natural Resources, in a

manner that is consistent with federal grant provisions, may provide loan forgiveness.

(e) Loan forgiveness; drinking water.

(1) Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Environmental Protection Agency Drinking Water State Revolving Fund (DWSRF), the Secretary of Natural Resources, in a manner that is consistent with federal grant provisions, may provide loan forgiveness.

(2) Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Drinking Water State Revolving Loan Fund, the Secretary of Natural Resources may provide loan forgiveness for preliminary engineering and final design costs when a municipality undertakes such engineering on behalf of a household that has been disconnected involuntarily from a public water supply system for reasons other than nonpayment of fees, provided it is not the same municipality that is disconnecting the household.

(f) Loan forgiveness standard. The Secretary shall establish standards, policies, and procedures as necessary for implementing subsections (d) and (e) of this section for allocating the funds among projects and for revising standard priority lists in order to comply with requirements associated with federal capitalization grant agreements.

(a) The Commissioner of Environmental Conservation, with the approval of the Secretary of Natural Resources, may accept federal grants made available through the federal Clean Water Act and the federal Drinking Water Act in accordance with this chapter. Acceptance of this grant money is hereby approved, provided all notifications are made under subsection 4760(a) of this title.

(b) The Commissioner shall report receipt of a grant under this section to the Chairs of the Senate Committee on Institutions and the

House Committee on Corrections and Institutions and the Joint Fiscal Committee.

A municipality may apply for a loan, the proceeds of which shall be used to acquire, design, plan, construct, enlarge, repair, or improve a clean water project, public water supply systems as defined in subdivision 4752(9) of this title, or a solid waste handling and disposal facility, or certain privately owned clean water projects as described in [section 4763](#) of this title, or to implement a related management program. In addition, the loan proceeds shall be used to pay the outstanding balance of any engineering planning advances made to the municipal applicant under this chapter and determined by the Secretary to be due and payable following construction of the improvements to be financed by the proceeds of the loan. The Bond Bank may prescribe any form of application or procedure required of a municipality for a loan hereunder. The application shall include such information as the Bond Bank shall deem necessary for the purpose of implementing this chapter.

(a) Except as provided by subsection (c) of this section, the Bond Bank may make loans to a municipality on behalf of the State for one or more of the purposes set forth in [section 4754](#) of this chapter. Each of the loans shall be made subject to the following conditions and limitations:

(1) No loan shall be made for any purpose permitted under this chapter other than from the revolving fund in which the same purpose is included.

(2) The total amount of loan out of a particular revolving fund shall not exceed the balance of that fund.

(3) The loan shall be evidenced by a municipal bond, payable by the municipality over a term not to exceed 40 years or the projected useful life of the project, whichever is less, except:

(A) there shall be no deferral of payment;

(B) the term of the loan shall not exceed 30 years when required by [section 4763c](#) of this title;

(C) the loan may be evidenced by any other permitted debt instrument payable as permitted by chapter 53 of this title; and

(D) the term of the loan shall not exceed 30 years for clean water projects.

(4) Notwithstanding any other provisions of law, municipal legislative bodies may execute notes and incur debt on behalf of municipalities:

(A) with voter approval at a duly warned meeting, for amounts less than \$75,000.00;

(B) by increasing previously approved bond authorizations by up to \$75,000.00 to cover unanticipated project costs or the cost of directly and functionally related enhancements; or

(C) without voter approval for a natural resources project under the sponsorship program, as defined in [section 4752](#) of this title, provided that:

(i) the amount of the debt incurred does not exceed an amount to be forgiven or cancelled upon the completion of the project; and

(ii) the municipality obtains voter approval for the paired water pollution abatement and control facilities project under the sponsorship program, pursuant to the requirements set forth in chapter 53 of this title.

(5) The rate of interest charged for the loans made to municipalities under this chapter, or the manner of determining the same, shall be established from time to time by the State Treasurer after consultation with the Secretary taking into consideration the current average rate on outstanding marketable obligations of the State as of the last day of the preceding month. The rate of interest shall be no less than zero percent and no more than the market interest rate, as determined by the Bond Bank, except as provided in [section 4763c](#) of this title. An

administrative fee of no more than two percent shall be charged for the loans made to municipalities under this chapter from the Clean Water State Revolving Fund and the Vermont Environmental Protection Agency Drinking Water State Revolving Fund. The Secretary shall establish the method used to determine such administrative fee. Fee proceeds shall be deposited into a nonlapsing account and be held separately from the funds established pursuant to [section 4753](#) of this title. Monies from such account shall be used to pay the costs of administering each of the funds established by subsection 4753(a) of this title, and any excess shall be transferred to the appropriate account established by subsection 4753(a) of this title.

