

ENROLLED HOUSE
BILL NO. 1084

By: Beutler of the House

and

Harrison of the Senate

An Act relating to waters and water rights; amending Section 3, Chapter 191, O.S.L. 1994, Section 4, Chapter 191, O.S.L. 1994, Section 5, Chapter 191, O.S.L. 1994, Section 12, Chapter 191, O.S.L. 1994 and Section 13, Chapter 191, O.S.L. 1994 (82 O.S. Supp. 1996, Sections 1085.73, 1085.74, 1085.75, 1085.82 and 1085.83), which relate to the Drinking Water Treatment Revolving Loan Account; updating and clarifying language; modifying provisions relating to monies authorized to be maintained; providing for program set-asides; modifying purposes; modifying eligibility criteria; modifying and adding to powers of duties of the Oklahoma Water Resources Board and the Department of Environmental Quality; changing reporting requirements; providing for utilization of additional monies; adding to certain monies available for loans; creating a Drinking Water Treatment Loan Administrative Fund; providing for purpose; providing for use, deposits and expenditures; authorizing certain investment and transfers; amending 62 O.S. 1991, Section 203, as last amended by Section 5, Chapter 348, O.S.L. 1996 (62 O.S. Supp. 1996, Section 203), which relates to apportionment of certain monies; providing for deposit of interest; repealing Sections 8 and 14, Chapter 191, O.S.L. 1994 (82 O.S. Supp. 1996, Sections 1085.78 and 1085.84), which relate to evaluations and revenue sources; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 3, Chapter 191, O.S.L. 1994 (82 O.S. Supp. 1996, Section 1085.73), is amended to read as follows:

Section 1085.73 A. Within the Water Resources Fund created pursuant to Section 1085.33 of ~~Title 82 of the Oklahoma Statutes~~ this title, there is hereby created the "Drinking Water Treatment Revolving Loan Account". For purposes of implementing the federal Safe Drinking Water Act, said account shall be the drinking water treatment state revolving loan fund required to be established by the federal Safe Drinking Water Act. The Drinking Water Treatment Revolving Loan Account shall be set apart as a permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. ~~All monies~~ Monies received pursuant and subject to the restrictions of the federal Safe Drinking Water Act which are eligible for use in state revolving loan funds established to meet the requirements of that act;
2. Monies appropriated to the account;
3. Payments of principal and interest and penalty payments on loans made directly from federal grant monies and state-appropriated monies in the account;
4. Payments of principal and interest and penalty payments on loans made from the proceeds of the sale of investment certificates in the account or as may be provided in applicable bond resolutions or indentures as appropriate;
5. All income from the investment of monies held in the account consistent with applicable bond resolutions or indentures as allowed by the federal Safe Drinking Water Act;
6. Proceeds from the sale of investment certificates issued to provide water treatment loans pursuant to the provisions of this act except as otherwise provided by the applicable bond resolutions or indentures as appropriate; and
7. Any other sums designated for deposit to the account from any source, public or private.

B. The principal amounts of the federal capitalization grants, less program set-asides, and state matching funds in the Drinking Water Treatment Revolving Loan Account shall be maintained for providing financial assistance in accordance with the federal Safe Drinking Water Act.

C. The monies in the Drinking Water Treatment Revolving Loan Account shall be used for the purpose of making loans to eligible entities pursuant to the provisions of this act or for such other purposes authorized by the federal Safe Drinking Water Act.

D. The monies placed in the Drinking Water Treatment Revolving Loan Account shall be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, in the manner consistent with the provisions of the federal Safe Drinking Water Act. Monies invested by the State Treasurer shall be available to meet program needs for funding as established by the Department.

E. Notwithstanding the provisions of Section 1085.39 of ~~Title 82 of the Oklahoma Statutes~~ this title, the Board shall not use funds in the Drinking Water Treatment Revolving Loan Account established in the Water Resources Fund to make grants.

SECTION 2. AMENDATORY Section 4, Chapter 191, O.S.L. 1994 (82 O.S. Supp. 1996, Section 1085.74), is amended to read as follows:

Section 1085.74 A. All funds available in the Drinking Water Treatment Revolving Loan Account shall first be used to assure maintenance of progress towards compliance with enforceable deadlines, goals and requirements of the Oklahoma Environmental Quality Code and the federal Safe Drinking Water Act.

