

## **2024 Louisiana Laws**

### **Revised Statutes**

#### **Title 40 - Public Health and Safety**

#### **§40:2823. Drinking Water Revolving Loan Fund Program**

##### **CHAPTER 32. DRINKING WATER REVOLVING LOAN FUND**

##### **§2821. Legislative findings**

A. This Chapter may be cited as the "Drinking Water Revolving Loan Fund Act".

B. The legislature finds and declares that:

(1) The Louisiana Department of Health, office of public health, is the state agency within Louisiana which has, since 1977, been granted primary enforcement responsibility from the United States Environmental Protection Agency to ensure that public drinking water systems within the state are in compliance with state regulations which are no less stringent than any federal drinking water regulations adopted pursuant to the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(2) The Department of Environmental Quality has, since 1989, been operating and maintaining the Clean Water State Revolving Fund in accordance with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), commonly referred to as the Clean Water Act, to provide assistance to wastewater treatment facilities owned or operated by municipalities and other political subdivisions, and for other assistance allowed by such Act.

(3) The Constitution of Louisiana authorizes legislation which enables the state or its political subdivisions to comply with federal law in order to secure federal participation in the funding of capital projects. This Act creates the Drinking Water Revolving Loan Fund in accordance with the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) for the purpose of providing financial assistance for the improvement of public drinking water systems in Louisiana.

(4) The financial administration of the Drinking Water Revolving Loan Fund shall be with the Louisiana Department of Health.

(5) Relative to the Drinking Water Revolving Loan Fund Program, the Louisiana Department of Health, office of public health, shall have the authority to establish assistance priorities and perform oversight and other related activities.

Acts 1997, No. 480, §2, eff. June 30, 1997; Acts 2003, No. 67, §3, eff. May 28, 2003; Acts 2010, No. 296, §4, eff. June 17, 2010.

## §2822. Definitions

As used in this Chapter, the following terms shall have the meanings ascribed to them in this Section, unless the context clearly indicates otherwise:

(1) "Administrative costs" means costs incurred by the Louisiana Department of Health, office of public health in the administration of the program, including but not limited to:

- (a) Program startup costs.
- (b) Financial administrative costs of servicing loans and issuing debt.
- (c) Costs associated with establishing assistance priorities and carrying out oversight and related activities other than financial administration.
- (d) Financial, management, and legal consulting fees.
- (e) Reimbursement costs for support services from other state agencies.

(2) "Capitalization grant" means the assistance agreement by which the United States Environmental Protection Agency obligates and awards funds allotted to the state for the purposes of capitalizing the Drinking Water Revolving Loan Fund as well as any other monies for other purposes authorized by the federal act.

(3) "Community water system" means a public water system that serves year-round residents within a residential setting.

(4) "Cost" means, with reference to a project, all capital costs incurred or to be incurred for a public water system, including but not limited to:

- (a) Engineering, financing, and other fees.
- (b) Construction and interest during construction.
- (c) A reasonable allowance for contingencies to the extent permitted by the federal act and rules promulgated thereunder.

(5) "Disadvantaged community" means the service area of a public water system wherein the system's existing or projected rates for water service do not meet affordability criteria established under the Intended Use Plan of the Louisiana Department of Health, office of public health.

(6) "Drinking Water Revolving Loan Fund" means the revolving loan fund established under this Chapter pursuant to the authority of the federal act.

(7) "Environmental review" means an environmental review process conducted by the Louisiana Department of Health of any public water system that has applied for or has received a loan or other assistance from the program. Nothing in this Paragraph shall prevent the Department of Environmental Quality from fulfilling its responsibilities under the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.).

(8) "Federal act" means the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(9) "Governmental agency" means the state, its political subdivisions, or any agency thereof, Indian tribes, and combinations of governmental entities, which have the authority to own, construct, or operate a public water system or a wastewater treatment facility and other related activities.

(10) "Indian tribe" means an Indian tribe having a federally recognized governing body carrying out substantial governmental duties and powers over any area within the state.

(11) "Intended Use Plan" means a document which describes how the state intends to use the federal capitalization grant funds, state matching funds, principal repayments, interest earnings, and any other monies associated with the Drinking Water Revolving Loan Fund Program during each year in order to meet the objectives of the federal act and further the goal of protecting public health.

(12) "Loan" means a loan of money from the Drinking Water Revolving Loan Fund for eligible project costs.

(13) "Loan subsidy" means a forgiveness of loan principal, or a portion thereof, up to an amount sufficient to make the project affordable to a disadvantaged community or to a community that the state expects to become a disadvantaged community as the result of a proposed project.

(14) "Net proceeds" means the funds raised from the sale of bonds minus issuance costs, which costs include but are not limited to the underwriting discount, printing of disclosure documents' bond certificates, and the fees of the underwriter's legal counsel, bond counsel, financial advisor, rating agency, and trustee banks.

(15) "Non-community water system" means a public water system that serves persons in a nonresidential setting.

(16) "Nonprofit non-community water system" means a non-community water system that is owned by an entity organized under Louisiana law which qualifies as a tax exempt organization under the provisions of Section 501(c)(3) of the Internal Revenue Code.

