

LEGISLATIVE BILL 726

Approved by the Governor April 16, 2008

Introduced by Natural Resources Committee: Louden, 49, Chairperson; Carlson, 38; Christensen, 44; Dubas, 34; Fischer, 43; Hudkins, 21; Kopplin, 3; Wallman, 30.

FOR AN ACT relating to the Wastewater Treatment Facilities Construction Assistance Act; to amend section 81-15,151, Reissue Revised Statutes of Nebraska, and section 81-15,153, Revised Statutes Cumulative Supplement, 2006; to change provisions relating the Wastewater Treatment Facilities Construction Loan Fund; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-15,151, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,151 (1) The Wastewater Treatment Facilities Construction Loan Fund is hereby created. The fund shall be held as a trust fund for the purposes and uses described in the Wastewater Treatment Facilities Construction Assistance Act.

The fund shall consist of federal capitalization grants, state matching appropriations, repayments of principal and interest on loans, and other money designated for the fund. The Director of Environmental Quality may make loans from the fund pursuant to the act and may use up to four percent of all federal capitalization grant awards to the fund for the reasonable cost of administering the fund and conducting activities under Title VI of the federal Clean Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for the security, investment, and repayment of bonds.

The fund and the assets thereof may be used, to the extent permitted by the Clean Water Act, as amended, and the regulations adopted and promulgated pursuant to such act, to pay or to secure the payment of bonds and the interest thereon, except that amounts deposited into the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

Prior to December 31, 1996, money or obligations from the Petroleum Release Remedial Action Cash Fund may be transferred to or deposited in the Wastewater Treatment Facilities Construction Loan Fund as designated by the Director of Environmental Quality. Prior to December 31, 1996, the fund and the assets thereof, including federal capitalization grants, not otherwise pledged for inconsistent purposes may be, to the extent permitted by the Clean Water Act, as amended, and the regulations adopted and promulgated pursuant to such act, in whole or in part transferred to or invested in obligations of the Petroleum Release Remedial Action Cash Fund at the direction of the director in a manner consistent with section 66-1519.01.

(2) There is hereby created the Construction Administration Fund. Any funds available for administering loans or fees collected pursuant to the Wastewater Treatment Facilities Construction Assistance Act shall be deposited in such fund. The fund shall be administered by the department for the purposes of the act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings shall be credited to the fund.

The fund and assets thereof may be used, to the extent permitted by the Clean Water Act and the regulations adopted and promulgated pursuant to such act, to fund subdivisions (9), (10), and (11) of section 81-15,153. The annual obligation of the state pursuant to subdivisions (9) and (11) of such section shall not exceed sixty-five percent of the revenue from administrative fees collected pursuant to this section in the prior fiscal year.

The director may transfer any money in the Construction Administration Fund to the Wastewater Treatment Facilities Construction Loan Fund to meet the nonfederal match requirements of any applicable federal

capitalization grants or to meet the purposes of subdivision (9) of section 81-15,153.

Sec. 2. Section 81-15,153, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-15,153 The department shall have the following powers and duties:

(1) The power to establish a program to make loans to municipalities or to counties, individually or jointly, for construction or modification of publicly owned wastewater treatment works in accordance with the Wastewater Treatment Facilities Construction Assistance Act and the rules and regulations of the council adopted and promulgated pursuant to such act;

(2) The power to establish a program to make loans to municipalities or to counties for construction, rehabilitation, operation, or maintenance of nonpoint source control systems in accordance with the Wastewater Treatment Facilities Construction Assistance Act and the rules and regulations of the council adopted and promulgated pursuant to such act;

(3) The power, if so authorized by the council pursuant to section 81-15,152, to execute and deliver documents obligating the Wastewater Treatment Facilities Construction Loan Fund and the assets thereof to the extent permitted by section 81-15,151 to repay, with interest, loans to or deposits into the fund and to execute and deliver documents pledging to the extent permitted by section 81-15,151 all or part of the fund and its assets to secure, directly or indirectly, the loans or deposits;

(4) The duty to prepare an annual report for the Governor and the Legislature containing information which shows the financial status of the program;

(5) The duty to establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods, including the following:

(a) Accounting from the Nebraska Investment Finance Authority for the costs associated with the issuance of bonds pursuant to the act;

(b) Accounting for payments or deposits received by the fund;

(c) Accounting for disbursements made by the fund; and

(d) Balancing the fund at the beginning and end of the accounting period;

(6) The duty to establish financial capability requirements that assure sufficient revenue to operate and maintain a facility for its useful life and to repay the loan for such facility;

(7) The power to determine the rate of interest to be charged on a loan in accordance with the rules and regulations adopted and promulgated by the council;

(8) The power to enter into required agreements with the United States Environmental Protection Agency pursuant to the Clean Water Act;

(9) The power to ~~make~~ enter into agreements to provide grants concurrent with loans to municipalities with populations of ~~five~~ ten thousand inhabitants or less which demonstrate serious financial hardships. ~~The annual obligation to the state shall not exceed five hundred thousand dollars.~~ The department may authorize grants for up to one-half of the eligible project cost. ~~Such state allocations~~ grants shall contain a provision that payment of the amount allocated is conditional upon the availability of appropriated funds;

(10) The power to authorize emergency grants to municipalities with wastewater treatment facilities which have been damaged or destroyed by natural disaster or other unanticipated actions or circumstances. Such grants shall not be used for routine repair or maintenance of facilities;

(11) The power to ~~make grants for community assessments and facility planning~~ provide financial assistance to municipalities with populations of ~~five~~ ten thousand inhabitants or less ~~for completion of engineering studies, research projects, investigating low-cost options for achieving compliance with the Clean Water Act, encouraging wastewater reuse, and conducting other studies for the purpose of enhancing the ability of communities to meet the requirements of the Clean Water Act. which demonstrate serious financial hardships.~~ ~~The annual obligation to the state shall not exceed one hundred fifty thousand dollars.~~ The department may authorize ~~grants~~ financial assistance for up to ninety percent of the eligible project cost. Such state allocation shall contain a provision that payment of the amount obligated is conditional upon the availability of appropriated funds; and

(12) Such other powers as may be necessary and appropriate for the exercise of the duties created under the Wastewater Treatment Facilities Construction Assistance Act.

Sec. 3. Original section 81-15,151, Reissue Revised Statutes of Nebraska, and section 81-15,153, Revised Statutes Cumulative Supplement, 2006, are repealed.