

Wisconsin State Legislature

281.58 Clean water fund program; financial assistance.

(1) DEFINITIONS. In this section:

(ai) "Clean water fund program" means the program administered under this section with financial management provided under s. 281.59.

(am) "Effluent limitation" has the meaning designated in s. 283.01 (6).

(b) "Enforceable requirement" means any of the following:

1. Those conditions or limitations of a permit under ch. 283 which, if violated, could result in the initiation of a civil or criminal action under s. 283.89.
2. Those provisions of s. 281.19 (5) which, if violated could result in a departmental order under s. 281.19 (7).
3. If a permit under ch. 283 has not been issued, those conditions or limitations which, in the department's judgment, would be included in the permit when issued.
4. If no permit under ch. 283 applies, any requirement which the department determines is necessary for the best practicable waste treatment technology to meet applicable criteria.

(c) "Industrial user" means any of the following:

1. Any nongovernmental, nonresidential user of a publicly owned treatment work which discharges more than the equivalent of 25,000 gallons per day of sanitary wastes, other than domestic wastes or discharges from sanitary conveniences, or discharges a volume that has the weight of biochemical oxygen demand or suspended solids at least as great as the weight found in 25,000 gallons per day of sanitary waste from residential users, and which is identified in the standard industrial classification manual, 1972, federal office of management and budget, as amended and supplemented as of October 1, 1978, under one of the following divisions:

- a. Division A: agriculture, forestry, and fishing.
- b. Division B: mining.
- c. Division D: manufacturing.
- d. Division E: transportation, communications, electric, gas, and sanitary services.
- e. Division I: services.

2. Any nongovernmental user of a publicly owned treatment work which discharges wastewater to the treatment work which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, to create a public nuisance, or to create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works.

3. All commercial users of an individual system constructed with grant assistance under s. 281.57.

(cg) "Market interest rate" has the meaning given in s. 281.59 (1) (b).

(cm) "Median household income" means median household income determined by the U.S. bureau of the census as adjusted by the department to reflect changes in household income since the most recent federal census.

(cs) "Residential user" means a structure or part of a structure, including a mobile home, that is used primarily as a home, residence or sleeping place by one person or 2 or more persons maintaining a common household and that uses a publicly owned treatment work. "Residential user" does not include an institutional, commercial, industrial or governmental facility.

(cv) "Septage" has the meaning given in s. 281.48 (2) (d).

- (d) "Treatment work" has the meaning designated in s. 283.01 (18).
- (e) "Violator of an effluent limitation" means a person or municipality that after May 17, 1988, is not in substantial compliance with the enforceable requirements of its permit issued under ch. 283 for a reason that the department determines is or has been within the control of the person or municipality.
- (2) RULES. The department shall promulgate rules that are necessary for the proper execution of its responsibilities under this section. Notwithstanding s. 227.10 (1), the department and the department of administration are not required to promulgate rules for the purposes of providing financial assistance for pilot projects under sub. (7) (b) 7.
- (2m) GENERAL DUTIES. The department shall:
 - (a) Administer its responsibilities under the clean water fund program.
 - (b) Have the lead state role with the U.S. environmental protection agency.
 - (c) Cooperate with the department of administration in administering the clean water fund program.
 - (d) Have the lead state role with municipalities in providing clean water fund program information, and cooperate with the department of administration in providing such information to municipalities.
 - (e) Inspect periodically clean water fund project construction to determine project compliance with construction plans and specifications and the requirements of this section and s. 281.59 and, if applicable, of 33 USC 1251 to 1376 and 33 USC 1381 to 1387 and the regulations promulgated thereunder.
 - (f) Submit a biennial budget request under s. 16.42 for the clean water fund program.
- (3) ACCEPTANCE OF FEDERAL CAPITALIZATION GRANTS. The department may enter into an agreement under 33 USC 1382 with the U.S. environmental protection agency to receive a capitalization grant under 33 USC 1381 to 1387. The agreement may contain any provision required by 33 USC 1381 to 1387 and any regulation, guideline or policy adopted under 33 USC 1381 to 1387.
- (3m) BIENNIAL NEEDS LIST. By May 1 of each even-numbered year, the department shall prepare and submit to the department of administration a biennial needs list that includes all of the following information:
 - (a) A list of wastewater treatment projects that the department estimates will apply for financial assistance under the clean water fund program during the next biennium.
 - (b) The estimated cost and estimated construction schedule of each project on the list, and the total of the estimated costs of all projects on the list.
 - (c) The estimated rank of each project on the priority list under sub. (8e).
- (6) METHODS OF PROVIDING FINANCIAL ASSISTANCE.
 - (a) The department may determine whether a municipality is eligible for financial assistance under the clean water fund program for any of the following:
 1. Planning, designing and constructing or replacing a treatment work.
 - 1m. Activities other than those specified in subd. 1. associated with achieving and maintaining compliance with a permit issued under ch. 283.
 2. Implementing a management program established under 33 USC 1329 (b).
 3. Developing and implementing a conservation and management plan under 33 USC 1330.
 - (b) The following methods of providing financial assistance may be used under the clean water fund program:
 1. Purchasing or refinancing the obligation of a municipality if the obligation was incurred to finance the cost of constructing a water pollution control project located in this state.
 3. Guaranteeing, or purchasing insurance for, municipal obligations for the construction or replacement of a treatment work if the guarantee or insurance would improve credit market access or reduce interest rates.
 4. Making loans at or below the market interest rate.
 5. Providing state financial hardship assistance under sub. (13) from the account under s. 25.43 (2) (b).
 7. Making grants under sub. (13m).

