

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 880**

FINAL READING

Introduced by Hughes, 24.

Read first time January 03, 2024

Committee: Natural Resources

- 1 A BILL FOR AN ACT relating to the Drinking Water State Revolving Fund
- 2 Act; to amend sections 71-5318 and 71-5322, Revised Statutes
- 3 Cumulative Supplement, 2022; to change a requirement relating to the
- 4 Land Acquisition and Source Water Loan Fund; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-5318, Revised Statutes Cumulative Supplement,  
2 2022, is amended to read:

3 71-5318 (1) The Drinking Water Facilities Loan Fund is created. The  
4 fund shall be held as a trust fund for the purposes and uses described in  
5 the Drinking Water State Revolving Fund Act.

6 The fund shall consist of federal capitalization grants, state  
7 matching appropriations, proceeds of state match bond issues credited to  
8 the fund, repayments of principal and interest on loans, transfers made  
9 pursuant to section 71-5327, and other money designated for the fund. The  
10 director may make loans from the fund pursuant to the Drinking Water  
11 State Revolving Fund Act and may conduct activities related to financial  
12 administration of the fund, administration or provision of technical  
13 assistance through public water system source water assessment programs,  
14 and implementation of a source water petition program under the Safe  
15 Drinking Water Act. The state investment officer shall invest any money  
16 in the fund available for investment pursuant to the Nebraska Capital  
17 Expansion Act and the Nebraska State Funds Investment Act, except that  
18 any bond proceeds in the fund shall be invested in accordance with the  
19 terms of the documents under which the bonds are issued. The state  
20 investment officer may direct that the bond proceeds shall be deposited  
21 with the bond trustee for investment. Investment earnings shall be  
22 credited to the fund.

23 The department may create or direct the creation of accounts within  
24 the fund as the department determines to be appropriate and useful in  
25 administering the fund and in providing for the security, investment, and  
26 repayment of bonds.

27 The fund and the assets thereof may be used, to the extent permitted  
28 by the Safe Drinking Water Act and the regulations adopted and  
29 promulgated pursuant to such act, to (a) pay or to secure the payment of  
30 bonds and the interest thereon, except that amounts deposited into the  
31 fund from state appropriations and the earnings on such appropriations

1 may not be used to pay or to secure the payment of bonds or the interest  
2 thereon, and (b) buy or refinance the debt obligation of any municipality  
3 for a public water supply system if the debt was incurred and  
4 construction began after July 1, 1993.

5 The director may transfer any money in the Drinking Water Facilities  
6 Loan Fund to the Wastewater Treatment Facilities Construction Loan Fund  
7 to meet the purposes of section 71-5327. The director shall identify any  
8 such transfer in the intended use plan presented to the council for  
9 annual review and adoption pursuant to section 71-5321.

10 (2) The Land Acquisition and Source Water Loan Fund is created. The  
11 fund shall be held as a trust for the purposes and uses described in the  
12 Drinking Water State Revolving Fund Act.

13 The fund shall consist of federal capitalization grants, state  
14 matching appropriations, proceeds of state match bond issues credited to  
15 the fund, repayments of principal and interest on loans, and other money  
16 designated for the fund. The director may make loans from the fund  
17 pursuant to the Drinking Water State Revolving Fund Act and may, ~~in~~  
18 ~~consultation with the Director of Public Health of the Division of Public~~  
19 ~~Health,~~ conduct activities other than the making of loans permitted under  
20 section 1452(k) of the Safe Drinking Water Act. The state investment  
21 officer shall invest any money in the fund available for investment  
22 pursuant to the Nebraska Capital Expansion Act and the Nebraska State  
23 Funds Investment Act, except that any bond proceeds in the fund shall be  
24 invested in accordance with the terms of the documents under which the  
25 bonds are issued. The state investment officer may direct that the bond  
26 proceeds shall be deposited with the bond trustee for investment.  
27 Investment earnings shall be credited to the fund.

28 The department may create or direct the creation of accounts within  
29 the fund as the department determines to be appropriate and useful in  
30 administering the fund and in providing for security, investment, and  
31 repayment of bonds.

1           The fund and assets thereof may be used, to the extent permitted by  
2 the Safe Drinking Water Act and the regulations adopted and promulgated  
3 pursuant to such act, to pay or secure the payment of bonds and the  
4 interest thereon, except that amounts credited to the fund from state  
5 appropriations and the earnings on such appropriations may not be used to  
6 pay or to secure the payment of bonds or the interest thereon.

7           The director may transfer any money in the Land Acquisition and  
8 Source Water Loan Fund to the Drinking Water Facilities Loan Fund.

9           (3) There is hereby created the Drinking Water Administration Fund.  
10 Any funds available for administering loans or fees collected pursuant to  
11 the Drinking Water State Revolving Fund Act shall be remitted to the  
12 State Treasurer for credit to such fund. The fund shall be administered  
13 by the department for the purposes of the act. The state investment  
14 officer shall invest any money in the fund available for investment  
15 pursuant to the Nebraska Capital Expansion Act and the Nebraska State  
16 Funds Investment Act. Investment earnings shall be credited to the fund.