B. The Board shall use the Drinking Water Treatment Revolving Loan Account only as provided by the federal Safe Drinking Water Act for the following purposes:

1. To make a loan to an eligible entity if:
 - a. the loan application, project and planning documents have been approved by the Department and or Board ~~pursuant to Section 8 of this act,~~

- b. the loan is made at or below market interest rates, including interest-free loans, at terms consistent with the federal Safe Drinking Water Act,
 - c. principal and interest payments will begin not later than one (1) year after completion of any drinking water treatment project and all loans will be fully amortized consistent with the federal Safe Drinking Water Act,
 - d. the Drinking Water Treatment Revolving Loan Account will be credited with all payments of principal of and interest on all loans,
 - e. the applicant demonstrates to the satisfaction of the Board the legal, managerial and financial capability to assure sufficient revenues to pay debt service,
 - f. the recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan, and
 - g. the recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the treatment works, and to submit the audit report to the Board on a scheduled annual basis;
2. To buy or refinance eligible entity obligations at or below market rates where the debt obligation was incurred after July 1, 1993;
3. To guarantee or purchase insurance for eligible entities if the guarantee or insurance would improve access to market credit or reduce interest rates;
4. As a source of revenue or security for the payment of principal of and interest on any investment certificate issued by the Board. The proceeds of the sale of such investment certificates shall be deposited in the Drinking Water Treatment Revolving Loan Account in compliance with applicable bond resolutions or indentures authorizing the sale;
- ~~5. As a source of revenue or security for the payment of interest on a local obligation, if the payment from the Drinking Water Treatment Revolving Loan Account does not reduce the effective interest rate of the obligation by more than 2.5 percentage points;~~
- ~~6. To earn interest on accounts established under the Drinking Water Treatment Revolving Loan Account;~~
- ~~7. To administer the Drinking Water Treatment Revolving Loan Account pursuant to the provisions of this act. All funds to be utilized for administrative costs from the Drinking Water Treatment Revolving Loan Account shall be subject to annual designation by the State Legislature; and~~
- ~~8.~~ 6. For such other purpose or in such other manner, as is determined by the Board to be an appropriate use of the Drinking Water Treatment Revolving Loan Account and which has been specifically approved by the Environmental Protection Agency pursuant to the federal Safe Drinking Water Act.

SECTION 3. AMENDATORY Section 5, Chapter 191, O.S.L. 1994 (82 O.S. Supp. 1996, Section 1085.75), is amended to read as follows:

Section 1085.75 A. In addition to other powers and duties provided by law, the Department of Environmental Quality shall have the power and duty to:

- 1. Prepare and maintain the priority list for treatment works;
- 2. Review and assess the planning ~~and preliminary financial~~ documents for and cost effectiveness of drinking water treatment projects on the priority list;

3. Determine drinking water treatment project feasibility and the entities' eligibility to receive funding from the Drinking Water Treatment Revolving Loan Account;

4. Determine which ~~applications~~ projects should be referred to the Board for loans from the Drinking Water Treatment Revolving Loan Account;

5. Perform any required environmental review and make any required environmental determinations in accordance with any necessary environmental review process approved by the Environmental Protection Agency;

6. Provide oversight and technical assistance during the planning, design, and construction phase of the drinking water treatment project for which the entity is applying for such loan; ~~and~~

7. Be the instrumentality to make application to the Environmental Protection Agency for the capitalization grant ~~which is to be placed in the Drinking Water Treatment Revolving Loan Account,~~ and enter into the capitalization grant agreement, and be the recipient of the capitalization grant; and

8. Assess the technical capability of an applicant to ensure compliance with the federal Safe Drinking Water Act over the long term.

B. In determining the cost effectiveness of any drinking water treatment project, the Department shall require the preparation of a cost effective analysis of feasible drinking water treatment or conveyance alternatives capable of meeting state and federal drinking water standards and public health requirements. ~~The cost effective analysis shall detail all monetary costs including but not limited to the present worth or equivalent annual value of all capital costs and operation, maintenance and replacement costs. The alternative selected shall be the most economical means of meeting applicable state and federal drinking water standards or public health requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations determined to be relevant by the Department.~~

SECTION 4. AMENDATORY Section 12, Chapter 191, O.S.L. 1994 (82 O.S. Supp. 1996, Section 1085.82), is amended to read as follows:

Section 1085.82 In order to comply with the requirements of federal and state laws, the Department of Environmental Quality and the Oklahoma Water Resources Board shall enter into a written joint operating agreement to carry out with efficiency their respective duties under this act. At a minimum, the agreement shall provide for the following:

1. Joint procedures consistent with this act to establish criteria for determining the interest rates on loans to be made from the Drinking Water Treatment Revolving Loan Account. Such criteria may incorporate applicable United States Environmental Protection Agency and ~~Farmers Home~~ Rural Development Administration guidelines for financial assistance; and

2. Submission of an annual joint report by the Department and the Board to the Governor and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within one hundred twenty (120) days of the end of each fiscal year concerning the Drinking Water Treatment Revolving Loan Account and implementation of the provisions of this act. The report shall contain information to show the actual use and the recipients of loans made from the Drinking Water Treatment Revolving Loan Account. In addition, the report shall contain five-year demand projections on anticipated loan funds required and ten-year and twenty-year

projections as to possible funding needs for drinking water treatment projects which may be eligible for financial assistance pursuant to this act.