8. Providing payments to the board of commissioners of public lands to reduce principal or interest payments, or both, on loans made to municipalities under subch. II of ch. 24 by the board of commissioners of public lands for projects that are eligible for financial assistance under the clean water fund program.
9. Using funds received as federal capitalization grants under sub. (3), any other method that is consistent with the federal program for state water pollution control revolving funds under 33 USC 1381 to 1387 or any other federal law providing funding for or otherwise relating to that program.

(7) ELIGIBILITY.

- (a) The department shall, by rule, establish criteria for determining which applicants and which projects are eligible to receive financial assistance under the clean water fund program. The primary criteria for eligibility shall be water quality and public health. The rules for clean water fund projects funded from the account under s. 25.43 (2) (a) shall be consistent with 33 USC 1251 to 1376 and 33 USC 1381 to 1387 and the regulations promulgated thereunder. The rules for clean water fund projects funded from the account under s. 25.43 (2) (b) may be consistent with 33 USC 1251 to 1376 and 33 USC 1381 to 1387 and the regulations promulgated thereunder.
- (b) The department may determine whether a municipality is eligible for financial assistance under the clean water fund program for any of the following types of projects:
 1. Projects that the department determines are necessary to prevent a municipality from significantly exceeding an effluent limitation contained in a permit issued under ch. 283, including projects or capacity for the receiving, storage, and treatment of septage.
 2. Projects needed to provide treatment to achieve compliance with an enforceable requirement changed or established after May 17, 1988, if the project is for a municipality that is in substantial compliance with its permit, issued under ch. 283, in regard to the changed or established enforceable requirements.
 4. Projects for unsewered municipalities.
 5. Projects for the prevention or treatment of nonpoint source pollution or urban storm water runoff.
 6. Projects for the planning, design, construction or replacement of treatment works that violate effluent limitations contained in a permit issued under ch. 283.
 7. Pilot projects that are consistent with the federal program for state water pollution control revolving funds under 33 USC 1381 to 1387.

(8) INELIGIBILITY FOR AND LIMITATIONS ON FINANCIAL ASSISTANCE.

- (a) The following are not eligible for financial assistance from the clean water fund program:
 1. A person or municipality that has failed to substantially comply, as specified by the rules promulgated under sub. (2), with the terms of a federal or state grant or loan used to pay the costs of studies, investigations, plans, designs or construction associated with wastewater collection, transportation, treatment or disposal or used to pay the cost of studies, investigations, plans, designs or construction associated with implementing a nonpoint source control management program.
 2. Connection laterals and sewer lines that transport wastewater from structures to municipally owned or individually owned wastewater systems.
 3. Public sanitary sewer mains, interceptors and individual systems which exclusively serve future development.
 4. A planning, design or construction project which received financial assistance under 33 USC 1251 to 1376 or s. 281.57, except for any of the following:
 - a. The nonlocal share of a project which receives funding under s. 281.59 (13).
 - b. The portion of a project funded under s. 281.59 (13) relating to a collection system, even if the costs relating to the collection system were not eligible under s. 281.57.
 5. During fiscal years 1989-90 to 1994-95, a person or municipality in violation of an effluent limitation contained in a permit issued under ch. 283, unless that person or municipality is eligible under s. 281.59 (13).

(b)

1. Except as provided in subd. 2. and par. (k), the amount of reserve capacity for a project eligible for financial assistance through a method specified under sub. (6) (b) is limited to that future capacity required to serve the users of the project expected to exist within the sewer service area of the project and that future capacity required to serve the need expected to exist outside of the sewer service area of the project for septage that is reasonably likely to be disposed of in the project 10 years after the project is estimated to become operational. The department, in consultation with the demographic services center in the department of administration under s. 16.96, shall promulgate rules defining procedures for projecting population used in determining the amount of reserve capacity.
 2. Except as provided in par. (k), the department may not determine that a municipality is eligible for financial assistance through a method specified under sub. (6) (b) for reserve capacity for a collection system, interceptors or an individual system project in an unsewered municipality.
- (c) Except as provided in par. (k), financial assistance may be provided for the design, planning and construction of a collection system, interceptor or individual system project in an unsewered municipality or an unsewered area of a municipality, only if the department finds that at least two-thirds of the initial flow will be for wastewater originating from residences in existence for at least 20 years prior to the submission of the application under sub. (9) (a).
- (d) An unsewered municipality that is not constructing a treatment work and will be disposing of wastewater in the treatment work of another municipality is not eligible for financial assistance under the clean water fund program until it executes an agreement under s. 66.0301 with another municipality to receive, treat and dispose of the wastewater of the unsewered municipality.
- (e) Financial assistance may be provided to a municipality for a project only if the financial assistance is used for a project that is the most cost-effective alternative for the municipality without regard to financial assistance from the federal government and this state.
- (f) Except as provided in par. (k), the department may not determine that a municipality is eligible for financial assistance through a method specified under sub. (6) (b) for the portion of a project that treats wastes from industrial users.
- (g) The sum of all of the financial assistance to a municipality approved under the clean water fund program for a project may not result in the municipality paying less than 30 percent of the cost of the project.
- (h) Except as provided in par. (k), a municipality that is a violator of an effluent limitation at the time that the application for a treatment work project is approved under sub. (9m) may not receive financial assistance of a method specified under sub. (6) (b) 1., 3., 4. or 5. for that part of the treatment work project that is needed to correct the violation. This paragraph does not apply to a municipality that after May 17, 1988, is in compliance with a court or department order to correct a violation of the enforceable requirements of its ch. 283 permit, and that is applying for financial assistance under s. 281.59 (13) to correct that violation.
- (i) After June 30, 1991, no municipality may receive for projects in a biennium an amount that exceeds 35.2 percent of the amount that the department of administration projects will be available to provide financial assistance for projects under this section for that biennium.
- (j) The amount of a payment under sub. (6) (b) 8. may not exceed the amount necessary to reduce the interest rate on the loan from market rate to the interest rate that would have been charged on a loan to the municipality under sub. (6) (b) 4.
- (k) The restrictions specified under par. (b) 1. and 2., (c), (f) or (h) do not apply to any of the following methods of financial assistance:
1. A loan at the market interest rate.
 2. A purchase or refinancing of an obligation at fair market value and at the market interest rate.

