

## Wisconsin State Legislature

### **281.61 Safe drinking water loan program.**

**(1)** DEFINITIONS. In this section:

**(ag)** "Community water system" means a public water system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents.

**(am)** "Local governmental unit" means a city, village, town, county, town sanitary district, public inland lake protection and rehabilitation district, joint local water authority created under s. [66.0823](#), or municipal water district.

**(b)** "Market interest rate" has the meaning given in s. [281.59 \(1\) \(b\)](#).

**(c)** "Public water system" means a water system providing piped water to the public for human consumption if the water system has at least 15 service connections or regularly serves an average of at least 25 individuals daily for at least 60 days each year.

**(d)** "Safe drinking water loan program" means the program administered under this section, with financial management provided under s. [281.59](#).

**(2)** GENERAL. The department and the department of administration shall administer a program to provide financial assistance to local governmental units and to the private owners of community water systems that serve local governmental units for projects for the planning, designing, construction or modification of public water systems, if the projects will facilitate compliance with national primary drinking water regulations under [42 USC 300g-1](#) or otherwise significantly further the health protection objectives of the Safe Drinking Water Act, [42 USC 300f](#) to [300j-26](#).

**(2g)** INELIGIBLE PROJECTS. A local governmental unit or the private owner of a community water system that serves a local governmental unit is not eligible for financial assistance under this section if the local governmental unit or the private owner of the community water system that serves a local governmental unit does not have the technical, managerial or financial capacity to ensure compliance with the Safe Drinking Water Act, [42 USC 300f](#) to [300j-26](#), or the public water system operated by the local governmental unit or private owner of the community water system that serves a local governmental unit is in significant noncompliance with any requirement of a primary drinking water regulation or variance under [42 USC 300g-1](#) unless the financial assistance will ensure compliance with the Safe Drinking Water Act.

**(2r)** METHODS OF PROVIDING FINANCIAL ASSISTANCE. The following methods of providing financial assistance may be used under the safe drinking water loan program:

**(a)** Making loans below the market interest rate for projects described in sub. [\(2\)](#).

**(b)** Purchasing or refinancing the obligation of a local governmental unit or private owner of a community water system that serves a local governmental unit if the obligation was incurred to finance the cost of a project described in sub. [\(2\)](#) and the obligation was initially incurred after July 1, 1993.

**(c)** Guaranteeing, or purchasing insurance for, obligations incurred to finance the cost of projects described in sub. [\(2\)](#) if the guarantee or insurance will provide credit market access or reduce interest rates.

**(d)** Providing payments to the board of commissioners of public lands to reduce principal or interest payments, or both, on loans made to local governmental units under subch. [II of ch. 24](#) by the board of commissioners of public lands for projects that are eligible for financial assistance under the safe drinking water loan program.

**(e)** Using funds received as federal capitalization grants under [42 USC 300j-12](#), any other method that is consistent with the federal program for safe drinking water state loan funds under [42 USC 300j-12](#) or any other federal law providing funding for or otherwise relating to that program, except that funds received

as federal capitalization grants may not be used to provide principal forgiveness to a private owner of a community water system.

**(3) NOTICE OF INTENT TO APPLY.**

**(a)** A local governmental unit or private owner of a community water system that serves a local governmental unit shall submit notice of its intent to apply for financial assistance under the safe drinking water loan program at least 6 months before the beginning of the fiscal year in which it intends to receive the 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 local governmental unit or private owner of a community water system that serves a local governmental unit.

**(4) ENGINEERING REPORT.** A local governmental unit or private owner of a community water system that serves a local governmental unit seeking financial assistance for a project under this section shall submit an engineering report, as required by the department by rule.

**(5) APPLICATION.**

**(a)** After the department approves an engineering report submitted under sub. [\(4\)](#), the local governmental unit or private owner of a community water system that serves a local governmental unit shall submit an application for safe drinking water financial assistance to the department. The applicant shall submit the application on or before the June 30 preceding the beginning of the fiscal year in which the applicant wishes to receive the financial assistance, except that if funds are available in a fiscal year after funding has been allocated under sub. [\(8\)](#) for all approved applications submitted before the June 30 preceding that fiscal year, the department of administration may allocate funding for approved applications submitted after June 30. The application shall be in the form and include the information required by the department and the department of administration and shall include plans and specifications that are approvable by the department under this section. An applicant may not submit more than one application per project per year.

**(b)** 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 \(13\)](#). The fees collected under this paragraph shall be credited to the environmental improvement fund.

**(6) PRIORITY LIST.** The department shall establish a priority list that ranks each safe drinking water loan program project. The department shall promulgate rules for determining project rankings that, to the extent possible, give priority to projects that address the most serious risks to human health, that are necessary to ensure compliance with the Safe Drinking Water Act, [42 USC 300f to 300j-26](#), and that assist applicants that are most in need on a per household basis, according to affordability criteria specified in the rules. For the purpose of ranking projects under this subsection, the department shall treat a project to upgrade a public water system to provide continuous disinfection of the water that it distributes as if the public water system were a surface water system that federal law requires to provide continuous disinfection.

