

## LEGISLATIVE BILL 164

Approved by the Governor March 20, 2003

Introduced by Schrock, 38; Baker, 44; Cudaback, 36

AN ACT relating to environmental protection; to amend section 81-15,149, Reissue Revised Statutes of Nebraska, and section 81-15,153, Revised Statutes Supplement, 2002; to change provisions relating to the Wastewater Treatment Facilities Construction Assistance Act; to redefine a term; to provide for and change provisions relating to grants to municipalities; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 81-15,149, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,149. As used in the Wastewater Treatment Facilities Construction Assistance Act, unless the context otherwise requires:

(1) Clean Water Act means the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.;

(2) Construction means any of the following: Preliminary planning to determine the feasibility of wastewater treatment works or nonpoint source control systems; engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, designs, plans, working drawings, specifications, procedures, or other necessary preliminary actions; erection, building, acquisition, alteration, remodeling, improvement, or extension of wastewater treatment works or nonpoint source control systems; or the inspection or supervision of any of the foregoing items;

(3) Council means the Environmental Quality Council;

(4) County means any county authorized to construct a sewerage disposal system and plant or plants pursuant to the County Industrial Sewer Construction Act;

(5) Department means the Department of Environmental Quality;

(6) Fund means the Wastewater Treatment Facilities Construction Loan Fund;

(7) Municipality means any city, town, village, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes;

(8) Nonpoint source control systems means projects which relate to landfill monitoring and remediation, wellhead area protection, or stormwater management establish the use of methods, measures, or practices to control the pollution of surface waters and ground water that occurs as pollutants are transported by water from diffuse or scattered sources. Such projects include, but are not limited to, structural and nonstructural controls and operation and maintenance procedures applied before, during, and after pollution-producing activities. Sources of nonpoint source pollution may include, but are not limited to, agricultural, forestry, and urban lands, transportation corridors, stream channels, mining and construction activities, livestock operations, septic tank systems, underground storage tanks, landfills, and atmospheric deposition;

(9) Operate and maintain means all necessary activities including the normal replacement of equipment or appurtenances to assure the dependable and economical function of a wastewater treatment works or nonpoint source control systems in accordance with its intended purpose; and

(10) Wastewater treatment works means the structures, equipment, and processes required to collect, transport, and treat domestic or industrial wastes and to dispose of the effluent and sludges.

Sec. 2. Section 81-15,153, Revised Statutes Supplement, 2002, 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;  ~~- The department shall propose such rules and regulations to the council no later than July 1, 1997.~~

(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 grants concurrent with loans to municipalities with populations of eight hundred five 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 shall contain a provision that payment of the amount allocated is conditional upon the availability of appropriated funds;  ~~- All funds shall be appropriated to Agency No. 84 — Department of Environmental Quality, Program No. 523 — Wastewater Facilities Construction Assistance Program, to meet payment requirements as they occur.~~

(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;  ~~and~~

(11) The power to make grants for community assessments and facility planning to municipalities with populations of five thousand inhabitants or less which demonstrate serious financial hardships. The annual obligation to the state shall not exceed one hundred fifty thousand dollars. The department may authorize grants 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 81-15,149, Reissue Revised Statutes of Nebraska, and section 81-15,153, Revised Statutes Supplement, 2002, are repealed.