3. A guarantee or a purchase of insurance for a municipal obligation which will permit the municipality credit market access not otherwise available or which will reduce the interest rate on the obligation to not less than the market rate.

(8e) PRIORITY. The department shall establish a priority list in accordance with 33 USC 1381 to 1387 which ranks each project. The ranking on the priority list shall be based on all of the following:

(a) The type of project and the order in which it is listed under sub. (7) (b) 1. to 6.

(b) The impact of the project on groundwater and surface water quality.

(c) The impact of the project on public health.

(cm) A factor that gives higher priority than would otherwise be given to a project to serve more than one municipality if all of the following apply:

1. Each municipality to be served by the project has a population of 2,500 or less.

2. At least one of the municipalities to be served by the project has a wastewater treatment system that is unusable because of failures of the system.

3. The municipalities to be served by the project are submitting an application for a new joint treatment work.

4. At least one of the municipalities to be served by the treatment work has been ordered to upgrade a current system.

(d) Any other factor determined by the department.

(8m) NOTICE OF INTENT TO APPLY.

(a) A municipality shall submit notice to the department of its intent to apply for financial assistance under this section and s. 281.59. A municipality shall submit the notice at least 6 months before the beginning of the fiscal year in which it will request to receive financial assistance. The notice shall be in a form prescribed by the department and the department of administration.

(c) The department may waive par. (a) upon the written request of a municipality.

(8s) FACILITY PLAN. A municipality seeking financial assistance for a project under this section shall complete a facility plan as required by the department by rule.

(9) APPLICATION.

(a) After the department approves a municipality's facility plan submitted under sub. (8s), the municipality shall submit an application for participation to the department. The application shall be in such form and include such information as the department and the department of administration prescribe and shall include design plans and specifications. The department shall review applications for participation in the clean water fund program. The department shall determine which applications meet the eligibility requirements and criteria under subs. (6), (7), (8), (8m) and (13).

(ae) A municipality that submits an application under par. (a) without design plans and specifications may obtain an initial determination of financial eligibility from the department of administration. The department of natural resources may not approve a municipality's application until the municipality submits design plans and specifications.

(am) A municipality may not submit more than one application under par. (a) for any single project in any 12-month period except that this paragraph does not apply to applications for financial assistance for additional costs of an approved project.

(b) A municipality seeking financial assistance for a project under the clean water fund program shall complete an environmental analysis sequence as required by the department by rule.

(c) If a municipality is serviced by more than one sewerage district for wastewater pollution abatement, each service area of the municipality shall be considered a separate municipality for purposes of obtaining financial assistance under the clean water fund program.

(d) The department of administration and the department jointly may charge and collect service fees, established by rule, which shall cover the estimated costs of reviewing and acting upon the application

and servicing the financial assistance agreement. No service fee established by rule under this paragraph may be charged to or collected from an applicant for financial assistance under s. 281.59 (13).

(e) If the department of natural resources and the department of administration determine that the total amount that the department of administration projects will be available to provide financial assistance for projects under this section for a biennium, as set forth in the biennial finance plan under s. 281.59 (3) (a) 2. and as updated under s. 281.59 (3) (bm) 2., is insufficient to provide funding for all projects for which applications will be approved during that biennium, the department shall inform municipalities that, if the governor's recommendations are approved, clean water fund program assistance during a fiscal year of that biennium will be available only to municipalities that submit financial assistance applications by September 30 of that fiscal year.

(f) The fees collected under par. (d) shall be credited to the environmental improvement fund.

(9m) ACCEPTANCE OF APPLICATION; ALLOCATION OF FUNDING.

(a) Subject to par. (d), the department shall approve an application after all of the following occur:

1. The department determines that the project meets the eligibility requirements and criteria under subs. (7), (8), (8m) and (8s).
2. The department of administration initially determines that the municipality will meet the requirements of s. 281.59 (9) (b).

(d) The department may not approve an application under par. (a) for a project that is not on the priority list under sub. (8e).

(e)

1. Except as provided under par. (f) and sub. (13), if a sufficient amount of financial assistance under this section is available for the municipality's project when the department approves the application under par. (a), the department of administration shall allocate that amount to the project.
2. If a sufficient amount of financial assistance under this section is not available for the municipality's project when the department approves the application under par. (a), the department shall place the project on a list for allocation when additional financial assistance becomes available.

