

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Environmental Protection Act is amended by changing Sections 19.1, 19.2, 19.3, and 19.4 as follows:

(415 ILCS 5/19.1) (from Ch. 111 1/2, par. 1019.1)

Sec. 19.1. Legislative findings. The General Assembly finds:

(a) that local government units require assistance in financing the construction of water ~~wastewater~~ treatment works and projects in order to comply with the State's program of environmental protection and federally mandated requirements;

(b) that the federal Water Quality Act of 1987 provides an important source of grant awards to the State for providing assistance to local government units through the Water Pollution Control Loan Program;

(c) that local government units and privately owned community water supplies require assistance in financing the construction of their public water supplies to comply with State and federal drinking water laws and regulations;

(d) that the federal Safe Drinking Water Act ("SDWA"), P.L. 93-523, as now or hereafter amended, provides an important source of capitalization grant awards to the State to provide

assistance to local government units and privately owned community water supplies through the Public Water Supply Loan Program;

(e) that violations of State and federal drinking water standards threaten the public interest, safety, and welfare, which demands that the Illinois Environmental Protection Agency expeditiously adopt emergency rules to administer the Public Water Supply Loan Program;

(f) that the General Assembly agrees with the conclusions and recommendations of the "Report to the Illinois General Assembly on the Issue of Expanding Public Water Supply Loan Eligibility to Privately Owned Community Water Supplies", dated August 1998, including the stated access to the Public Water Supply Loan Program by the privately owned public water supplies so that the long term integrity and viability of the corpus of the Fund will be assured; ~~and~~

(g) that the American Recovery and Reinvestment Act of 2009 provides a source of capitalization grant awards to the State to provide loans and additional subsidization, including, but not limited to, forgiveness of principal, negative interest loans, and grants, to local government units through the Water Pollution Control Loan Program and to local government units and privately owned community water supplies through the Public Water Supply Loan Program; ~~and~~

(h) that expanding eligibility to include publicly owned municipal storm water projects eligible for financing as

treatment works, as defined under Section 212 of the Federal Water Pollution Control Act, will provide the Agency with the statutory authority to use moneys in the Water Pollution Control Loan Program to provide financial assistance for eligible projects, including those that encourage green infrastructure, that manage and treat storm water, and that maintain and restore natural hydrology by infiltrating, evapotranspiring, and capturing and using storm water;

(i) that in planning projects for which financing will be sought from the Water Pollution Control Loan Program, municipalities may benefit from efforts to consider a project's lifetime costs; the availability of long-term funding for the construction, operation, maintenance, and replacement of the project; the resilience of the project to the effects of climate change; the project's ability to increase water efficiency; the capacity of the project to restore natural hydrology or to preserve or restore landscape features; the cost-effectiveness of the project; and the overall environmental innovativeness of the project; and

(j) that projects implementing a management program established under Section 319 of the Federal Water Pollution Control Act may benefit from the creation of a linked deposit program that would make loans available at or below market interest rates through private lenders.

(Source: P.A. 96-8, eff. 4-28-09.)

(415 ILCS 5/19.2) (from Ch. 111 1/2, par. 1019.2)

Sec. 19.2. As used in this Title, unless the context clearly requires otherwise:

(a) "Agency" means the Illinois Environmental Protection Agency.

(b) "Fund" means the Water Revolving Fund created pursuant to this Title, consisting of the Water Pollution Control Loan Program, the Public Water Supply Loan Program, and the Loan Support Program.

(c) "Loan" means a loan made from the Water Pollution Control Loan Program or the Public Water Supply Loan Program to an eligible applicant as a result of a contractual agreement between the Agency and such applicant.

(d) "Construction" means any one or more of the following which is undertaken for a public purpose: preliminary planning to determine the feasibility of the treatment works or public water supply, engineering, architectural, legal, fiscal or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement or extension of treatment works or public water supplies, or the inspection or supervision of any of the foregoing items. "Construction" also includes implementation of source water quality protection measures and establishment and implementation of wellhead protection programs in accordance with Section 1452(k)(1) of

the federal Safe Drinking Water Act.

(e) "Intended use plan" means a plan which includes a description of the short and long term goals and objectives of the Water Pollution Control Loan Program and the Public Water Supply Loan Program, project categories, discharge requirements, terms of financial assistance and the loan applicants to be served.

(f) "Treatment works" means treatment works, as defined in Section 212 of the Federal Water Pollution Control Act, including, but not limited to, the following: any devices and systems owned by a local government unit and used in the storage, treatment, recycling, and reclamation of sewerage or industrial wastes of a liquid nature, including intercepting sewers, outfall sewers, sewage collection systems, pumping power and other equipment, and appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply, such as standby treatment units and clear well facilities; ~~and~~ any works, including site acquisition of the land that will be an integral part of the treatment process for wastewater facilities; and any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems as those terms are defined in the Federal Water Pollution Control Act.

(g) "Local government unit" means a county, municipality, township, municipal or county sewerage or utility authority, sanitary district, public water district, improvement authority or any other political subdivision whose primary purpose is to construct, operate and maintain wastewater treatment facilities, including storm water treatment systems, or public water supply facilities or both.