(b) Loans made to a municipality by the Bond Bank on behalf of the State under this chapter shall be evidenced by and made in accordance with the terms and conditions specified in a loan agreement to be executed by the Bond Bank on behalf of the State and the municipality. The loan agreement shall specify the terms and conditions of loan repayment by the municipality, as well as the terms, conditions, and estimated schedule of disbursement of loan proceeds. Disbursement of loan proceeds shall be based upon certification of the loan recipient showing that costs for which reimbursement is requested have been incurred and paid by the recipient. The recipient shall provide supporting evidence of payment upon the request of the Department. Partial payments of loan proceeds shall be made not more frequently than monthly. Interest costs incurred in local short-term borrowing of the loan amount shall be reimbursed as part of the loan. The loan agreement shall state the term and interest rate of the loan, the scheduling of loan repayments, and such other terms and conditions as shall be deemed necessary by the Bond Bank.

(c) The Vermont Economic Development Authority shall make loans on behalf of the State when the loan recipient is a privately owned public water system. Such loans shall be issued and administered pursuant to subchapter 3 of this chapter.

(d) Repealed by [2015, Adj. Sess., No. 103](#) , § 29, eff. May 12, 2016.

(e) For the purposes of this chapter, a State administrative department as authorized in Title 3 shall be deemed a municipality and subject to the terms and conditions applicable to municipalities; provided, however, that a State administrative department deemed a municipality shall only receive State assistance under this chapter if the Department has a surplus of funds at the end of each fiscal year after all municipal loan applicants have received committed funds.

(a) No construction loan or loan for the purchase of land or conservation easements to a municipality shall be made under this chapter, nor shall any part of any revolving fund that is designated for project construction be expended under [section 4757](#) of this title, until such time as:

(1) The Secretary shall certify to the Bond Bank that all water supply and wastewater permits, land use, subdivision, public building, and discharge permits, necessary to construct the improvements to be financed by the loan will be issued to the applicant municipality prior to disbursement of funds under the loan for construction;

(2) The applicant municipality shall certify to the Bond Bank that it will have secured all State and federal permits, licenses, and approvals necessary to construct the improvements to be financed by the loan prior to expending funds under the loan;

(3) The applicant municipality shall certify to the Bond Bank that it has established a rate charge or assessment schedule that will generate annually sufficient revenue to pay the principal of and interest on the municipal bond or other debt instrument that evidences the construction loan made by the Bond Bank to the municipality under this chapter and to pay reasonably anticipated costs of operating and maintaining the financed project and the system of which it is a part. A covenant by the municipality to set, collect, and apply rates, charges, and assessments under [section 3313](#) , [3348](#) , [3616](#) , or [3679](#) of this title shall be sufficient for the purposes of this certification requirement. When the financing of the project anticipates revenues from the sale of electricity, evidence shall be submitted showing that construction of the project has been

authorized and that rates for the project have been approved by the Public Utility Commission;

(4) The applicant municipality shall certify to the Bond Bank that it has created a fund under [section 2804](#) of this title, or by any other means permitted by law, including adoption of a resolution or covenant by the legislative branch of the applicant municipality, which fund shall be used only to repair, replace, improve, or enlarge the project for which the loan is made;

(5) The applicant municipality, and the project to be financed by the proceeds of the loan, have been designated by the Agency, or a department thereof, as eligible to participate in a construction or implementation program funded wholly or in part by the State or the United States of America;

(6) The Secretary shall certify to the Bond Bank that any management program to be financed under subdivision 4753(a)(1) and [section 4754](#) of this title is in conformance with all applicable State and federal laws, and all rules and regulations adopted thereunder;

(7) The Secretary shall certify to the Bond Bank that the loan eligibility priority established under [section 4758](#) of this chapter entitles the applicant municipality to immediate financing or assistance under this chapter;

(8) The Secretary shall certify to the Bond Bank the outstanding balance of engineering planning advances paid to the applicant municipality under 24 V.S.A. chapter 120 and included within the loan application submitted under [section 4754](#) of this chapter;

(9) The applicant municipality, in the case of applications by towns, cities, and incorporated villages, and with respect to all loans awarded after July 1, 1992, shall certify to the Bond Bank that the project conforms to a duly adopted capital budget and program, consistent with chapter 117 of this title, for meeting the water supply, pollution control, or solid waste needs of the municipality; and

(10) The applicant municipality, in the case of an application by a district, shall certify to the Bond Bank that the project conforms to a capital budget and program duly adopted by the district in accordance with the provisions of its charter.

(b) The Bond Bank may make loans to a municipality for the preparation of final engineering plans and specifications subject to the following conditions and limitations:

(1) The loan shall be evidenced by a note, executed by the municipality, payable over a term not to exceed 30 years at zero percent interest in equal annual payments.