(f) If the department of natural resources and the department of administration determine that the amount available to provide financial assistance for projects under this section for a biennium is insufficient to provide funding for all projects for which applications will be approved during that biennium, all of the following apply:

1. The department shall establish a funding list for each fiscal year of the biennium that ranks projects of municipalities that submit financial assistance applications under sub. (9) (a) no later than September 30 of the fiscal year in the same order that they appear on the priority list under sub. (8e).
2. The department of administration shall allocate funding to projects in the order in which they appear on the funding list under subd. 1.

(fm) The department, in consultation with the department of administration, shall promulgate, by rule, methods to establish deadlines for actions that must be taken by a municipality to which financial assistance has been allocated. The methods may provide for extending deadlines under specified circumstances. If a municipality fails to meet a deadline, including any extension, the department of administration shall rescind the allocation of financial assistance for the municipality's project.

(11) TYPE OF FINANCIAL ASSISTANCE.

(a) Except as provided in par. (b), the department of administration shall specify the method by which financial assistance is to be provided for each approved application.

(b) For municipalities meeting the financial hardship assistance requirements under sub. (13), the department of natural resources may approve financial hardship assistance.

(12) LOAN INTEREST RATES.

(a)

1. Except as modified under par. (f) and except as restricted by sub. (8) (b), (c), (f) or (h), the interest rate for projects specified in sub. (7) (b) 1. to 5. is one of the following:
 - a. For a municipality that has a population of less than 1,000, and in which the median household income is 65 percent or less of the median household income in this state, zero percent of market interest rate.
 - b. For a municipality that has a population of less than 10,000, and in which the median household income is 80 percent or less of the median household income in this state, 33 percent of market interest rate.
 - c. For a municipality that does not meet the requirements specified in subd. 1. a. or b., 75 percent of market interest rate for projects for which the subsidy was allocated from the amount under s. 281.59 (3e) (b), 2013 stats., for a biennium before the 2015-17 biennium and 70 percent of market interest rate for projects for which the financial assistance is allocated under this section for the 2015-17 biennium, and 55 percent of market interest rate for projects for which the financial assistance is allocated under this section for the 2017-19 biennium or later.
 4. The interest rate for projects specified in sub. (7) (b) 6. and for those portions of projects under subd. 1. that are restricted by sub. (8) (b), (c), (f) or (h) is market interest rate.
 5. Notwithstanding subd. 1., the interest rate for the portion of a project that provides facilities for receiving and storing septage and capacity for treating septage is zero percent.
- (c) The department and the department of administration shall attempt to ensure all of the following:
1. That increases in all state water pollution abatement general obligation debt service costs do not exceed 4 percent annually.
 2. That state water pollution abatement general obligation debt service costs are not greater than 50 percent of all general obligation debt service costs in any fiscal year.
- (f) The department and the department of administration jointly may request the joint committee on finance to take action under s. 13.101 (11) to modify the percentage of market interest rate established in par. (a) 1.
- (13) FINANCIAL HARDSHIP ASSISTANCE.**
- (b) A municipality with an application that is approved under sub. (9m) is eligible for state financial hardship assistance for the project costs that are eligible under the clean water fund program, except for costs to which sub. (8) (b), (c), (f) or (h) applies, if the initial application was submitted on or before June 30, 2017, the application, including the facility plan and the design plans and specifications, was completed on or before June 30, 2018, and the municipality meets all of the following criteria:
1. The median household income in the municipality is 80 percent or less of the median household income in this state.
 2. The estimated total annual charges per residential user in the municipality that relate to wastewater treatment would exceed 2 percent of the median household income in the municipality without assistance under this subsection.
- (c) The department shall provide assistance so that estimated total annual charges per residential user in the municipality that relate to wastewater treatment do not exceed 2 percent of the median household income in the municipality, if possible. The department may not reduce the amount of financial hardship assistance for a municipality's project due to the municipality receiving assistance for the project from another source unless the combination of financial hardship assistance plus the assistance from the other source would reduce the estimated total annual charges per residential user in the municipality that relate to wastewater treatment to less than 2 percent of the median household income in the municipality.
- (cm) The amount and type of assistance to be provided to a municipality that receives state financial hardship assistance shall be determined under rules promulgated by the department.
- (d) The department shall establish a financial hardship assistance funding list for each fiscal year that ranks projects of municipalities that are eligible under par. (b), and that submit complete financial assistance applications under sub. (9) (a) no later than June 30 of the preceding fiscal year, in the same order that they appear on the priority list under sub. (8e).

- (e) In each fiscal year, the department shall allocate financial hardship assistance under this subsection in the following order:
2. Assistance under par. (b) for projects that were on a funding list under par. (d) for a prior fiscal year, that have not previously received funding and that were in the top 20 percent of projects on the priority list under sub. (8e) for the prior fiscal year, starting with projects on the funding list for the earliest fiscal year.
 3. Assistance under par. (b) for projects on the current fiscal year's funding list under par. (d) in the order that they appear on the funding list.
- (f) The department shall promulgate, by rule, a formula for estimating operating, maintenance and replacement costs for determining estimated wastewater treatment user charges under this subsection.

(13m) MINORITY BUSINESS DEVELOPMENT AND TRAINING PROGRAM.

- (a) The department shall make grants to projects that are eligible for financial assistance under the clean water fund program and that are identified as being part of the minority business development and training program under s. 200.49 (2) (b).
- (b) Grants provided under this subsection are not included for the purposes of determining under sub. (8) (i) the amount that a municipality may receive for projects under the clean water fund program.

