

LEGISLATIVE BILL 623

Approved by the Governor March 27, 1989

Introduced by Natural Resources Committee, Schmit, 23,
Chairperson; Elmer, 38; Weihing, 48;
Beck, 8; Morrissey, 1; Lamb, 43

AN ACT relating to environmental protection; to amend sections 81-15,151, 81-15,152, 81-15,154, and 81-15,158, Revised Statutes Supplement, 1988; to change a provision relating to the Wastewater Treatment Facilities Construction Loan Fund; to create a fund; to provide for discounted interest rates for certain loans; to change provisions relating to categories of loan eligibility as prescribed; to change provisions relating to nonpayment of loans by municipalities; and to repeal the original sections.

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

Section 1. That section 81-15,151, Revised Statutes Supplement, 1988, be amended to read as follows:

81-15,151. There is hereby created in the state treasury a cash fund to be known as the Wastewater Treatment Facilities Construction Loan Fund. The department shall maintain the following separate accounts for four distinct activities: (1) An administration account; (2) a federal allocations account; (3) a state allocations account; and (4) an investment earnings account. The administration account, the federal allocations account, and the state allocations account shall comprise the water pollution control revolving fund required by Title VI, section 601 et seq., of the Clean Water Act.

The administration account shall consist of any funds available for administering construction loans pursuant to the Wastewater Treatment Facilities Construction Assistance Act or section 603(d)(7) of the Clean Water Act. The director may pay the reasonable costs of administering loans and of other necessary activities.

The federal allocations account shall consist of federal capitalization grants pursuant to section 601 of the Clean Water Act and repayments of principal and interest on loans. The director may make loans from the

federal allocations account pursuant to the Wastewater Treatment Facilities Construction Assistance Act.

The state allocations account shall consist of state appropriations necessary to qualify for federal capitalization grants, repayments of principal and interest on loans, and other money designated for the fund. The director may make loans from the state allocations account pursuant to the Wastewater Treatment Facilities Construction Assistance Act.

The investment earnings account shall consist of investment earnings on any invested balance in the fund. The legislature may transfer funds from the investment earnings account to the state allocations account.

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 Control may make loans from the fund pursuant to the Wastewater Treatment Facilities Construction Assistance 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 Clean Water Act. The state investment officer shall invest any money in the Wastewater Treatment Facilities Construction Loan Fund available for investment pursuant to sections 72-1237 to 72-1276. Investment earnings shall be credited to the fund.

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 Construction Administration Fund fund available for investment pursuant to sections 72-1237 to 72-1269 72-1276. Investment earnings shall be credited to the investment earnings account of the fund Construction Administration Fund.

Sec. 2. That section 81-15,152, Revised Statutes Supplement, 1988, be amended to read as follows:

81-15,152. The council shall have the following powers and duties:

(1) The power to adopt and promulgate rules and regulations to govern the application procedure and requirements for making loans under the Wastewater Treatment Facilities Construction Assistance Act;

(2) The power to adopt a system for the ranking of wastewater treatment construction projects with known needs or for which loan applications have been received by the department. In establishing the system the council shall consider, among other things, the severity of pollution, public health, water quality impact, population, financial capability, and eligibility of the construction project for federal or state funds. This priority system shall be reviewed annually by the council;

(3) The power to adopt a system of establishing interest rates to be charged on loans. The system shall presume that the current market interest rate shall be charged unless a municipality demonstrates a serious financial hardship. The system may allow discounted interest rates for short-term loans. The following factors shall be considered when making a determination of serious financial hardship: Income level of residents; amount of debt and debt service requirements; and level of user fees in both absolute terms and relative to income of residents;

(4) The power to create an administrative fee to be assessed on a loan for the purpose of administering the Wastewater Treatment Facilities Construction Assistance Act. Such fee shall be based on the availability of federal funding for such purpose and the projected administrative needs for carrying out the purposes of the act; and

(5) The power to determine the maximum amount of any one loan or combination of loans for any single municipality.

Sec. 3. That section 81-15,154, Revised Statutes Supplement, 1988, be amended to read as follows:

81-15,154. Categories of loan eligibility shall include: Secondary or tertiary treatment and appurtenances; infiltration and inflow correction; major sewer system rehabilitation; new collector sewers and appurtenances; new interceptors and appurtenances; land integral to the treatment process; and correction of combined sewer overflows. Loans shall be made only for eligible items within such categories. For loans made entirely from state funds, eligible items shall include, but not be limited to, the costs of engineering services and contracted construction. Eligible items shall not include the costs of water rights, land, easements, and rights-of-way, legal costs, fiscal agent's fees, operation and maintenance costs, and municipal administrative costs. For loans made in whole or in

part from federal funds, eligible items shall be those identified pursuant to the Clean Water Act.

Sec. 4. That section 81-15,158, Revised Statutes Supplement, 1988, be amended to read as follows:

81-15,158. If a municipality fails to pay any charge imposed make any payment pursuant to a loan repayment within sixty days of the date due, such charge payment shall be deducted from the amount of aid to municipalities to which the municipality is entitled under sections 77-27,136 to 77-27,137.01. Such amount shall be paid directly to the Wastewater Treatment Facilities Construction Loan Fund, ~~as appropriate.~~

Sec. 5. That original sections 81-15,151, 81-15,152, 81-15,154, and 81-15,158, Revised Statutes Supplement, 1988, are repealed.