(h) "Privately owned community water supply" means:

(1) an investor-owned water utility, if under Illinois Commerce Commission regulation and operating as a separate and distinct water utility;

(2) a not-for-profit water corporation, if operating specifically as a water utility; and

(3) a mutually owned or cooperatively owned community water system, if operating as a separate water utility.

(Source: P.A. 91-36, eff. 6-15-99; 91-52, eff. 6-30-99; 91-501, eff. 8-13-99; 92-16, eff. 6-28-01.)

(415 ILCS 5/19.3) (from Ch. 111 1/2, par. 1019.3)

Sec. 19.3. Water Revolving Fund.

(a) There is hereby created within the State Treasury a Water Revolving Fund, consisting of 3 interest-bearing special programs to be known as the Water Pollution Control Loan Program, the Public Water Supply Loan Program, and the Loan Support Program, which shall be used and administered by the Agency.

(b) The Water Pollution Control Loan Program shall be used and administered by the Agency to provide assistance for the following purposes:

(1) to accept and retain funds from grant awards, appropriations, transfers, and payments of interest and principal;

(2) to make direct loans at or below market interest rates and to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants, to any eligible local government unit to finance the construction of ~~wastewater~~ treatments works, including storm water treatment systems that are treatment works, and projects that fulfill federal State Revolving Fund grant requirements for a green project reserve;

(2.5) with respect to funds provided under the American Recovery and Reinvestment Act of 2009:

(A) to make direct loans at or below market interest rates to any eligible local government unit and to provide additional subsidization to any eligible local government unit, including, but not limited to, forgiveness of principal, negative interest rates, and grants;

(B) to make direct loans at or below market interest rates to any eligible local government unit to buy or refinance debt obligations for treatment works

incurred on or after October 1, 2008; and

(C) to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants for treatment works incurred on or after October 1, 2008;

(3) to make direct loans at or below market interest rates and to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants, to any eligible local government unit to buy or refinance debt obligations for costs incurred after March 7, 1985, for the construction of ~~wastewater~~ treatment works, including storm water treatment systems that are treatment works, and projects that fulfill federal State Revolving Fund grant requirements for a green project reserve;

(3.5) to make ~~direct~~ loans, including, but not limited to, loans through a linked deposit program, at or below market interest rates for the implementation of a management program established under Section 319 of the Federal Water Pollution Control Act, as amended;

(4) to guarantee or purchase insurance for local obligations where such action would improve credit market access or reduce interest rates;

(5) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State or any political subdivision or

instrumentality thereof, if the proceeds of such bonds will be deposited in the Fund;

(6) to finance the reasonable costs incurred by the Agency in the administration of the Fund; ~~and~~

(7) to transfer funds to the Public Water Supply Loan Program; and -

(8) notwithstanding any other provision of this subsection (b), to provide, in accordance with rules adopted under this Title, any financial assistance that may be provided under Section 603 of the Federal Water Pollution Control Act for any projects eligible for assistance under subsections (c)(1) or (c)(2) of that Section or federal rules adopted under those subsections.

(c) The Loan Support Program shall be used and administered by the Agency for the following purposes:

(1) to accept and retain funds from grant awards and appropriations;

(2) to finance the reasonable costs incurred by the Agency in the administration of the Fund, including activities under Title III of this Act, including the administration of the State construction grant program;

(3) to transfer funds to the Water Pollution Control Loan Program and the Public Water Supply Loan Program;

(4) to accept and retain a portion of the loan repayments;

(5) to finance the development of the low interest loan

programs for water pollution control and public water supply projects;

(6) to finance the reasonable costs incurred by the Agency to provide technical assistance for public water supplies; and

(7) to finance the reasonable costs incurred by the Agency for public water system supervision programs, to administer or provide for technical assistance through source water protection programs, to develop and implement a capacity development strategy, to delineate and assess source water protection areas, and for an operator certification program in accordance with Section 1452 of the federal Safe Drinking Water Act.

(d) The Public Water Supply Loan Program shall be used and administered by the Agency to provide assistance to local government units and privately owned community water supplies for public water supplies for the following public purposes:

(1) to accept and retain funds from grant awards, appropriations, transfers, and payments of interest and principal;

(2) to make direct loans at or below market interest rates and to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants, to any eligible local government unit or to any eligible privately owned community water supply to finance the construction of water

supplies and projects that fulfill federal State Revolving Fund grant requirements for a green project reserve;

(2.5) with respect to funds provided under the American Recovery and Reinvestment Act of 2009:

(A) to make direct loans at or below market interest rates to any eligible local government unit or to any eligible privately owned community water supply, and to provide additional subsidization to any eligible local government unit or to any eligible privately owned community water supply, including, but not limited to, forgiveness of principal, negative interest rates, and grants;

(B) to buy or refinance the debt obligation of a local government unit for costs incurred on or after October 1, 2008; and

(C) to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants for a local government unit for costs incurred on or after October 1, 2008;

(3) to make direct loans at or below market interest rates and to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants, to any eligible local government unit or to any eligible privately owned community water supply to buy or refinance debt obligations

for costs incurred on or after July 17, 1997, for the construction of water supplies and projects that fulfill federal State Revolving Fund requirements for a green project reserve;

(4) to guarantee local obligations where such action would improve credit market access or reduce interest rates;

(5) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State or any political subdivision or instrumentality thereof, if the proceeds of such bonds will be deposited into the Fund; and

(6) to transfer funds to the Water Pollution Control Loan Program.