(14) CONDITIONS OF FINANCIAL ASSISTANCE.

- (b) As a condition of receiving financial assistance under the clean water fund program, a municipality shall do all of the following:
1. Establish a dedicated source of revenue, that is acceptable to the department of administration under s. 281.59 (9) (am) and (b), for the repayment of any financial assistance.
 4. Comply with those provisions of 33 USC 1381 to 1387, this chapter and chs. 283, 285 and 289 to 299 and the regulations and rules promulgated thereunder that the department specifies.
 5. Develop and adopt a program of water conservation as required by the department.
 6. Develop and adopt a program of systemwide operation and maintenance of the treatment work, including the training of personnel, as required by the department.
 7. Develop and adopt a system of equitable user charges to ensure that each recipient of treatment work services pays its proportionate share of the costs of the operation and maintenance of the treatment work. The user fee system shall be in compliance with 33 USC 1284 (b) and the regulations promulgated thereunder. The department may issue an exemption from the requirement imposed under this subdivision if a city or village imposes a system of equitable dedicated charges based upon assessed property values, if the city or village does not operate a treatment work but is served by a regional wastewater treatment plant operated by a metropolitan sewerage district created under ss. 200.21 to 200.65 and if the user charges imposed by that district are approved by the department and comply with 33 USC 1284 (b). The department may provide that the system of user charges for a project with estimated construction costs of \$750,000 or less need only cover the costs of debt service and equipment replacement funds.

(15) FINANCIAL ASSISTANCE COMMITMENTS.

- (a) The department and the department of administration may, at the request of a municipality, issue a notice of financial assistance commitment to the municipality after the department approves the municipality's application under sub. (9m) (a) and the department of administration has allocated financial assistance for the municipality's project.
- (am) The notice of financial assistance commitment shall include the conditions that the municipality must meet to secure the financial assistance and shall include the estimated repayment schedules and other terms of the financial assistance.

(21) CONSTRUCTION. This section shall be liberally construed in aid of the purposes of this section.

History: 1987 a. 399; 1989 a. 31, 336, 366; 1991 a. 32, 39, 189; 1993 a. 16; 1995 a. 27; 1995 a. 227 s. 425; Stats. 1995 s. 281.58; 1997 a. 27, 237; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 104; 2005 a. 25, 347; 2009 a. 28; 2011 a. 32, 261; 2013 a. 7; 2015 a. 55; 2017 a. 59; 2017 a. 365 s. 111.

Cross-reference: See also ch. NR 162, Wis. adm. code.

NOTE: 2005 Wis. Act 347, which affected this section, contains extensive explanatory notes.

281.59 Environmental improvement fund; financial management.

(1) DEFINITIONS. In this section:

- (ag)** "Clean water fund program" means the program administered under s. 281.58, with financial management provided under this section.
- (am)** "Effluent limitation" has the meaning given in s. 283.01 (6).
- (as)** "Land recycling loan program" means the program administered under s. 281.60, with financial management provided under this section.
- (b)** "Market interest rate" means the effective interest rate on a fixed-rate revenue obligation issued by the state to fund a loan made under this section or, if the department of administration determines that there has been a significant change in interest rates after the fixed-rate revenue obligation has been issued or if a fixed-rate revenue obligation has not been issued by the state to fund a loan made under this section, the effective interest rate that the department of administration determines would have been paid if a fixed-rate revenue obligation had been issued on the date financial assistance is allotted.
- (c)** "Municipality" means any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district, metropolitan sewerage district, joint local water authority created under s. 66.0823, or federally recognized American Indian tribe or band in this state.
- (cm)** "Safe drinking water loan program" means the program administered under s. 281.61, with financial management provided under this section.
- (e)** "Treatment work" has the meaning given in s. 283.01 (18).
- (f)** "Violator of an effluent limitation" means a person or municipality that after May 17, 1988, is not in substantial compliance with the enforceable requirements of its permit issued under ch. 283 for a reason that the department determines is or has been within the control of the person or municipality.

(1m) ESTABLISHMENT OF PROGRAMS.

- (a)** There is established a clean water fund program, administered under s. 281.58, with financial management provided under this section.
- (b)** There is established a safe drinking water loan program, administered under s. 281.61, with financial management provided under this section.

(2) GENERAL DUTIES. The department of administration shall:

- (a)** Administer its responsibilities under this section and ss. 281.58, 281.60 and 281.61.
- (b)** Cooperate with the department in administering the clean water fund program, the safe drinking water loan program and the land recycling loan program.
- (c)** Accept and hold any letter of credit from the federal government through which the state receives federal capitalization grant payments and disbursements to the environmental improvement fund.

(2m) INVESTMENT MANAGEMENT; ENVIRONMENTAL IMPROVEMENT FUND.

(a) The department of administration may:

1. Subject to par. (b), direct the investment board under s. 25.17 (2) (d) to make any investment of the environmental improvement fund, or in the collection of the principal and interest of all moneys loaned or invested from that fund.
2. Subject to par. (b), purchase or acquire, commit on a standby basis to purchase or acquire, sell, discount, assign, negotiate, or otherwise dispose of, or pledge, hypothecate or otherwise create a security interest in, loans as the department of administration may determine, or portions or portfolios of participations in loans, made or purchased under this section. The disposition may be at the price and under the terms that the department of administration determines to be reasonable and may be at public or private sale.

