

1 AN ACT relating to public water and wastewater systems and declaring an
2 emergency.

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

4 ➔Section 1. KRS 224A.320 is amended to read as follows:

5 (1) As used in KRS 224A.320 to 224A.325:

6 (a) "Board" means the Kentucky Infrastructure Authority board established in
7 KRS 224A.030;

8 (b) "Eligible funding recipient" means a public water or wastewater system that
9 meets **three (3)**~~one (1)~~ or more of the criteria listed in subsection (7)(d)1. to
10 ~~8.19.~~ of this section;

11 (c) "Eligible project" means a project that would require capital or non-capital
12 expenses including but not limited to expenses relating to:

13 1. Developing technical, operational, and maintenance resources and
14 expertise;

15 2. Improving utility infrastructure planning, repair, maintenance,
16 renovation, and management of plants and assets;

17 3. Obtaining technical expertise in areas of rate-setting, cost-of-service,
18 and proper utility accounting standards for the utility type;

19 4. Performing and correcting deficiencies from drinking water, wastewater,
20 and financial audits;

21 5. Providing financing for financial inadequacies, including debt service
22 coverage through relief or refinance of the drinking water or wastewater
23 system's debt;

24 6. Providing payment assistance for other financial inadequacies including
25 but not limited to excessive maintenance costs, fines and penalties from
26 past violations, or consultants; and

27 7. Extending financing for inadequately maintained distribution, collection,

1 or treatment works, including service extensions to unserved or
2 underserved areas and the renovation of treatment works to conserve
3 resources;

4 (d) "Kentucky Water and Wastewater Assistance for Troubled or Economically
5 Restrained Systems Program" or "Kentucky WWATERS Program" means the
6 program established under this section and administered by the Kentucky
7 Infrastructure Authority under the direction of its board; and

8 (e) "Public water or wastewater system" means any of the following that serve a
9 community:

- 10 1. A water district, water association, or joint water commission formed
11 under KRS Chapter 74;
- 12 2. A sewer district or sanitation district formed under KRS Chapter 67, 76,
13 or 220;
- 14 3. A municipal water utility and water works, sewer utility, sewage system
15 or works, or combined electric and water plant formed under KRS
16 Chapter 96; and
- 17 4. Any combination of two (2) or more of the entities listed in
18 subparagraphs 1. to 3. of this paragraph.

19 (2) The Kentucky WWATERS Program is hereby established under the authority to
20 provide for an orderly process for eligible public water or wastewater systems to
21 apply for funds for eligible projects and for those applications to be evaluated,
22 scored, and presented to the General Assembly for consideration for funding. The
23 administration of the program by the authority, under the direction of the board,
24 includes but is not limited to the following:

- 25 (a) Creating and making available standardized funding applications and regional
26 funding applications;
- 27 (b) Verifying the eligibility of proposed funding recipients, including but not

- 1 limited to engaging in financial reviews of proposed funding recipients to
2 ensure that they will be able to repay the requested amounts;
- 3 (c) Verifying that the proposed funding recipient seeks money for an eligible
4 project;
- 5 (d) Awarding funding to selected eligible funding recipients, which shall be
6 accomplished within sixty (60) days of the effective date of legislation
7 enacted by the General Assembly that authorizes and appropriates the
8 funding;
- 9 (e) Administering the funding and monitoring funding recipients for their success
10 in improving on any of the performance criteria described in subsection
11 (7)(d)1. to ~~8.19.1~~ of this section;
- 12 (f) Enforcing compliance with the requirements of this section for eligible
13 funding recipients; and
- 14 (g) On or before October 1, 2025, and each quarter thereafter, submitting a report
15 on the status of all funding awarded and administered by the authority
16 pursuant to this section and KRS 224A.322 to the Legislative Research
17 Commission for referral to the Interim Joint Committee on Appropriations
18 and Revenue, or to the House and Senate Standing Committees on
19 Appropriations and Revenue when the General Assembly is in session.
- 20 (3) (a) To participate in the Kentucky WWATERS Program, a funding applicant
21 shall submit an application to the board, which shall include a corrective
22 action plan detailing how the requested funds would be used to address the
23 performance deficiencies that made the applicant eligible for the funding.
- 24 (b) Funding applications may be shared with third-party independent consultants,
25 state agencies, or special purpose governmental entities in reviewing the
26 funding application as allowed under subsection (4) of this section. Once the
27 application process is complete and the funding application is ready for

1 review, it shall be made available to the public.

