

CHAPTER 38**(SB 127)**

AN ACT relating to revolving funds of the Kentucky Infrastructure Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224A.111 is amended to read as follows:

- (1) The federally-assisted wastewater revolving fund shall be established in the State Treasury and shall be administered by the authority under an agreement with the natural resources cabinet to assure compliance with the federal act.
- (2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to ***securing the payment of the principal of, interest on, and premium, if any, of revenue bonds issued by the authority under subsection (5) of this section which are to be secured solely by loan payments made by governmental agencies that have been deposited in the fund, making transfers to the federally-assisted water supply revolving fund, and*** providing financial assistance to government agencies for the construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.
- (3) The authority may enter into grant agreements with the administrator of the United States Environmental Protection Agency and accept capitalization grants for the revolving fund in accordance with payment schedules established with the administrator.
- (4) All payments from the administrator pursuant to subsection (3) of this section shall be deposited in the dedicated revolving fund.
- (5) The authority may issue its revenue bonds or seek appropriations for deposit into the revolving fund, including the amounts required to match the capitalization grants from the administrator. An amount not exceeding the amount permitted by the federal act may be used for the reasonable costs of administering the fund, for reviewing and regulating project construction and for other reasonable costs of complying with the federal act.
- (6) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to:
 - (a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans; that annual principal and interest payments will commence no later than when project construction is completed and all loans will be fully amortized not later than twenty (20) years after project construction is completed; that the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and that the fund will be credited with all payments of principal and interest on all loans;
 - (b) Guaranteeing, or purchasing insurance for obligations of the fund where the action would improve credit market access or reduce interest rates;
 - (c) Providing moneys with which to carry out the requirements of assistance agreements; and

- (d) Providing a source of revenue or security for the payment of principal and interest on bonds or notes issued by the authority or agencies of the state if the proceeds of the sale of the bonds will be deposited in the fund.
- (7) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity solely for its stated purposes.
- (8) The authority shall obligate all payments from the administrator of the United States Environmental Protection Agency as well as the required state match, within one (1) year after the receipt of the payments.
- (9) Financial assistance may be provided from the fund only for those infrastructure projects which the Finance and Administration Cabinet has approved from the prioritization schedule prepared by the natural resources cabinet.
- (10) The authority may make and condition loans from the fund as required by state or federal law.
- (11) The authority shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for payments and disbursements received and made by the revolving fund and for fund balances at the beginning and end of the accounting period.
- (12) The authority or the natural resources cabinet may make or prepare any necessary or required plan or report.
- (13) The authority or the natural resources cabinet or the loan recipient shall make available to the administrator of the United States Environmental Protection Agency records which the administrator reasonably requires to review in order to determine compliance with any applicable provision of law.
- (14) The authority may enter into any necessary or required agreement and give or make any necessary or required assurance or certification with any person to receive payments or grants or to make or provide any financial assistance.
- (15) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.
- (16) If a loan is made from the federally-assisted wastewater revolving fund which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly-owned treatment works, the state shall ensure that if the recipient of the loan receives a grant under section 201(g) of the federal act for construction of such treatment works and an allowance under section 201(1)(l) of the federal act for nonfederal funds expended for the planning and preparation, the recipient shall promptly repay the loan to the extent of the allowance.
- (17) Financial assistance may be provided from the federally assisted wastewater revolving fund only with respect to a project which is consistent with plans, if any, developed under Sections 205(j), 208, 303(e), 319, and 320 of the federal act, as amended.
- (18) The authority shall require as a condition of making a loan or providing other assistance, as described in KRS 224A.100(6), from the fund that the recipient of the assistance shall maintain project accounts in accordance with generally-accepted governmental accounting standards.

- (19) Assistance may be provided from the fund, other than under subsection (6)(a) of this section, to a governmental agency with respect to the nonfederal share of the costs of a treatment works project for which the governmental agency is receiving assistance from the administrator of the United States Environmental Protection Agency under any other authority only if the assistance, as determined by the Finance and Administration Cabinet, is necessary to allow the project to proceed.

Section 2. KRS 224A.1115 is amended to read as follows:

- (1) The federally-assisted water supply revolving fund shall be established in the State Treasury and shall be administered by the authority under an agreement with the natural resources cabinet to assure compliance with the federal act.
- (2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to *securing the payment of the principal of, interest on, and premium, if any, of revenue bonds issued by the authority under subsection (5) of this section which are to be secured solely by loan payments made by governmental agencies that have been deposited in the fund, making transfers to the federally-assisted water supply revolving fund, and* providing financial assistance to government agencies for the construction of publicly-owned water supply projects.
- (3) The authority may enter into grant agreements with the administrator of the United States Environmental Protection Agency and accept capitalization grants for the revolving fund in accordance with payment schedules established with the administrator of the United States Environmental Protection Agency.
- (4) All payments from the administrator of the United States Environmental Protection Agency pursuant to subsection (3) of this section shall be deposited in the dedicated revolving fund.
- (5) The authority may issue its revenue bonds or seek appropriations for deposit into the revolving fund, including the amounts required to match the capitalization grants from the administrator of the United States Environmental Protection Agency. An amount not exceeding the amount permitted by the federal act may be used for the reasonable costs of administering the fund, for reviewing and regulating project construction and for other reasonable costs of complying with the federal act.
- (6) The authority shall make any loan from the revolving fund subject to those conditions established by state or federal law.
- (7) The revolving fund shall be established, maintained, and credited with repayments and the fund balance shall be available in perpetuity solely for its stated purposes.
- (8) Financial assistance may be provided from the fund only for those infrastructure projects which the Finance and Administration Cabinet has approved from the prioritization schedule prepared by the natural resources cabinet.
- (9) The authority shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for payments and disbursements received and made by the revolving fund and for fund balances at the beginning and end of the accounting period.
- (10) The authority or the natural resources cabinet may make or prepare any necessary or required plan or report.