- (b)** The department of administration shall take an action under par. **(a)** only if all of the following conditions occur:
1. The action provides a financial benefit to the environmental improvement fund.
 2. The action does not contradict or weaken the purposes of the environmental improvement fund.
 3. The building commission approves the action before the department of administration acts.
- (3)** FINANCIAL MANAGEMENT; BIENNIAL FINANCE PLAN.
- (a)** By October 1 of each even-numbered year, the department of administration and the department jointly shall prepare a biennial finance plan that includes all of the following information:
1. An estimate of the wastewater treatment, safe drinking water and land recycling project needs of the state for the 4 fiscal years of the next 2 biennia.
 2. The total amount that the department of administration projects will be available to provide financial assistance for projects under subd. 1. during the next biennium.
 4. The extent to which the funding for the clean water fund program and the safe drinking water loan program, in the environmental improvement fund, will be maintained in perpetuity.
 - 4m. A chart showing detailed projected sources and uses of funds for projects under subd. 1. during the next biennium.
 5. The most recent available audited financial statements of the past operations and activities of the clean water fund program, the safe drinking water loan program and the land recycling loan program, the estimated environmental improvement fund capital available in each of the next 4 fiscal years for the clean water fund program and the safe drinking water loan program, and the projected environmental improvement fund balance for the clean water fund program and the safe drinking water loan program for each of the next 20 years given existing obligations and financial conditions.
 - 5m. The percentage of market interest rate for the projects under subd. 1.
 8. The amount and description of any fee expected to be charged during the next biennium under this section.
 9. The impact of the biennial finance plan on the guideline under par. **(b)**.
- (b)** The department of administration and the department shall consider as a guideline in preparing the portion of the biennial finance plan for the clean water fund program that all state water pollution abatement general obligation debt service costs should not exceed 50 percent of all general obligation debt service costs to the state.
- (bm)** The department and the department of administration jointly shall prepare and submit copies of all of the following to the building commission under s. 13.48 (26), to the joint committee on finance and to the chief clerk of each house of the legislature, for distribution under s. 13.172 (3) to the appropriate legislative standing committees generally responsible for legislation related to environmental issues:
1. By October 1 of each even-numbered year, the version of the biennial finance plan initially prepared as part of the budget process.
 2. No later than 30 days after the day on which the biennial budget is submitted to the legislature under s. 16.45, amendments to the biennial finance plan that update the plan to reflect material approved by the governor for inclusion in the budget.
 3. No later than 30 days after the day on which the governor signs the biennial budget, a version of the biennial finance plan, updated to reflect the adopted biennial budget act.
- (br)** The joint committee on finance and each standing committee may submit to the building commission its recommendations and comments regarding each version of the biennial finance plan and amendments to the biennial finance plan, and whether the version of the biennial finance plan updated to reflect the adopted biennial budget act should be approved or disapproved as specified under s. 13.48 (26). If the building commission disapproves the version of the biennial finance plan that is updated to reflect the adopted biennial budget act, the department and the department of administration shall submit a revised biennial finance plan to the building commission.

(j) No later than November 1 of each odd-numbered year, the department of administration and the department jointly shall submit a report, to the building commission and committees as required under par. (bm), on the operations and activities of the clean water fund program, the safe drinking water loan program and the land recycling loan program for the previous biennium.

(3e) CLEAN WATER FUND PROGRAM EXPENDITURES.

(d) The department may expend, for financial assistance in a biennium other than financial hardship assistance under s. 281.58 (13) (e), an amount up to 95 percent of the amount available to provide financial assistance for projects under this section for that biennium. The department may expend such amount only from the percentage of the amount that is not available under par. (e) for financial hardship assistance.

(e) The department may expend, for financial hardship assistance in a biennium under s. 281.58 (13) (e), an amount up to 5 percent of the amount available to provide financial assistance for projects under this section for that biennium. The department may expend such amount only from the percentage of the amount that is not available under par. (d) for financial assistance.

(4) REVENUE OBLIGATIONS.

(a) The clean water fund program and the safe drinking water loan program are revenue-producing enterprises or programs, as defined in s. 18.52 (6).

(am) Deposits, appropriations or transfers to the environmental improvement fund for the purposes of the clean water fund program or the safe drinking water loan program may be funded with the proceeds of revenue obligations issued subject to and in accordance with subch. II of ch. 18 or in accordance with subch. IV of ch. 18 if designated a higher education bond.

(b) The department of administration may, under s. 18.561 or 18.562, deposit in a separate and distinct fund in the state treasury or in an account maintained by a trustee outside the state treasury, any portion of the revenues derived under s. 25.43 (1). The revenues deposited with a trustee outside the state treasury are the trustee's revenues in accordance with the agreement between this state and the trustee or in accordance with the resolution pledging the revenues to the repayment of revenue obligations issued under this subsection and to make payments under an agreement or ancillary arrangement entered into under s. 18.55 (6) with respect to revenue obligations issued under this subsection.

(c) The building commission may pledge any portion of revenues received or to be received in the fund established in par. (b) or the environmental improvement fund to secure revenue obligations issued under this subsection. The pledge shall provide for the transfer to the environmental improvement fund of all pledged revenues, including any interest earned on the revenues, which are in excess of the amounts required to be paid under s. 20.320 (1) (c) and (u) and (2) (c) and (u) for the purposes of the clean water fund program and the safe drinking water loan program. The pledge shall provide that the transfers be made at least twice yearly, that the transferred amounts be deposited in the environmental improvement fund and that the transferred amounts are free of any prior pledge.