2 (c) Funding applicants wishing to engage in a regional project shall submit a
3 single application.

4 **(d) A funding application for a capital construction project shall include cost**
5 **and timeline estimates prepared and signed with an attestation of veracity by**
6 **a licensed professional engineer for the project to be eligible for funding**
7 **under this section.**

8 **(e) The board may evaluate and score funding applications for proposed**
9 **projects in phases as it deems appropriate.**

10 (4) The board may contract or consult with a third-party independent consultant, state
11 agencies, or special purpose governmental entities to assist with the funding
12 applicant analysis and scoring described in this section.

13 (5) If a funding applicant is selected as an eligible funding recipient approved under the
14 Kentucky (WWATERS) Program, it shall:

15 **(a)** Comply with any reporting or other requirements deemed necessary by the
16 authority to verify that the awarded funding goes toward an eligible project
17 and that the funding recipient is making improvements on the performance
18 criteria described in subsection (7)(d)1. to ~~8.[9].~~ of this section; ~~The eligible~~
19 ~~funding recipient shall also]~~

20 **(b)** Comply with any internal management and governance procedures that the
21 authority may impose in order to correct any performance deficiencies that
22 gave rise to the need for the requested funds; **and**

23 **(c) Adopt best management practices as established and administered by the**
24 **board, including but not limited to practices relating to:**

25 **1. Accounting and financial planning, including with regard to asset**
26 **depreciation;**

27 **2. Rate setting;**

1 3. Water loss reduction; and

2 4. Stormwater inflow and groundwater infiltration reduction.

3 (6) (a) A funding recipient shall forfeit all moneys received pursuant to this section
4 and KRS 224A.322 and all outstanding funding amounts, including accrued
5 interest, shall be immediately due to the authority if the selected funding
6 recipient:

- 7 1. Fails to comply with any of the requirements of this section;
8 2. Uses the awarded funding for any purpose other than the eligible project
9 for which the funding was awarded; or
10 3. Transfers or assigns the obligation to repay the funding amounts to any
11 other entity, including any successor in interest.

12 (b) Funding recipients may also forfeit funds and be subject to immediate
13 repayment to the authority of all outstanding funding amounts, including
14 accrued interest, if the authority finds that the recipient has not made adequate
15 improvements on the performance criteria described in subsection (7)(d)1. to
16 ~~8.19.1~~ of this section.

17 (7) In the implementation of the Kentucky WWATERS Program, the board shall:

18 (a) Hold at least monthly meetings, which may be in conjunction with regularly
19 scheduled board meetings, to discharge its duties under this section;

20 (b) Determine whether a funding applicant is an eligible funding recipient and is
21 seeking funding for an eligible project;

22 (c) Based on the criteria listed in paragraph (d) of this subsection, develop an
23 objective score card or rubric, which may be amended from time to time, to
24 aid in the analysis and scoring of funding applications;

25 (d) Evaluate and score each funding applicant's project according to the extent to
26 which it meets the following criteria:

- 27 1. The median household income within the service area of the funding

- 1 applicant is less than the Commonwealth's median household income;
- 2 2. User rates for the public drinking water or wastewater services provided
- 3 by the funding applicant are at or above one percent (1%) of annual
- 4 household income for its service area;
- 5 3. The funding applicant has failed to produce a financial statement audit
- 6 in at least one (1) of the prior three (3) years;
- 7 4. The funding applicant has negative income in any two (2) of the
- 8 previous five (5) years;
- 9 5. The funding applicant's debt service coverage ratio, calculated by
- 10 dividing its annual net operating income by its annual debt payments,
- 11 was less than one and one-tenth (1.1) in any three (3) of the previous
- 12 five (5) years;
- 13 ~~6. The funding applicant's current accounts payable turnover ratio,~~
- 14 ~~calculated by dividing its monthly net credit purchases from suppliers by~~
- 15 ~~its average accounts payable balance for the month, is less than one (1);~~
- 16 ~~7. The funding applicant's current days' sales in accounts receivable ratio,~~
- 17 ~~calculated by dividing its monthly accounts receivable by its monthly~~
- 18 ~~credit sales value and multiplying the resulting quotient by the number~~
- 19 ~~of days in that month, is greater than forty five (45) days;~~
- 20 ~~8. The funding applicant has received a notice of violation or has entered~~
- 21 ~~into an agreed order or consent decree as a result of a violation of the~~
- 22 ~~requirements of the Safe Drinking Water Act, 42 U.S.C. sec. 300f et~~
- 23 ~~seq., or the Clean Water Act, 33 U.S.C. sec. 1251 et seq., and the~~
- 24 ~~funding applicant's proposed project would contribute to resolving the~~
- 25 ~~violation or ensuring its continued compliance with the relevant~~
- 26 ~~requirements of law or both [in the past year];~~
- 27 ~~9. The percentage of water loss of the funding applicant's system is greater~~

1 than thirty percent (30%);

2 **8. The funding applicant can demonstrate, in the form and to the extent**
3 **that the board may require, that the amount of stormwater inflow and**
4 **groundwater infiltration entering the funding applicant's system**
5 **seriously impairs its effectiveness;**

6 **9. The funding applicant has previously received funding through the**
7 **Kentucky WWATERS Program for a prior phase of the proposed**
8 **project that has been completed in accordance with the requirements**
9 **of the program and the funding applicant is seeking additional**
10 **funding to complete the next phase;**

11 10. The funding applicant is willing to use the funding for regionalization,
12 consolidation, or partnerships, consistent with the policy stated in KRS
13 224A.300(1);

14 11. The funding applicant, after receiving the funding, will be able to fully
15 resolve the pending issues that are the subject of its application using the
16 funding and other funding sources, if available; and

17 12. The funding applicant's proposed project demonstrates a high level of
18 community or regional impact potential if funding is awarded;

19 (e) Within sixty (60) days of a funding application being deemed complete under
20 subsection (3)(b) of this section, make determinations on the eligibility of the
21 proposed project and the applicant and issue a project score for the
22 application;

23 (f) Provide detailed feedback to all funding applicants within fourteen (14) days
24 of the project score being completed; and

25 (g) No later than December 1, 2024, and each December 1 thereafter, submit to
26 the Legislative Research Commission for referral to the Interim Joint
27 Committee on Appropriations and Revenue an annual report containing:

- 1 1. The evaluations and scores of the proposed funding recipients for the
2 year to allow for the General Assembly to make the determinations for
3 funding the proposed funding recipients. For each proposed funding
4 recipient that meets the eligibility requirements for funding, the board
5 shall provide a proposal for the structure and the terms of the funding,
6 including but not limited to whether the funding should be awarded in
7 whole or in part as a grant, loan, no-interest loan, or forgivable loan, the
8 repayment terms and interest rates for loans or portions of loans, and
9 any other conditions that the board proposes to be placed on the funding;
- 10 2. A list of all program applicants;
- 11 3. The identity of applicants who did not meet the eligibility requirements
12 for participation in the program;
- 13 4. Trends found in feedback given to applicants who did not meet the
14 eligibility requirements for participation in the program; and
- 15 5. Eligible uses of funding cited in the funding applications.

16 ➔Section 2. Whereas it is critical to the proper administration of the Kentucky
17 Water and Wastewater Assistance for Troubled or Economically Restrained Systems
18 Program that changes to its eligibility criteria, application process, and funding
19 requirements take effect for new funding applicants as soon as possible, an emergency is
20 declared to exist, and this Act takes effect upon its passage and approval by the Governor
21 or upon its otherwise becoming a law.