

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 80

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 71-5321, and 71-5322, Reissue Revised Statutes of Nebraska;
3 to authorize the transfer of funds, rules and regulations,
4 financial assistance for certain political subdivisions with
5 financial hardships, and emergency funding; to harmonize
6 provisions; and to 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 and
5 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 loans,
9 and other money designated for the fund. The director may make loans
10 from the fund pursuant to the Drinking Water State Revolving Fund Act
11 and may conduct activities related to financial administration of the
12 fund, administration or provision of technical assistance through
13 public water system source water assessment programs, and
14 implementation of a source water petition program under the Safe
15 Drinking Water Act. The state investment officer shall invest any
16 money in the fund available for investment pursuant to the Nebraska
17 Capital Expansion Act and the Nebraska State Funds Investment Act,
18 except that any bond proceeds in the fund shall be invested in
19 accordance with the terms of the documents under which the bonds are
20 issued. The state investment officer may direct that the bond proceeds
21 shall be deposited with the bond trustee for investment. Investment
22 earnings shall be credited to the fund.

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

27 The fund and the assets thereof may be used, to the extent

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

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

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

26 The department may create or direct the creation of accounts
27 within the fund as the department determines to be appropriate and

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

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

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

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

21 The fund and assets thereof may be used, to the extent
22 permitted by the Safe Drinking Water Act and the regulations adopted
23 and promulgated pursuant to such act, to fund subdivisions (9), (10),
24 and (11) of section 71-5322. The annual obligation of the state
25 pursuant to subdivisions (9) and (11) of section 71-5322 shall not
26 exceed sixty-five percent of the revenue from administrative fees
27 collected pursuant to section 71-5321 in the prior fiscal year.

1 The director may transfer any money in the Drinking Water
2 Administration Fund to the Drinking Water Facilities Loan Fund to meet
3 the state matching appropriation requirements of any applicable
4 federal capitalization grants or to meet the purposes of subdivision
5 (9) of section 71-5322.

6 Sec. 2. Section 71-5321, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-5321. The council shall have the following powers and
9 duties:

10 (1) The power to adopt and promulgate rules and regulations
11 to govern eligible systems and application procedures and requirements
12 for making loans under the Drinking Water State Revolving Fund Act;

13 (2) The power to adopt an intended use plan which shall
14 include the funding priorities established in subsection (6) of
15 section 71-5302. This intended use plan shall be reviewed annually by
16 the council;

17 (3) The power to adopt a system of establishing interest
18 rates to be charged on loans. The system may allow discounted interest
19 rates for short-term loans or for serious financial hardship. The
20 following factors shall be considered when making a determination of
21 serious financial hardship: Income level of residents; amount of debt
22 and debt service requirements; and level of user fees both in absolute
23 terms and relative to income of residents;

24 (4) The power to approve criteria for defining disadvantaged
25 communities;

26 (5) The power to create an administrative fee to be assessed
27 on a loan for the purpose of administering the Drinking Water State

1 Revolving Fund Act; and

2 (6) Except as limited by section 71-5318, the power to
3 obligate the Drinking Water Facilities Loan Fund or the Land
4 Acquisition and Source Water Loan Fund and the assets thereof, in
5 whole or in part, to repay with interest loans to or credits into such
6 funds, including bonds, the proceeds of which are credited to such
7 funds.

8 Sec. 3. Section 71-5322, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-5322. The department shall have the following powers and
11 duties:

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

17 (2) The power, if so authorized by the council pursuant to
18 section 71-5321, to execute and deliver documents obligating the
19 Drinking Water Facilities Loan Fund or the Land Acquisition and Source
20 Water Loan Fund and the assets thereof to the extent permitted by
21 section 71-5318 to repay, with interest, loans to or credits into such
22 funds and to execute and deliver documents pledging to the extent
23 permitted by section 71-5318 all or part of such funds and assets to
24 secure, directly or indirectly, the loans or credits;

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

27 (4) The duty to establish fiscal controls and accounting

1 procedures sufficient to assure proper accounting during appropriate
2 accounting periods, including the following:

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

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

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

9 (d) Balancing the funds at the beginning and end of the
10 accounting period;

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

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

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

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

23 (9) The power to enter into agreements for the purpose of
24 providing loan forgiveness concurrent with loans to schools or public
25 water systems operated by political subdivisions with populations of
26 ten thousand inhabitants or less which demonstrate serious financial
27 hardships. The department may enter into agreements for up to

1 one-half of the eligible project cost. Such agreements shall contain
2 a provision that payment of the amount allocated is conditional upon
3 the availability of appropriated funds;

4 (10) The power to provide emergency funding to schools or
5 public water systems operated by political subdivisions with drinking
6 water facilities which have been damaged or destroyed by natural
7 disaster or other unanticipated actions or circumstances. Such
8 funding shall not be used for routine repair or maintenance of
9 facilities;

10 (11) The power to provide financial assistance consistent
11 with the intended use plan, described in subdivision (7) of this
12 section, for completion of engineering studies, research projects to
13 investigate low cost options for achieving compliance with safe
14 drinking water standards, preliminary engineering reports, regional
15 water system planning, source water protection, and other studies for
16 the purpose of enhancing the ability of communities to meet the
17 requirements of the Safe Drinking Water Act, to schools or public
18 water systems operated by political subdivisions with populations of
19 ten thousand inhabitants or less which demonstrate serious financial
20 hardships. The department may enter into agreements for up to ninety
21 percent of the eligible project cost. Such agreements shall contain a
22 provision that payment of the amount obligated is conditional upon
23 the availability of appropriated funds; and

24 ~~(9)~~ (12) Such other powers as may be necessary and
25 appropriate for the exercise of the duties created under the Drinking
26 Water State Revolving Fund Act.

27 Sec. 4. Original sections 71-5318, 71-5321, and 71-5322,

1 Reissue Revised Statutes of Nebraska, are repealed.