- (11) The authority or the natural resources cabinet or the loan recipient shall make available to the administrator of the United States Environmental Protection Agency records which the administrator reasonably requires to review in order to determine compliance with any applicable provision of law.
- (12) The authority may enter into any necessary or required agreement and give or make any necessary or required assurance or certification with any person to receive payments or grants or to make or provide any financial assistance.
- (13) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.
- (14) If the loan is made from the federally-assisted water supply revolving fund which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly-owned water supply projects, the state shall ensure that if the recipient of the loan receives a grant under the federal act for construction of those water supply projects and an allowance under the federal act for nonfederal funds expended for the planning and preparation, the recipient shall promptly repay the loan to the extent of the allowance.
- (15) Financial assistance may be provided from the federally-assisted water supply revolving fund only with respect to a project which is consistent with plans, if any, developed under the federal act, as amended.
- (16) The authority shall require as a condition of making a loan or providing other assistance, as described in KRS 224A.100(6), from the fund that the recipient of the assistance shall maintain project accounts in accordance with generally-accepted governmental accounting standards.
- (17) Assistance may be provided from the fund to a governmental agency with respect to the nonfederal share of the costs of a water supply system project for which the governmental agency is receiving assistance from the administrator of the United States Environmental Protection Agency under any other authority only if the assistance is necessary to allow the project to proceed, as determined by the Finance and Administration Cabinet.

Section 3. KRS 224A.165 is amended to read as follows:

- (1) The authority may, in connection with the issuance of its revenue bonds and notes for the accomplishment of its public purposes pursuant to this chapter, establish in respect of the revenue bonds and notes reserve funds or replacement funds required in the sound discretion of the board of the authority in order to enable the authority to effectuate its proper public purposes, and to issue revenue bonds and notes in the most advantageous manner. If any reserve fund or replacement fund created by the authority in connection with any revenue bond issue or note issue should, in violation of any contract made by the authority with any bond holder or note holder, be monetarily deficient in any respect as of any date of accounting stipulated by the authority, the authority shall immediately make formal request in writing to the secretary of the Finance and Administration Cabinet, and to the Governor of Kentucky, that sums adequate to restore the reserve fund or replacement fund to its contractually required level and to pay any overdue principal and interest on any outstanding revenue bonds and notes of the authority be included in the next succeeding executive budget, and that the budget request be presented to the General Assembly of Kentucky with recommendation for approval by the General Assembly for payment to the authority for the use and benefit of the reserve fund or replacement fund.

- (2) If the provisions of KRS 56.870(3) are determined to apply to a revenue bond or note, and if the proceeds of the bond or note are made available to a governmental agency or private entity, and if the debt is not fully guaranteed by the United States government or secured by a nationally recognized entity authorized to issue guarantees and rated in the highest rating category by at least one (1) of the nationally recognized rating services, the authority shall obtain approval from the General Assembly in accordance with the provisions of KRS 56.870(1) prior to the issuance of the bonds or notes. Notwithstanding the foregoing, no such approval shall be required for the following issues of bonds or notes:
- (a) Refunding bonds or notes which are issued for the purpose of achieving debt service savings and which do not extend the term of the refunded bonds;
 - (b) Bonds or notes~~[issued to provide interim construction financing to governmental agencies which mature no later than three (3) years from their date of issuance if the aggregate principal amount of the bonds or notes outstanding under any trust indenture or bond resolution does not exceed the sum of sixty million dollars (\$60,000,000);~~
 - (c) ~~Bonds or notes having a final maturity extending beyond three (3) years, the principal and premium, if any, and interest on which are secured primarily by repayments of loans made to the governmental agency or private entity,]~~ if the aggregate principal amount of the bonds or notes outstanding under any trust indenture or bond resolution does not exceed the sum of *five hundred million dollars (\$500,000,000)*~~[one hundred twenty five million dollars (\$125,000,000)].~~

The incremental amount of principal debt incurred by issuing refunding bonds or notes which are issued for the purpose of achieving debt service savings and which do not extend the term of the refunded bond or note, shall not be subject to the limits defined in *paragraph*~~[paragraphs] (b)[and (c)].~~

Approved March 12, 2003