**(7) APPROVAL OF APPLICATION.** The department shall approve an application received under sub. [\(5\)](#) after all of the following occur:

**(a)** The project is ranked on the priority list under sub. [\(6\)](#).

**(b)** The department determines that the project meets the eligibility requirements under this section.

**(c)** The department of administration determines that the applicant will meet the requirements of s. [281.59 \(9\)](#) [\(b\)](#).

**(8) FUNDING LIST; ALLOCATION OF FUNDING.** The department shall establish a funding list for each fiscal year that ranks projects of applicants that submit approvable applications under sub. [\(5\)](#) in the same order that they appear on the priority list under sub. [\(6\)](#). If sufficient funds are not available to fund all approved

applications for financial assistance, the department of administration shall allocate funding to projects that are approved under sub. (7) in the order that they appear on the funding list, except as follows:

- (a) The department of administration shall allocate to projects for public water systems that regularly serve fewer than 10,000 persons 15 percent of the available funds in each fiscal year or such lesser amount that fully funds the eligible projects for those public water systems.
- (bL) In any biennium, no applicant may receive more than 25 percent of the amount of financial assistance planned to be provided or committed for projects under this section for that biennium.
- (8m) CONDITIONS OF FINANCIAL ASSISTANCE FOR LOCAL GOVERNMENTAL UNITS.** As a condition of receiving financial assistance under the safe drinking water loan program, a local governmental unit shall do all of the following:
  - (a) Establish a dedicated source of revenue for the repayment of the financial assistance.
  - (b) Comply with those provisions of [42 USC 300f](#) to [300j-26](#) and this chapter and the regulations and rules promulgated under those provisions that the department specifies.
  - (c) Develop and adopt a program of water conservation as required by the department.
  - (d) Develop and adopt a program of systemwide operation and maintenance of the public water system, including the training of personnel, as required by the department.
  - (e) Develop and adopt a user fee system.
- (8p) CONDITIONS OF FINANCIAL ASSISTANCE FOR PRIVATE OWNERS.** As a condition of receiving financial assistance under the safe drinking water loan program, a private owner of a community water system that serves a local governmental unit shall do all of the following:
  - (a) Demonstrate that there is adequate security for the repayment of the financial assistance.
  - (b) Comply with those provisions of [42 USC 300f](#) to [300j-26](#) and this chapter and the regulations and rules promulgated under those provisions that the department specifies.
- (8s) LIMITATION ON FINANCIAL ASSISTANCE.** The amount of a payment under sub. (2r) (d) 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 local governmental unit under sub. (2r) (a).
- (9) FINANCIAL ASSISTANCE COMMITMENTS.** The department and the department of administration may, at the request of a local governmental unit, issue a notice of financial assistance commitment after the local governmental unit's application for safe drinking water financial assistance has been approved under sub. (7) and funding has been allocated under sub. (8) for the local governmental unit's project. The notice of financial assistance commitment shall specify the conditions that the local governmental unit must meet to secure financial assistance and shall include the estimated repayment schedules and other terms of the financial assistance.
- (10) DEADLINE FOR CLOSING.** If funding is allocated to a project under sub. (8) for a loan and the loan is not closed before June 30 of the year following the year in which funding is allocated, the department of administration shall release the funding allocated to the project.
- (11) LOAN INTEREST RATES.**
  - (a) Except as provided under par. (b), the interest rate on a safe drinking water loan program loan shall be as follows:
    1. For an applicant that does not meet financial eligibility criteria established by the department by rule, 55 percent of market interest rate.
    2. For an applicant that meets financial eligibility criteria established by the department by rule, 33 percent of market interest rate.
  - (b) 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 under par. (a) 1. or 2.
- (12) DUTIES OF THE DEPARTMENT.** The department shall do all of the following:
  - (a) Promulgate rules establishing eligibility criteria for applicants and projects under this section.

- (b) Promulgate rules that are necessary for the execution of its responsibilities under the safe drinking water loan program.
- (c) Cooperate with the department of administration in administering the safe drinking water loan program.
- (d) By May 1 of each even-numbered year, prepare and submit to the department of administration a biennial needs list that includes all of the following information:
  1. A list of drinking water projects that the department estimates will apply for financial assistance under the safe drinking water loan program during the next biennium.
  2. 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.
  3. The estimated rank of each project on the priority list under sub. (6).
- (e) Submit a biennial budget request under s. [16.42](#) for the safe drinking water loan program.
- (f) Have the lead state role with the federal environmental protection agency concerning the safe drinking water loan program.
- (g) Have the lead state role with local governmental units and private owners of community water systems that serve a local governmental unit in providing safe drinking water loan program information, and cooperate with the department of administration in providing that information.
- (h) Inspect periodically safe drinking water loan program project construction to determine project compliance with construction plans and specifications approved by the department and the requirements of the safe drinking water loan program.
- (13) CAPITALIZATION GRANT. The department may enter into an agreement under [42 USC 300j-12](#) (a), with the federal environmental protection agency to receive a capitalization grant for the safe drinking water loan program.

**History:** [1997 a. 27](#); [1999 a. 9](#); [2001 a. 16](#); [2005 a. 25, 159](#); [2009 a. 217](#); [2011 a. 19, 32](#); [2013 a. 7, 12](#); [2015 a. 55](#).

**Cross-reference:** See also ch. [NR 166](#), Wis. adm. code.