

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 80

FINAL READING

Introduced by Natural Resources Committee: Louden, 49, Chairperson; Carlson, 38; Christensen, 44; Dubas, 34; Fischer, 43; Hudkins, 21; Kopplin, 3; Wallman, 30

Read first time January 5, 2007

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to drinking water; to amend sections 71-5318
2 and 71-5322, Reissue Revised Statutes of Nebraska; to
3 authorize the transfer of funds, financial assistance for
4 certain political subdivisions with financial hardships,
5 and emergency funding; to harmonize provisions; and to
6 repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-5318, Reissue Revised Statutes of
2 Nebraska, is amended to read:

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

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

24 The department may create or direct the creation of
25 accounts within the fund as the department determines to be

1 appropriate and useful in administering the fund and in providing
2 for the security, investment, and repayment of bonds.

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

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

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

1 The state investment officer may direct that the bond proceeds
2 shall be deposited with the bond trustee for investment. Investment
3 earnings shall be credited to the fund.

4 The department may create or direct the creation of
5 accounts within the fund as the department determines to be
6 appropriate and useful in administering the fund and in providing
7 for security, investment, and repayment of bonds.

8 The fund and assets thereof may be used, to the extent
9 permitted by the Safe Drinking Water Act and the regulations
10 adopted and promulgated pursuant to such act, to pay or secure
11 the payment of bonds and the interest thereon, except that amounts
12 credited to the fund from state appropriations and the earnings on
13 such appropriations may not be used to pay or to secure the payment
14 of bonds or the interest thereon.

15 The director may transfer any money in the Land
16 Acquisition and Source Water Loan Fund to the Drinking Water
17 Facilities Loan Fund.

18 (3) There is hereby created the Drinking Water
19 Administration Fund. Any funds available for administering loans
20 or fees collected pursuant to the Drinking Water State Revolving
21 Fund Act shall be remitted to the State Treasurer for credit to
22 such fund. The fund shall be administered by the department for the
23 purposes of the act. The state investment officer shall invest any
24 money in the fund available for investment pursuant to the Nebraska
25 Capital Expansion Act and the Nebraska State Funds Investment Act.

1 Investment earnings shall be credited to the fund.

2 The fund and assets thereof may be used, to the extent
3 permitted by the Safe Drinking Water Act and the regulations
4 adopted and promulgated pursuant to such act, to fund subdivisions
5 (9), (10), and (11) of section 71-5322. The annual obligation
6 of the state pursuant to subdivisions (9) and (11) of section
7 71-5322 shall not exceed sixty-five percent of the revenue from
8 administrative fees collected pursuant to section 71-5321 in the
9 prior fiscal year.

10 The director may transfer any money in the Drinking
11 Water Administration Fund to the Drinking Water Facilities Loan
12 Fund to meet the state matching appropriation requirements of any
13 applicable federal capitalization grants or to meet the purposes of
14 subdivision (9) of section 71-5322.

15 Sec. 2. Section 71-5322, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-5322 The department shall have the following powers
18 and duties:

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

25 (2) The power, if so authorized by the council pursuant

1 to section 71-5321, to execute and deliver documents obligating
2 the Drinking Water Facilities Loan Fund or the Land Acquisition
3 and Source Water Loan Fund and the assets thereof to the extent
4 permitted by section 71-5318 to repay, with interest, loans to
5 or credits into such funds and to execute and deliver documents
6 pledging to the extent permitted by section 71-5318 all or part of
7 such funds and assets to secure, directly or indirectly, the loans
8 or credits;

9 (3) The duty to prepare an annual report for the Governor
10 and the Legislature;

11 (4) The duty to establish fiscal controls and accounting
12 procedures sufficient to assure proper accounting during
13 appropriate accounting periods, including the following:

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

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

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

20 (d) Balancing the funds at the beginning and end of the
21 accounting period;

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

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

4 (7) The power to develop an intended use plan, in
5 consultation with the Director of Regulation and Licensure, for
6 adoption by the council;

7 (8) The power to enter into required agreements with the
8 United States Environmental Protection Agency pursuant to the Safe
9 Drinking Water Act; and

10 (9) The power to enter into agreements for the purpose
11 of providing loan forgiveness concurrent with loans to public
12 water systems operated by political subdivisions with populations
13 of ten thousand inhabitants or less which demonstrate serious
14 financial hardships. The department may enter into agreements for
15 up to one-half of the eligible project cost. Such agreements
16 shall contain a provision that payment of the amount allocated is
17 conditional upon the availability of appropriated funds;

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

24 (11) The power to provide financial assistance consistent
25 with the intended use plan, described in subdivision (7) of this

1 section, for completion of engineering studies, research projects
2 to investigate low-cost options for achieving compliance with safe
3 drinking water standards, preliminary engineering reports, regional
4 water system planning, source water protection, and other studies
5 for the purpose of enhancing the ability of communities to meet
6 the requirements of the Safe Drinking Water Act, to public water
7 systems operated by political subdivisions with populations of ten
8 thousand inhabitants or less which demonstrate serious financial
9 hardships. The department may enter into agreements for up to
10 ninety percent of the eligible project cost. Such agreements
11 shall contain a provision that payment of the amount obligated is
12 conditional upon the availability of appropriated funds; and

13 ~~(9)~~ (12) Such other powers as may be necessary and
14 appropriate for the exercise of the duties created under the
15 Drinking Water State Revolving Fund Act.

16 Sec. 3. Original sections 71-5318 and 71-5322, Reissue
17 Revised Statutes of Nebraska, are repealed.