(d) The department of administration shall have all other powers necessary and convenient to distribute the pledged revenues and to distribute the proceeds of the revenue obligations in accordance with subch. II of ch. 18 or in accordance with subch. IV of ch. 18 if designated a higher education bond.

(e) The department of administration may enter into agreements with the federal government or its agencies, political subdivisions of this state, individuals or private entities to insure or in any other manner provide additional security for the revenue obligations issued under this subsection.

(f) Revenue obligations may be contracted by the building commission when it reasonably appears to the building commission that all obligations incurred under this subsection, and all payments under an agreement or ancillary arrangement entered into under s. 18.55 (6) with respect to revenue obligations issued under this subsection, can be fully paid on a timely basis from moneys received or anticipated to be received. Revenue obligations issued under this subsection for the clean water fund program and safe drinking water loan program shall not exceed \$2,526,700,000 in principal amount, excluding obligations issued to refund outstanding revenue obligation notes.

(g) Unless otherwise expressly provided in resolutions authorizing the issuance of revenue obligations or in other agreements with the holders of revenue obligations, each issue of revenue obligations under this subsection shall be on a parity with every other revenue obligation issued under this subsection and in accordance with subch. II of ch. 18 or with subch. IV of ch. 18 if designated a higher education bond.

(9) CONDITIONS OF FINANCIAL ASSISTANCE.

(a) A loan approved under the land recycling loan program shall be for no longer than 20 years, as determined by the department of administration, be fully amortized not later than 20 years after the original date of the financial assistance agreement, and require the repayment of principal and interest, if any, to begin not later than 12 months after the expected date of completion of the project that it funds, as determined by the department of administration.

(ad) A loan approved under the safe drinking water loan program shall be fully amortized not later than 30 years after the expected date of completion of the project that it funds, as determined by the department of administration, and require the repayment of principal and interest, if any, to begin not later than 18 months after the expected date of completion of the project that it funds, as determined by the department of administration.

(ag) A loan approved under the clean water fund program shall be for no longer than 30 years or the useful life of the project, whichever is less, as determined by the department of administration. The loan shall be fully amortized not later than 30 years after the original date of the financial assistance agreement or the end of the useful life of the project, whichever is less, as determined by the department of administration. Repayment of principal and interest, if any, shall begin not later than 12 months after the expected date of completion of the project that the loan funds, as determined by the department of administration.

(am) The department of administration, in consultation with the department, may establish those terms and conditions of a financial assistance agreement that relate to its financial management, including what type of municipal obligation, as set forth under sub. (13f), if applicable, is required for the repayment of the financial assistance. Any terms and conditions established under this paragraph by the department of administration shall comply with the requirements of this section and s. 281.58, 281.60 or 281.61. In setting the terms and conditions, the department of administration may consider factors that the department of administration finds are relevant, including the type of obligation evidencing the loan, the pledge of security for the obligation and the applicant's creditworthiness.

(b) As a condition of receiving financial assistance under the clean water fund program, the safe drinking water loan program or the land recycling loan program, an applicant shall do all of the following:

1. Pledge the security, if any, required by the rules promulgated by the department of administration under this section and s. 281.58, 281.60 or 281.61.
2. Demonstrate to the satisfaction of the department of administration the financial capacity to assure sufficient revenues to operate and maintain the project for its useful life and to pay the debt service on the obligations that it issues for the project.

(11) FINANCIAL ASSISTANCE PAYMENTS.

(a) The department of natural resources and the department of administration may enter into a financial assistance agreement with an applicant for which the department of administration has allocated financial assistance under s. 281.58 (9m), 281.60 (8) or 281.61 (8) if the applicant meets the conditions under sub. (9) and the other requirements under this section and s. 281.58, 281.60 or 281.61.

(am) The department of administration shall make the financial assistance payments to an applicant that has entered into a financial assistance agreement under par. (a) or to the applicant's designated agent.

(b) If a municipality fails to make a principal repayment or interest payment after its due date, the department of administration shall place on file a certified statement of all amounts due under this section and s. 281.58, 281.60 or 281.61. After consulting the department, the department of administration may collect all amounts due by deducting those amounts from any state payments due the municipality or may add a special charge to the amount of taxes apportioned to and levied upon the county under s. 70.60. If

the department of administration collects amounts due, it shall remit those amounts to the fund to which they are due and notify the department of that action.