17           The fund and assets thereof may be used, to the extent permitted by  
18 the Safe Drinking Water Act and the regulations adopted and promulgated  
19 pursuant to such act, to fund subdivisions (9), (11), and (12) of section  
20 71-5322. The annual obligation of the state pursuant to subdivisions (9)  
21 and (12) of section 71-5322 shall not exceed sixty-five percent of the  
22 revenue from administrative fees collected pursuant to section 71-5321 in  
23 the prior fiscal year.

24           The director may transfer any money in the Drinking Water  
25 Administration Fund to the Drinking Water Facilities Loan Fund to meet  
26 the state matching appropriation requirements of any applicable federal  
27 capitalization grants or to meet the purposes of subdivision (9) of  
28 section 71-5322.

29           Sec. 2. Section 71-5322, Revised Statutes Cumulative Supplement,  
30 2022, is amended to read:

31           71-5322 The department shall have the following powers and duties:

1 (1) The power to establish a program to make loans to owners of  
2 public water systems, individually or jointly, for construction or  
3 modification of safe drinking water projects in accordance with the  
4 Drinking Water State Revolving Fund Act and the rules and regulations of  
5 the council adopted and promulgated pursuant to such act;

6 (2) The power, if so authorized by the council pursuant to section  
7 71-5321, to execute and deliver documents obligating the Drinking Water  
8 Facilities Loan Fund or the Land Acquisition and Source Water Loan Fund  
9 and the assets thereof to the extent permitted by section 71-5318 to  
10 repay, with interest, loans to or credits into such funds and to execute  
11 and deliver documents pledging to the extent permitted by section 71-5318  
12 all or part of such funds and assets to secure, directly or indirectly,  
13 the loans or credits;

14 (3) The duty to prepare an annual report for the Governor and the  
15 Legislature. The report submitted to the Legislature shall be submitted  
16 electronically;

17 (4) The duty to establish fiscal controls and accounting procedures  
18 sufficient to assure proper accounting during appropriate accounting  
19 periods, including the following:

20 (a) Accounting from the Nebraska Investment Finance Authority for  
21 the costs associated with the issuance of bonds pursuant to the act;

22 (b) Accounting for payments or deposits received by the funds;

23 (c) Accounting for disbursements made by the funds; and

24 (d) Balancing the funds at the beginning and end of the accounting  
25 period;

26 (5) The duty to establish financial capability requirements that  
27 assure sufficient revenue to operate and maintain a facility for its  
28 useful life and to repay the loan for such facility;

29 (6) The power to determine the rate of interest to be charged on a  
30 loan in accordance with the rules and regulations adopted and promulgated  
31 by the council;

1           (7) The power to develop an intended use plan, ~~in consultation with~~  
2 ~~the Director of Public Health of the Division of Public Health,~~ for  
3 adoption by the council;

4           (8) The power to enter into required agreements with the United  
5 States Environmental Protection Agency pursuant to the Safe Drinking  
6 Water Act;

7           (9) The power to enter into agreements to provide grants and loan  
8 forgiveness concurrent with loans to public water systems that provide  
9 service to ten thousand persons or less, that are operated by political  
10 subdivisions, and that demonstrate serious financial hardships. The  
11 department may enter into agreements for up to seventy-five percent of  
12 the eligible project cost. Such agreements shall contain a provision that  
13 payment of the amount allocated is conditional upon the availability of  
14 appropriated funds;

15           (10) The power to enter into agreements to provide grants and loan  
16 forgiveness, for up to seventy-five percent of eligible project costs,  
17 concurrent with loans to public water systems for lead service line  
18 replacement projects in accordance with all federal regulatory and  
19 statutory provisions;

20           (11) The power to provide emergency funding to public water systems  
21 operated by political subdivisions with drinking water facilities which  
22 have been damaged or destroyed by natural disaster or other unanticipated  
23 actions or circumstances. Such funding shall not be used for routine  
24 repair or maintenance of facilities;

25           (12) The power to provide financial assistance consistent with the  
26 intended use plan, described in subdivision (7) of this section, for  
27 completion of engineering studies, research projects to investigate low-  
28 cost options for achieving compliance with safe drinking water standards,  
29 preliminary engineering reports, regional water system planning, source  
30 water protection, and other studies for the purpose of enhancing the  
31 ability of communities to meet the requirements of the Safe Drinking

1 Water Act, to public water systems that provide service to ten thousand  
2 persons or less, that are operated by political subdivisions, and that  
3 demonstrate serious financial hardships. The department may enter into  
4 agreements for up to ninety percent of the eligible project cost. Such  
5 agreements shall contain a provision that payment of the amount obligated  
6 is conditional upon the availability of appropriated funds; and

7 (13) Such other powers as may be necessary and appropriate for the  
8 exercise of the duties created under the Drinking Water State Revolving  
9 Fund Act.

10 Sec. 3. Original sections 71-5318 and 71-5322, Revised Statutes  
11 Cumulative Supplement, 2022, are repealed.