(17) "Privately owned system" means a public water system that is not owned by a governmental agency.

(18) "Program" means the Drinking Water Revolving Loan Fund Program as established by this Chapter.

(19) "Project" means improvements or activities to be undertaken by a public water system which:

(a) Are of a type that will facilitate compliance with state drinking water regulations which are no less stringent than any federal drinking water regulations adopted pursuant to the federal act.

(b) Further the health protection objectives of the federal act.

(20) "Public water system" means a system for the provision to the public of water for potable purposes, through pipes or other constructed conveyances, if the system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily for at least sixty days out of the year. The term includes:

(a) Any collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system.

(b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

(21) "Publicly owned system" means a public water system that is owned by a governmental agency.

(22) "Set-asides" means use of a portion of the state's allotted capitalization grant funds for various project and non-project activities as authorized under the federal act.

Acts 1997, No. 480, §2, eff. June 30, 1997; Acts 2001, No. 862, §1; Acts 2003, No. 67, §3, eff. May 28, 2003; Acts 2006, No. 39, §1, eff. May 12, 2006.

#### §2823. Drinking Water Revolving Loan Fund Program

A. There is established a Drinking Water Revolving Loan Fund Program within the Louisiana Department of Health, office of public health, through which the state may provide financial assistance, to the extent provided by state law, to both publicly and privately owned community water systems and to nonprofit non-community water systems for projects eligible for assistance under this Chapter. The program shall be administered in accordance with this Chapter and the federal act.

B. The Louisiana Department of Health, office of public health, may promulgate rules and regulations as are necessary to implement the provisions of this Chapter, in accordance with the Administrative Procedure Act, provided such rules and regulations shall not take effect unless approved by the House of Representatives Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee.

C.(1) The Louisiana Department of Health, office of public health, may enter into a capitalization grant agreement with the United States Environmental Protection Agency to implement the Drinking Water Revolving Loan Fund Program and may accept from that agency any grants and loans necessary for its operation.

(2) In entering into the agreement, the secretary of the Louisiana Department of Health may commit the state to:

(a) Accept grant payments from the United States Environmental Protection Agency in accordance with the schedule established in the capitalization grant agreement, and deposit same into the Drinking Water Revolving Loan Fund, with the exception of any set-aside amounts authorized under the federal act.

(b) Deposit state matching funds, to the extent required by the federal act for receipt of federal grant funds, into the Drinking Water Revolving Loan Fund on or before the date that each federal grant payment is made to the state.

(c) Enter into any other covenants, commitments, and obligations necessary to ensure that the state's administration of the program is consistent with the provisions of this Chapter and the federal act.

Acts 1997, No. 480, §2, eff. June 30, 1997.

#### §2824. Drinking Water Revolving Loan Fund

A. There is hereby established the Drinking Water Revolving Loan Fund, hereinafter referred to in this Chapter as the "drinking water loan fund", which shall be maintained and

operated by the Louisiana Department of Health. Federal capitalization grants, less any set-aside amounts authorized by this Chapter, which are received by the Louisiana Department of Health, office of public health, shall be deposited into or credited to the drinking water loan fund in compliance with the terms of the grant. State matching funds, when required or otherwise made available, shall be deposited directly in or credited to the drinking water loan fund in compliance with the terms of the capitalization grant agreement.

B. The Louisiana Department of Health, office of public health, shall segregate the funds associated with the drinking water loan fund as may be required by the federal act, grant agreements, or interagency agreements. The Louisiana Department of Health shall keep any accounts associated with the drinking water loan fund separate from any accounts associated with the Clean Water State Revolving Fund authorized in R.S. 30:2301 et seq.

C. The Louisiana Department of Health, office of public health, is authorized to claim and utilize all set-aside funding options available under the federal act. In accordance with the Intended Use Plan, such funding set-asides shall be reserved prior to any capitalization grant funds being transferred into the drinking water loan fund.

Acts 1997, No. 480, §2, eff. June 30, 1997; Acts 2003, No. 67, §3, eff. May 28, 2003; Acts 2010, No. 296, §4, eff. June 17, 2010.

#### §2825. Use of Drinking Water Revolving Loan Fund

A.(1) All monies within, credited to the accounts of, or to be received by the drinking water loan fund, including sums to be received pursuant to letters of credit, shall be expended, committed, or pledged in a manner consistent with the terms and conditions of the grants and other sources of said deposits, credits, and letters of credit and as provided in federal and state law.

(2) Such funds may be used:

(a) To provide financial assistance, to the extent authorized under state law, for the planning, design, construction, and rehabilitation of both publicly and privately owned community water systems, and of nonprofit non-community water systems, which systems are included on the state project priority list contained within the Intended Use Plan.

(b) To provide financial assistance for the acquisition of real property or interests therein, only when such acquisition is integral to a project otherwise authorized by this Chapter, and the purchase is from a willing seller at a fair market value.

