

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":

12 **1.** Means a project that would require capital or non-capital expenses
13 including but not limited to expenses relating to:

14 **a.**~~1.~~ Developing technical, operational, and maintenance resources and
15 expertise;

16 **b.**~~2.~~ Improving utility infrastructure planning, repair, maintenance,
17 renovation, and management of plants and assets;

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

20 **d.**~~4.~~ Performing and correcting deficiencies from drinking water,
21 wastewater, and financial audits;

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

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

1 ~~g.[7.]~~ Extending financing for inadequately maintained distribution,
2 collection, or treatment works, including service extensions to
3 unserved or underserved areas and the renovation of treatment
4 works to conserve resources; and

5 2. Does not include any project to expand the utility service area of a
6 funding applicant;

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

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

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

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

17 3. A municipal water utility and water works, sewer utility, sewage system
18 or works, or combined electric and water plant formed under KRS
19 Chapter 96; and

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

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

- 1 (a) Creating and making available standardized funding applications and regional
2 funding applications;
- 3 (b) Verifying the eligibility of proposed funding recipients, including but not
4 limited to engaging in financial reviews of proposed funding recipients to
5 ensure that they will be able to repay the requested amounts;
- 6 (c) Verifying that the proposed funding recipient seeks money for an eligible
7 project;
- 8 (d) Awarding funding to selected eligible funding recipients, which shall be
9 accomplished within sixty (60) days of the effective date of legislation
10 enacted by the General Assembly that authorizes and appropriates the
11 funding;
- 12 (e) Administering the funding and monitoring funding recipients for their success
13 in improving on any of the performance criteria described in subsection
14 (7)(d)1. to ~~8.19.~~ of this section;
- 15 (f) Enforcing compliance with the requirements of this section for eligible
16 funding recipients; and
- 17 (g) On or before October 1, 2025, and each quarter thereafter, submitting a report
18 on the status of all funding awarded and administered by the authority
19 pursuant to this section and KRS 224A.322 to the Legislative Research
20 Commission for referral to the Interim Joint Committee on Appropriations
21 and Revenue, or to the House and Senate Standing Committees on
22 Appropriations and Revenue when the General Assembly is in session.
- 23 (3) (a) To participate in the Kentucky WWATERS Program, a funding applicant
24 shall submit an application to the board, which shall include:
- 25 1. A corrective action plan detailing how the requested funds would be
26 used to address the performance deficiencies that made the applicant
27 eligible for the funding; ***and***

1 **2. A detailed budget for all proposed project expenses, including but not**
 2 **limited to depreciation plans and explanations for expenses**
 3 **categorized as administrative, miscellaneous, or other expenses.**

4 (b) Funding applications may be shared with third-party independent consultants,
 5 state agencies, or special purpose governmental entities in reviewing the
 6 funding application as allowed under subsection (4) of this section. Once the
 7 application process is complete and the funding application is ready for
 8 review, it shall be made available to the public.

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

11 **(d) A funding application for a capital construction project shall include cost**
 12 **and timeline estimates.**

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

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

18 (5) If a funding applicant is selected as an eligible funding recipient approved under the
 19 Kentucky ~~{(H)WATERS}~~ Program, it shall:

20 **(a)** Comply with any reporting or other requirements deemed necessary by the
 21 authority to verify that the awarded funding goes toward an eligible project
 22 and that the funding recipient is making improvements on the performance
 23 criteria described in subsection (7)(d)1. to ~~8.19.~~ of this section; ~~The eligible~~
 24 ~~funding recipient shall also~~

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

1 (c) Adopt best management practices as established and administered by the
 2 board that would address the performance deficiencies that made the
 3 applicant eligible for the funding, including but not limited to practices
 4 relating to:

5 1. Regulatory compliance;

6 2. Minimum debt service coverage ratios;

7 3. Operating ratio targets;

8 4. Regular rate reviews and adjustments;

9 5. Minimum cash reserve requirements;

10 6. Accounts receivable turnover and collection rates;

11 7. Asset management, lifecycle planning, capital depreciation, and
 12 capital reserve funding;

13 8. Audits, financial reporting, and rate transparency;

14 9. Water loss reduction; and

15 10. Training, certification, and emergency preparedness.