- (c) The department of administration may retain the last payment under a financial assistance agreement until the department of natural resources and the department of administration determine that the project is completed and meets the applicable requirements of this section and s. 281.58, 281.60 or 281.61 and that the conditions of the financial assistance agreement are met.
- (12) MUNICIPAL OBLIGATIONS.** The department of administration may purchase or refinance obligations specified in s. 281.58 (6) (b) 1. and guarantee or purchase insurance for municipal obligations specified in s. 281.58 (6) (b) 3. if the department of administration and the department of natural resources approve the financial assistance under this section and s. 281.58.
- (13) LOANS FOR TRANSITION PROJECTS.**
 - (a)**
 - 1. Notwithstanding any other provision of this section and s. 281.58, a municipality that submits to the department by January 2, 1989, a facility plan meeting the requirements of s. 281.57 which is approvable under this chapter and that does not receive a grant award before July 1, 1990, only because the municipality is following a schedule contained in the facility plan and approved by the department and the municipality is in compliance with all applicable schedules contained in a permit issued under ch. 283 or because there are insufficient grant funds under s. 281.57, is eligible to receive financial assistance under this paragraph. The form of the financial assistance is a loan with an interest rate of 2.5 percent per year except that s. 281.58 (8) (b), (f) and (k) applies to projects receiving financial assistance under this paragraph.
 - 2. Notwithstanding any other provision of this section or s. 281.58, the department shall make all loans under subd. 1. to municipalities ready to construct treatment works before the department provides or approves any other financial assistance under this section except for loans under par. (b).
 - (b)**
 - 1. Notwithstanding any other provision of this section or s. 281.58, an unsewered municipality is eligible to receive financial assistance under this paragraph, in the form of a loan with an interest rate of 2.5 percent per year, which may be for original financing or refinancing for a collection system that is ineligible for financial assistance under s. 281.57 because of s. 281.57 (4) (b) 1. and that is being connected to an existing wastewater treatment plant if all of the following apply:
 - a. The municipality applies to the department for financial assistance under s. 281.57 (5) for a construction project during 1988.
 - b. Before January 1, 1989, the department issues a notice under s. 281.57 (6) that the department is ready to allocate funds to the municipality for the project.
 - c. The municipality invites bids for the project in 1989.
 - d. The municipality receives a grant under s. 281.57 for the construction of the project from the list developed by the department under s. 281.57 (6) (a) for applications received in 1988.
 - 1m.** Notwithstanding any other provision of this section or s. 281.58, a town sanitary district is eligible to receive financial assistance under this paragraph, in the form of a loan with an interest rate of 2.5 percent per year, for the extension of a collection system into an unsewered area that is added to the sanitary district if all of the following apply:
 - a. The department has awarded a grant to the town sanitary district under s. 281.57 (4) (b) 1. c. for a collection system.
 - b. The department determines that extension of the collection system into the unsewered area is necessary and cost-effective.
 - c. The sanitary district invites bids for and begins construction of the extension of the collection system before January 1, 1990.
 - 2. Section 281.58 (8) (b), (f) and (k) applies to projects receiving financial assistance under this paragraph.

3. Notwithstanding any provision of this section or s. 281.58, the department shall annually allocate funds for loans under subds. 1. and 1m. before the department provides or approves any other financial assistance under this section or s. 281.58.
- (e) The department of administration and the department may not make loans under s. 144.241 (20), 1987 stats., as affected by 1989 Wisconsin Acts 31, 336 and 366, or under this subsection to a metropolitan sewerage district that serves a 1st class city that total more than \$230,900,000.
- (13f) MUNICIPAL FUNDING OF FINANCIAL ASSISTANCE.** Subject to the terms and conditions of its financial assistance agreement, a municipality may repay financial assistance costs received from the clean water fund program under s. 281.58 and under this section by any lawful method, including any one of the following methods or any combination of the methods:
- (a) Payment out of its general funds.
- (b) Payment out of the proceeds of the sale of obligations issued by it under ch. 67.
- (c) Payment out of the proceeds of the sale of public improvement bonds issued by it under s. 66.0619.
- (d) Payment out of the proceeds of revenue obligations issued by it under s. 66.0621.
- (e) Payment as provided under s. 66.0709.
- (f) Payment as provided under s. 66.0821 (2) (a) 1.
- (13m) LEGISLATIVE MORAL OBLIGATION.** The building commission may, at the time the loan is made, by resolution designate a loan made under the clean water fund program as one to which this subsection applies. If at any time the payments received or expected to be received from a municipality on any loan so designated are pledged to secure revenue obligations of the state issued pursuant to subch. II of ch. 18 and are insufficient to pay when due principal of and interest on such loan, the department of administration shall certify the amount of such insufficiency to the secretary of administration, the governor and the joint committee on finance. If the certification is received by the secretary of administration in an even-numbered year before the completion of the budget under s. 16.43, the secretary of administration shall include the certified amount in the budget compilation. In any event, the joint committee on finance shall introduce in either house, in bill form, an appropriation of the amount so requested for the purpose of payment of the revenue obligation secured thereby. Recognizing its moral obligation to do so, the legislature hereby expresses its expectation and aspiration that, if ever called upon to do so, it shall make the appropriation.
- (13s) POWERS.** The department of administration may audit, or contract for audits of, projects receiving financial assistance under the clean water fund program, the safe drinking water loan program and the land recycling loan program.
- (14) RULES.** The department of administration shall promulgate rules that are necessary for the proper execution of this section and of its responsibilities under ss. 281.58, 281.60 and 281.61.
- (15) CONSTRUCTION.** This section shall be liberally construed in aid of the purposes of this section.

History: 1989 a. 366 ss. 40, 63, 65, 66, 97, 99, 106, 108 to 110, 115; 1991 a. 32, 39, 189, 315; 1993 a. 16; 1995 a. 27; 1995 a. 227 s. 426; Stats. 1995 s. 281.59; 1995 a. 452; 1997 a. 27, 237; 1999 a. 9; 1999 a. 150 s. 374, 672; 2001 a. 16; 2003 a. 33; 2005 a. 25; 2007 a. 20; 2009 a. 28; 2011 a. 32, 146, 261; 2013 a. 12, 20; 2015 a. 55; 2017 a. 59; 2019 a. 9.

Cross-reference: See also ch. NR 166, Wis. adm. code.