SECTION 5. AMENDATORY Section 13, Chapter 191, O.S.L. 1994 (82 O.S. Supp. 1996, Section 1085.83), is amended to read as follows:

Section 1085.83 A. The Department of Environmental Quality shall prepare an annual intended use plan with the cooperation of the Board and shall submit such plan to the United States Environmental Protection Agency. The plan shall contain all information required by pertinent provisions of the federal Safe Drinking Water Act and may contain such other information as the Department may determine. An opportunity for public review of and comment on the plan before submittal shall be provided.

B. The Department shall prepare ~~an annual~~ a biennial report with the cooperation of the Board and shall submit such report to the United States Environmental Protection Agency. The ~~annual~~ biennial report shall contain all information required by pertinent provisions of the federal Safe Drinking Water Act and may contain such other information as required by the Capitalization Grant Agreement.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1085.84A of Title 82, unless there is created a duplication in numbering, reads as follows:

A. In order to administer the Drinking Water Treatment Revolving Loan Account, there is hereby created in the State Treasury a "Drinking Water Treatment Loan Administrative Fund". The Drinking Water Treatment Loan Administrative Fund shall be set apart from all other Board accounts and funds and shall be a permanent and perpetual fund not subject to fiscal year limitations. The Drinking Water Treatment Loan Administrative Fund shall consist of monies deposited into the fund from the following sources:

1. Application processing and loan administrative fees collected by the Board on Drinking Water Treatment Revolving Loan Account loans; and

2. Any other funds, whether public or private, that have been designated by the source thereof for deposit in the Drinking Water Treatment Loan Administrative Fund.

B. Monies in, or investment income derived from, the Drinking Water Treatment Loan Administrative Fund shall be restricted and used solely for the purpose of administering the Drinking Water Treatment Revolving Loan Account or as otherwise authorized by the federal Safe Drinking Water Act or guidance or regulations promulgated thereunder. Monies in the Drinking Water Treatment Loan Administrative Fund, or investment income derived therefrom, shall be used by the Board and Department in carrying out their responsibilities as provided in the written annual joint operating agreement identified in Section 1085.82 of Title 82 of the Oklahoma Statutes and shall be subject to annual designation by the State Legislature.

C. The monies placed in the Drinking Water Treatment Loan Administrative Fund may be invested by the State Treasurer in an adequately collateralized manner and as prescribed by Section 89.2 of Title 62 of the Oklahoma Statutes or pursuant to investment contracts or agreements with entities maintaining a rating in the top two categories by a nationally recognized municipal bond rating agency, all in a manner consistent with the federal Safe Drinking Water Act or regulations promulgated thereunder. The Oklahoma Water Resources Board may transfer to the Drinking Water Treatment Loan Administrative Fund income derived from investment of the fund.

Monies invested by the State Treasurer shall be available to meet administrative funding needs.

D. The Board is authorized to transfer monies from the Drinking Water Treatment Loan Administrative Fund into the Drinking Water Treatment Revolving Loan Account to be utilized for purposes consistent with the federal Safe Drinking Water Act.

E. The Board shall cause to be completed an annual audit of any expenditures from the Drinking Water Treatment Loan Administrative Fund.

SECTION 7. AMENDATORY 62 O.S. 1991, Section 203, as last amended by Section 5, Chapter 348, O.S.L. 1996 (62 O.S. Supp. 1996, Section 203), is amended to read as follows:

Section 203. A. Except as otherwise provided by subsection B of this section, all monies that may come into the State Treasury, pursuant to the provisions of Section 201 et seq. of this title, together with all amounts that may be received by the State Treasurer as investment income or as interest on average daily bank balances, including investment income or interest on deposits from funds deposited to the credit of the Constitutional Reserve Fund created pursuant to Section 23 of Article 10 of the Oklahoma Constitution, shall be apportioned and credited to the General Revenue Fund for the current year.

B. The provisions of subsection A of this section shall not apply to:

1. Interest received on deposits from funds under the control of the Commissioners of the Land Office;

2. Funds in the Department of Human Services Federal Disallowance Fund;

3. Interest received on deposits from funds under the control of the Santa Claus Commission;

4. The Risk Management Revolving Fund; ~~and~~

5. Investment income and interest received from funds in the Quartz Mountain Revolving Fund from insurance claims;

6. The Drinking Water Treatment Revolving Loan Account and the Drinking Water Treatment Loan Administrative Fund; and

7. The Wastewater Facility Construction Revolving Loan Account.

SECTION 8. REPEALER Sections 8 and 14, Chapter 191, O.S.L. 1994 (82 O.S. Supp. 1996, Sections 1085.78 and 1085.84), are hereby repealed.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 7th day of May, 1997.

Speaker of the House of Representatives

Passed the Senate the 8th day of May, 1997.

President

of the Senate