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

20 1. Fails to comply with any of the requirements of this section;

21 2. Uses the awarded funding for any purpose other than the eligible project
 22 for which the funding was awarded; or

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

25 (b) Funding recipients may also forfeit funds and be subject to immediate
 26 repayment to the authority of all outstanding funding amounts, including
 27 accrued interest, if the authority finds that the recipient has not made adequate

1 improvements on the performance criteria described in subsection (7)(d)1. to
2 ~~8.19.1~~ of this section.

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

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

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

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

11 (d) ***Separately*** evaluate and score each funding applicant's ***individual*** project
12 according to the extent to which it meets the following criteria:

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

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

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

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

22 5. The funding applicant's debt service coverage ratio, calculated by
23 dividing its annual net operating income by its annual debt payments,
24 was less than one and one-tenth (1.1) in any three (3) of the previous
25 five (5) years;

26 ~~6. The funding applicant's current accounts payable turnover ratio,~~
27 ~~calculated by dividing its monthly net credit purchases from suppliers by~~

- 1 its average accounts payable balance for the month, is less than one (1);
- 2 ~~7. The funding applicant's current days' sales in accounts receivable ratio,~~
- 3 ~~calculated by dividing its monthly accounts receivable by its monthly~~
- 4 ~~credit sales value and multiplying the resulting quotient by the number~~
- 5 ~~of days in that month, is greater than forty five (45) days;~~
- 6 ~~8.]~~ **8. The funding applicant has received a notice of violation or has entered**
- 7 **into an agreed order *or consent decree* as a result of a violation of the**
- 8 **requirements of the Safe Drinking Water Act, 42 U.S.C. sec. 300f et**
- 9 **seq., or the Clean Water Act, 33 U.S.C. sec. 1251 et seq., *and the***
- 10 ***funding applicant's proposed project would contribute to resolving the***
- 11 ***violation, ensuring its continued compliance with the relevant***
- 12 ***requirements of law, or both***~~[in the past year];~~
- 13 ~~7.]~~ **7. The percentage of water loss of the funding applicant's system is greater**
- 14 **than thirty percent (30%);**
- 15 **8. The funding applicant can demonstrate, in the form and to the extent**
- 16 **that the board may require, that the amount of stormwater inflow and**
- 17 **groundwater infiltration entering the funding applicant's system**
- 18 **seriously impairs its effectiveness;**
- 19 **9. The funding applicant can demonstrate that the estimated costs of the**
- 20 **proposed project are comparable to the actual costs incurred for**
- 21 **similar recently completed projects in the same or other systems;**
- 22 **10. The funding applicant has previously received funding through the**
- 23 **Kentucky WWATERS Program for a prior phase of the proposed**
- 24 **project that has been completed in accordance with the requirements**
- 25 **of the program and the funding applicant is seeking additional**
- 26 **funding to complete the next phase;**
- 27 **11. For a funding application for a capital construction project, the cost**

1 and timeline estimates have been reviewed by a licensed professional
 2 engineer permitted to provide such service in the Commonwealth;

3 ~~12.10.~~ The funding applicant is willing to use the funding for
 4 regionalization, consolidation, or partnerships, consistent with the policy
 5 stated in KRS 224A.300(1);

6 ~~13.11.~~ The funding applicant, after receiving the funding, will be able to
 7 fully resolve the pending issues that are the subject of its application
 8 using the funding and other funding sources, if available; and

9 ~~14.12.~~ The funding applicant's proposed project demonstrates a high level
 10 of community or regional impact potential if funding is awarded;

11 (e) Separately score and individually rank all eligible projects, including
 12 proposed projects from the same funding applicant, with additional
 13 consideration given to how important the completion of the proposed project
 14 would be in providing or restoring safe water or wastewater utility service
 15 that is compliant with state and federal law;

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

20 ~~(g)(f)~~ Provide detailed feedback to all funding applicants within fourteen (14)
 21 days of the project score being completed; and

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

- 25 1. The evaluations and scores of the proposed funding recipients for the
 26 year to allow for the General Assembly to make the determinations for
 27 funding the proposed funding recipients. For each proposed funding

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

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