

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 726

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 09, 2008

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the Wastewater Treatment Facilities
2 Construction Assistance Act; to amend section 81-15,151,
3 Reissue Revised Statutes of Nebraska, and section
4 81-15,153, Revised Statutes Cumulative Supplement, 2006;
5 to change provisions relating the Wastewater Treatment
6 Facilities Construction Loan Fund; and to repeal the
7 original sections.

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

1 Section 1. Section 81-15,151, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-15,151 (1) The Wastewater Treatment Facilities
4 Construction Loan Fund is hereby created. The fund shall be held as
5 a trust fund for the purposes and uses described in the Wastewater
6 Treatment Facilities Construction Assistance Act.

7 The fund shall consist of federal capitalization grants,
8 state matching appropriations, repayments of principal and interest
9 on loans, and other money designated for the fund. The Director of
10 Environmental Quality may make loans from the fund pursuant to the
11 act and may use up to four percent of all federal capitalization
12 grant awards to the fund for the reasonable cost of administering
13 the fund and conducting activities under Title VI of the federal
14 Clean Water Act. The state investment officer shall invest any
15 money in the fund available for investment pursuant to the Nebraska
16 Capital Expansion Act and the Nebraska State Funds Investment Act,
17 except that any bond proceeds in the fund shall be invested in
18 accordance with the terms of the documents under which the bonds
19 are issued. The state investment officer may direct that the bond
20 proceeds shall be deposited with the bond trustee for investment.
21 Investment earnings shall be credited to the fund.

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

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

8 Prior to December 31, 1996, money or obligations from the
9 Petroleum Release Remedial Action Cash Fund may be transferred to
10 or deposited in the Wastewater Treatment Facilities Construction
11 Loan Fund as designated by the Director of Environmental Quality.
12 Prior to December 31, 1996, the fund and the assets thereof,
13 including federal capitalization grants, not otherwise pledged for
14 inconsistent purposes may be, to the extent permitted by the Clean
15 Water Act, as amended, and the regulations adopted and promulgated
16 pursuant to such act, in whole or in part transferred to or
17 invested in obligations of the Petroleum Release Remedial Action
18 Cash Fund at the direction of the director in a manner consistent
19 with section 66-1519.01.

20 (2) There is hereby created the Construction
21 Administration Fund. Any funds available for administering
22 loans or fees collected pursuant to the Wastewater Treatment
23 Facilities Construction Assistance Act shall be deposited in such
24 fund. The fund shall be administered by the department for the
25 purposes of the act. The state investment officer shall invest any

1 money in the fund available for investment pursuant to the Nebraska
2 Capital Expansion Act and the Nebraska State Funds Investment Act.
3 Investment earnings shall be credited to the fund.

4 The fund and assets thereof may be used, to the extent
5 permitted by the Clean Water Act and the regulations adopted and
6 promulgated pursuant to such act, to fund subdivisions (9), (10),
7 and (11) of section 81-15,153. The annual obligation of the state
8 pursuant to subdivisions (9) and (11) of such section shall not
9 exceed sixty-five percent of the revenue from administrative fees
10 collected pursuant to this section in the prior fiscal year.

11 The director may transfer any money in the Construction
12 Administration Fund to the Wastewater Treatment Facilities
13 Construction Loan Fund to meet the nonfederal match requirements
14 of any applicable federal capitalization grants or to meet the
15 purposes of subdivision (9) of section 81-15,153.

16 Sec. 2. Section 81-15,153, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 81-15,153 The department shall have the following powers
19 and duties:

20 (1) The power to establish a program to make loans
21 to municipalities or to counties, individually or jointly, for
22 construction or modification of publicly owned wastewater treatment
23 works in accordance with the Wastewater Treatment Facilities
24 Construction Assistance Act and the rules and regulations of
25 the council adopted and promulgated pursuant to such act;

1 (2) The power to establish a program to make loans to
2 municipalities or to counties for construction, rehabilitation,
3 operation, or maintenance of nonpoint source control systems in
4 accordance with the Wastewater Treatment Facilities Construction
5 Assistance Act and the rules and regulations of the council adopted
6 and promulgated pursuant to such act;

7 (3) The power, if so authorized by the council pursuant
8 to section 81-15,152, to execute and deliver documents obligating
9 the Wastewater Treatment Facilities Construction Loan Fund and the
10 assets thereof to the extent permitted by section 81-15,151 to
11 repay, with interest, loans to or deposits into the fund and to
12 execute and deliver documents pledging to the extent permitted by
13 section 81-15,151 all or part of the fund and its assets to secure,
14 directly or indirectly, the loans or deposits;

15 (4) The duty to prepare an annual report for the
16 Governor and the Legislature containing information which shows
17 the financial status of the program;

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

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

24 (b) Accounting for payments or deposits received by the
25 fund;

- 1 (c) Accounting for disbursements made by the fund; and
- 2 (d) Balancing the fund at the beginning and end of the
- 3 accounting period;
- 4 (6) The duty to establish financial capability
- 5 requirements that assure sufficient revenue to operate and maintain
- 6 a facility for its useful life and to repay the loan for such
- 7 facility;
- 8 (7) The power to determine the rate of interest to be
- 9 charged on a loan in accordance with the rules and regulations
- 10 adopted and promulgated by the council;
- 11 (8) The power to enter into required agreements with the
- 12 United States Environmental Protection Agency pursuant to the Clean
- 13 Water Act;
- 14 (9) The power to ~~make~~ enter into agreements to provide
- 15 grants concurrent with loans to municipalities with populations of
- 16 five ten thousand inhabitants or less which demonstrate serious
- 17 financial hardships. ~~The annual obligation to the state shall not~~
- 18 ~~exceed five hundred thousand dollars.~~ The department may authorize
- 19 grants for up to one-half of the eligible project cost. Such
- 20 ~~state allocations~~ grants shall contain a provision that payment
- 21 of the amount allocated is conditional upon the availability of
- 22 appropriated funds;
- 23 (10) The power to authorize emergency grants to
- 24 municipalities with wastewater treatment facilities which have been
- 25 damaged or destroyed by natural disaster or other unanticipated

1 actions or circumstances. Such grants shall not be used for routine
2 repair or maintenance of facilities;

3 (11) The power to ~~make grants for community~~
4 ~~assessments and facility planning~~ provide financial assistance to
5 municipalities with populations of ~~five~~ ten thousand inhabitants
6 or less for completion of engineering studies, research projects,
7 investigating low-cost options for achieving compliance with the
8 Clean Water Act, encouraging wastewater reuse, and conducting other
9 studies for the purpose of enhancing the ability of communities to
10 meet the requirements of the Clean Water Act. ~~which demonstrate~~
11 ~~serious financial hardships.~~ The annual obligation to the state
12 ~~shall not exceed one hundred fifty thousand dollars.~~ The department
13 may authorize ~~grants~~ financial assistance for up to ninety percent
14 of the eligible project cost. Such state allocation shall contain a
15 provision that payment of the amount obligated is conditional upon
16 the availability of appropriated funds; and

17 (12) Such other powers as may be necessary and
18 appropriate for the exercise of the duties created under the
19 Wastewater Treatment Facilities Construction Assistance Act.

20 Sec. 3. Original section 81-15,151, Reissue Revised
21 Statutes of Nebraska, and section 81-15,153, Revised Statutes
22 Cumulative Supplement, 2006, are repealed.