(c) To provide loans at or below market interest rates, including interest free loans, for a period not to exceed twenty years from the completion date of the construction of a project so financed; however, loans made for projects for a disadvantaged community may have a period of up to thirty years if such loan period does not exceed the expected design life of the project. All such loans shall be subject to approval by the Louisiana Department of Health, office of public health.

(d) To purchase or refinance, at an interest rate that is less than or equal to the market interest rate, debt obligations incurred after July 1, 1993, for projects for public water systems owned by a governmental agency, public corporation, or public trust within the state.

(e) To guarantee or purchase insurance for debt obligations, if the total proceeds of which debt obligation support a project eligible for assistance under this Chapter, if such guarantee or purchase of insurance would improve credit market access or reduce the interest rate applicable for the obligation.

(f) To provide a source of revenue or security for the payment of principal, interest, or premium on revenue or general obligation bonds or other evidences of indebtedness issued by the Louisiana Department of Health, or any governmental agency, public corporation, public trust, or any other entity having the authority to issue debt for or on behalf of the state, if the net proceeds of such debt instruments are deposited in the drinking water loan fund, or are used to finance a project approved by the Louisiana Department of Health, office of public health, or are used to refund any obligation which finances a project approved under this Chapter.

(g) To provide loan subsidies to disadvantaged communities or to communities expected to become disadvantaged as a result of a proposed water system project; however, the total value of all such subsidies granted in any year shall not exceed thirty percent of the capitalization grant for that year.

(h) To provide for any other expenditure consistent with the capitalization grant agreement.

B. To the extent that monies within the drinking water loan fund are not required for current obligations or expenditure, such amounts may be invested in an interest-bearing account. All such interest earned on investments shall be credited to the drinking water loan fund.

C. Of the total funds credited to the drinking water loan fund annually, at least fifteen percent shall be available solely for the provision of loan assistance to public water

systems which regularly serve fewer than ten thousand persons, to the extent that there is a sufficient number of projects eligible and ready to receive such assistance.

D. Monies in the drinking water loan fund shall not be used to support monitoring, operation, or maintenance expenditures associated with public water systems.

E. Monies in the drinking water loan fund shall not be used to provide loans or other financial assistance for public water systems owned by federal agencies.

Acts 1997, No. 480, §2, eff. June 30, 1997; Acts 2003, No. 67, §3, eff. May 28, 2003.

#### §2826. Loan conditions and repayment

A. Upon approval of an application by the Louisiana Department of Health, office of public health, the Louisiana Department of Health may lend amounts on deposit in the Drinking Water Revolving Loan Fund to a public water system to finance all or a portion of the cost of an eligible project. Such loans are subject to the borrower's compliance with the conditions of the loan, as well as any applicable rules or regulations promulgated by the Louisiana Department of Health.

B. Prior to making a loan, the Louisiana Department of Health shall determine that the public water system has the ability to repay the unsubsidized portion of the loan, and may require a dedicated source of repayment and impose additional requirements as the department deems necessary.

C.(1) Each loan, unless prepaid, shall be payable subject to the loan agreement, with principal and interest payments commencing not later than one year after the completion date of the project for which the loan was made, and each loan shall be fully amortized not later than twenty years after the completion date.

(2)(a) An exception is made for loans for a disadvantaged community wherein an extended loan term has been granted in the loan agreement.

(b) In such case, principal and interest payments, as applicable, shall commence not later than one year after the completion date of the project for which the loan was made, and all of the following are true:

(i) The extended loan term terminates not later than the date that is thirty years after the completion date of the project.

(ii) The extended loan term does not exceed the expected design life of the project.

D.(1) Subject to the limitations of the federal act, the interest rate on each loan shall be established by the secretary of the Louisiana Department of Health in consultation with



the assistant secretary for the office of public health, Louisiana Department of Health. Criteria to be considered in the development of such interest rate shall include but is not limited to program priorities established within the Intended Use Plan, the tax status of the applicant, the creditworthiness of the applicant, the cost of bonds issued to provide loan funding, and the long-term viability of the Drinking Water Revolving Loan Fund.

(2) The interest rate for a loan may include any additional rate that the Louisiana Department of Health considers reasonable or necessary to provide a reserve for the repayment of the loan. The additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the rate established for any other loans.

E. Each loan shall be evidenced by a bond, note, or other evidence of indebtedness of the borrower, in a form prescribed or approved by the Louisiana Department of Health. Such evidences of indebtedness shall be consistent with the provisions of this Chapter and the federal act, and are not required to be identical for all loans.

F. As a condition to making a loan, the Louisiana Department of Health, office of public health, may impose a reasonable administrative fee, subject to the provisions of Article VII, Section 2.1 of the Constitution of Louisiana, which fee may be paid from the proceeds of the loan or other funds available to the owner of the public water system. The proceeds from such administration fee shall be deposited into a special interest bearing account and shall be specifically reserved for the payment of long-term administrative costs associated with the Drinking Water Revolving Loan Fund Program.

Acts 1997, No. 480, §2, eff. June 30, 1997; Acts 2003, No. 67, §3, eff. May 28, 2003.