(2) The Secretary of Natural Resources shall have certified to the Bond Bank that the project:

(A) has priority for award of a planning loan;

(B) for which final engineering plans are to be prepared, is described in a preliminary engineering plan or facilities plan that has been approved by the Secretary; and

(C) is in conformance with applicable State and federal law and rules and regulations adopted thereunder.

(c) The Bond Bank may make loans to a municipality for the preparation of preliminary engineering planning studies or facilities plans subject to the conditions and limitations of subdivisions (b)(1) and (2)(A) of this section.

(d) Loans awarded from the same revolving fund under subsections (b) and (c) of this section may be consolidated, and may also be consolidated with loans awarded under subsection (a) of this section. One loan may be issued for construction and preparation of final engineering plans and specifications.

(e) The legislative body of a municipality may execute notes and incur debt on behalf of the municipality under subsections (b) and (c) of this section without public approval, provided that such debt shall be

included in any subsequent public authorization of municipal indebtedness necessary to construct the project for which the planning loans were used. A municipality desiring to secure public authorization of debt incurred under subsections (b) and (c) of this section may utilize procedures authorized under [section 1786a](#) of this title, and may be refunded through a consolidation under subsection (d) of this section.

(f) The Bond Bank may adopt simplified procedures for processing and awarding loans authorized under subsections (b) and (c) of this section.

(g) The Secretary shall not certify a solid waste project without first finding that the proposed project conforms to the State and local solid waste management plans adopted in accordance with 10 V.S.A. chapter 159. Until such plans are adopted the Secretary shall certify that the project will promote the goals and purposes of 10 V.S.A. chapter 159 and the solid waste task force report.

In addition to providing a source of funds from which loans may be made to municipalities under this chapter, each fund created under [section 4753](#) of this chapter may be used for one or more of the following purposes:

(1) To make loans, to refund bonds or notes of a municipality issued after March 7, 1985 for sewerage works, or after July 1, 1993 for water supply systems for the purpose of financing the construction of any capital improvements or management program described in [section 4753](#) and certified under [section 4756](#) of this title.

(2) To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a municipality for the purpose of financing the construction of any capital improvement or management program described in [section 4754](#) of this title and certified under [section 4756](#) .

(3) To guarantee or insure, directly or indirectly, funds established by municipalities for the purpose of financing construction of any capital improvement described in [section 4754](#) of this title.

(4) To invest available fund balances, and to credit the net interest income thereon to the particular fund providing investment funds.

(5) To pay the costs of the Bond Bank, VEDA, and the agency associated with the administration of each fund; provided, however, that no more than four percent of the aggregate of the highest fund balances in any fiscal year shall be used for such purposes, and that a separate account be established outside the Drinking Water State Revolving Fund for such purposes. As used in this subsection, costs shall include fiscal, clerical, administrative, and issuance expenditures directly attributable and allocated to the maintenance implementation and administration of the loan funds created under this chapter.

(6) To pay from the Vermont Wastewater and Potable Water Revolving Loan Fund the costs of administration of loans awarded under subdivision 4753(a)(10) of this title.

(a) Periodically, and at least annually, the Secretary shall prepare and certify to the Bond Bank a project priority list of those municipalities whose publicly or privately owned clean water projects are eligible for financing or assistance under this chapter. In determining financing availability for clean water projects under this subchapter, the Secretary shall apply the criteria adopted pursuant to [10 V.S.A. § 1628](#).

(b) Repealed by [2015, Adj. Sess., No. 103](#), § 30, eff. May 12, 2016.

The secretary and the bond bank may adopt rules and policies necessary to implement the provisions of this chapter in order to ensure the self-sustaining nature of the funds created under [section 4753](#) of this chapter, and also to ensure compliance with the requirements of Title VI of the federal Clean Water Act ¹ and section 1452 of the federal Safe Drinking Water Act, ² and with any regulations promulgated by the U.S. Environmental Protection Agency

which may require the state to implement a state environmental review process as a condition to receipt of federal funding.

133 U.S.C.A. § 1251 et seq.
242 U.S.C.A. § 300j-11.

(a) The Secretary and the Bond Bank may enter into agreements on behalf of the State with agencies of the United States of America as may be necessary to obtain grants and awards in furtherance of the stated purposes for which the loan funds created under [section 4753](#) of this title are established; provided, however, that notification of each of such agreements shall be made in a timely fashion to the Chair of the House Committee on Appropriations and the Senate Committee on Appropriations while the General Assembly is in session, and at all other times to the Chair of the Joint Fiscal Committee, and further provided that acceptance of any such grant or award be approved as provided by law.

(b) Repealed by [2013, Adj. Sess., No. 142](#) , § 94, eff. July 1, 2014.