

1 AN ACT relating to public water and wastewater systems.

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

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

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

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

7 (b) "Eligible funding recipient" means a public water or wastewater system that
8 meets ***three (3)***~~one (1)~~ or more of the criteria listed in subsection (7)(d)1. to
9 ~~7.19.~~ of this section;

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

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

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

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

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

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

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

26 7. Extending financing for inadequately maintained distribution, collection,
27 or treatment works, including service extensions to unserved or

1 underserved areas and the renovation of treatment works to conserve
2 resources;

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

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

9 1. A water district, water association, or joint water commission formed
10 under KRS Chapter 74;

11 2. A sewer district or sanitation district formed under KRS Chapter 67, 76,
12 or 220;

13 3. A municipal water utility and water works, sewer utility, sewage system
14 or works, or combined electric and water plant formed under KRS
15 Chapter 96; and

16 4. Any combination of two (2) or more of the entities listed in
17 subparagraphs 1. to 3. of this paragraph.

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

24 (a) Creating and making available standardized funding applications and regional
25 funding applications;

26 (b) Verifying the eligibility of proposed funding recipients, including but not
27 limited to engaging in financial reviews of proposed funding recipients to

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

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

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

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

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

12 (5) If a funding applicant is selected as an eligible funding recipient approved under the
13 Kentucky (WWATERS) Program, it shall comply with any reporting or other
14 requirements deemed necessary by the authority to verify that the awarded funding
15 goes toward an eligible project and that the funding recipient is making
16 improvements on the performance criteria described in subsection (7)(d)1. to ~~Z.191~~
17 of this section. The eligible funding recipient shall also comply with any internal
18 management and governance procedures that the authority may impose in order to
19 correct any performance deficiencies that gave rise to the need for the requested
20 funds.

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

- 25 1. Fails to comply with any of the requirements of this section;
26 2. Uses the awarded funding for any purpose other than the eligible project
27 for which the funding was awarded; or

1 3. Transfers or assigns the obligation to repay the funding amounts to any
2 other entity, including any successor in interest.

3 (b) Funding recipients may also forfeit funds and be subject to immediate
4 repayment to the authority of all outstanding funding amounts, including
5 accrued interest, if the authority finds that the recipient has not made adequate
6 improvements on the performance criteria described in subsection (7)(d)1. to
7 Z. [9.] of this section.

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

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

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

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

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

18 1. The median household income within the service area of the funding
19 applicant is less than the Commonwealth's median household income;

20 2. User rates for the public drinking water or wastewater services provided
21 by the funding applicant are at or above one percent (1%) of annual
22 household income for its service area;

23 3. The funding applicant has failed to produce a financial statement audit
24 in at least one (1) of the prior three (3) years;

25 4. The funding applicant has negative income in any two (2) of the
26 previous five (5) years;

27 5. The funding applicant's debt service coverage ratio, calculated by

- 1 dividing its annual net operating income by its annual debt payments,
2 was less than one and one-tenth (1.1) in any three (3) of the previous
3 five (5) years;
- 4 ~~6. [The funding applicant's current accounts payable turnover ratio,~~
5 ~~calculated by dividing its monthly net credit purchases from suppliers by~~
6 ~~its average accounts payable balance for the month, is less than one (1);~~
- 7 ~~7. [The funding applicant's current days' sales in accounts receivable ratio,~~
8 ~~calculated by dividing its monthly accounts receivable by its monthly~~
9 ~~credit sales value and multiplying the resulting quotient by the number~~
10 ~~of days in that month, is greater than forty five (45) days;~~
- 11 ~~8.]~~ The funding applicant has received a notice of violation or has entered
12 into an agreed order **or consent decree** as a result of a violation of the
13 requirements of the Safe Drinking Water Act, 42 U.S.C. sec. 300f et
14 seq., or the Clean Water Act, 33 U.S.C. sec. 1251 et seq., **and the**
15 **funding applicant's proposed project would contribute to resolving the**
16 **violation or ensuring its continued compliance with the relevant**
17 **requirements of law or both** ~~[in the past year];~~
- 18 ~~7. [9.]~~ The percentage of water loss of the funding applicant's system is greater
19 than thirty percent (30%);
- 20 **8. The funding applicant has previously received funding through the**
21 **Kentucky WWATERS Program for a prior phase of the proposed**
22 **project that has been completed in accordance with the requirements**
23 **of the program and the funding applicant is seeking additional**
24 **funding to complete the next phase;**
- 25 ~~9. [10.]~~ The funding applicant is willing to use the funding for
26 regionalization, consolidation, or partnerships, consistent with the policy
27 stated in KRS 224A.300(1);

1 ~~10.11.1~~ The funding applicant, after receiving the funding, will be able to
2 fully resolve the pending issues that are the subject of its application
3 using the funding and other funding sources, if available; and

4 ~~11.12.1~~ The funding applicant's proposed project demonstrates a high level
5 of community or regional impact potential if funding is awarded;

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

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

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

15 1. The evaluations and scores of the proposed funding recipients for the
16 year to allow for the General Assembly to make the determinations for
17 funding the proposed funding recipients. For each proposed funding
18 recipient that meets the eligibility requirements for funding, the board
19 shall provide a proposal for the structure and the terms of the funding,
20 including but not limited to whether the funding should be awarded in
21 whole or in part as a grant, loan, no-interest loan, or forgivable loan, the
22 repayment terms and interest rates for loans or portions of loans, and
23 any other conditions that the board proposes to be placed on the funding;

24 2. A list of all program applicants;

25 3. The identity of applicants who did not meet the eligibility requirements
26 for participation in the program;

27 4. Trends found in feedback given to applicants who did not meet the

- 1 eligibility requirements for participation in the program; and
- 2 5. Eligible uses of funding cited in the funding applications.