(e) The Agency is designated as the administering agency of the Fund. The Agency shall submit to the Regional Administrator of the United States Environmental Protection Agency an intended use plan which outlines the proposed use of funds available to the State. The Agency shall take all actions necessary to secure to the State the benefits of the federal Water Pollution Control Act and the federal Safe Drinking Water Act, as now or hereafter amended.

(f) The Agency shall have the power to enter into intergovernmental agreements with the federal government or the State, or any instrumentality thereof, for purposes of capitalizing the Water Revolving Fund. Moneys on deposit in the

Water Revolving Fund may be used for the creation of reserve funds or pledged funds that secure the obligations of repayment of loans made pursuant to this Section. For the purpose of obtaining capital for deposit into the Water Revolving Fund, the Agency may also enter into agreements with financial institutions and other persons for the purpose of selling loans and developing a secondary market for such loans. The Agency shall have the power to create and establish such reserve funds and accounts as may be necessary or desirable to accomplish its purposes under this subsection and to allocate its available moneys into such funds and accounts. Investment earnings on moneys held in the Water Revolving Fund, including any reserve fund or pledged fund, shall be deposited into the Water Revolving Fund.

(Source: P.A. 96-8, eff. 4-28-09; 96-917, eff. 6-9-10.)

(415 ILCS 5/19.4) (from Ch. 111 1/2, par. 1019.4)

Sec. 19.4. Regulations; priorities.

(a) The Agency shall have the authority to promulgate regulations for the administration of this Title, including, but not limited to, rules setting ~~to set~~ forth procedures and criteria concerning loan applications and the issuance of loans. For loans to units of local government, the regulations shall include, but need not be limited to, the following elements:

(1) loan application requirements;

(2) determination of credit worthiness of the loan applicant;

(3) special loan terms, as necessary, for securing the repayment of the loan;

(4) assurance of payment;

(5) interest rates;

(6) loan support rates;

(7) impact on user charges;

(8) eligibility of proposed construction;

(9) priority of needs;

(10) special loan terms for disadvantaged communities;

(11) maximum limits on annual distributions of funds to applicants or groups of applicants;

(12) penalties for noncompliance with loan requirements and conditions, including stop-work orders, termination, and recovery of loan funds; and

(13) indemnification of the State of Illinois and the Agency by the loan recipient.

(b) The Agency shall have the authority to promulgate regulations to set forth procedures and criteria concerning loan applications for loan recipients other than units of local government. In addition to all of the elements required for units of local government under subsection (a), the regulations shall include, but need not be limited to, the following elements:

(1) types of security required for the loan;

(2) types of collateral, as necessary, that can be pledged for the loan; and

(3) staged access to fund privately owned community water supplies.

(c) Rules adopted under this Title shall also include, but shall not be limited to, criteria for prioritizing the issuance of loans under this Title according to applicant need. ~~The Agency shall develop and maintain a priority list of loan applicants as categorized by need.~~ Priority in making loans from the Public Water Supply Loan Program must first be given to local government units and privately owned community water supplies that need to make capital improvements to protect human health and to achieve compliance with the State and federal primary drinking water standards adopted pursuant to this Act and the federal Safe Drinking Water Act, as now and hereafter amended. Rules for prioritizing loans from the Water Pollution Control Loan Program may include, but shall not be limited to, criteria designed to encourage green infrastructure, water efficiency, environmentally innovative projects, and nutrient pollution removal.

(d) The Agency shall have the authority to promulgate regulations to set forth procedures and criteria concerning loan applications for funds provided under the American Recovery and Reinvestment Act of 2009. In addition, due to time constraints in the American Recovery and Reinvestment Act of 2009, the Agency shall adopt emergency rules as necessary to

allow the timely administration of funds provided under the American Recovery and Reinvestment Act of 2009. Emergency rules adopted under this subsection (d) shall be adopted in accordance with Section 5-45 of the Illinois Administrative Procedure Act.

(e) The Agency may adopt rules to create a linked deposit loan program through which loans made pursuant to paragraph (3.5) of subsection (b) of Section 19.3 may be made through private lenders. Rules adopted under this subsection (e) shall include, but shall not be limited to, provisions requiring private lenders, prior to disbursing loan proceeds through the linked deposit loan program, to verify that the loan recipients have been approved by the Agency for financing under paragraph (3.5) of subsection (b) of Section 19.3.

(Source: P.A. 96-8, eff. 4-28-09.)

Section 99. Effective date. This Act takes effect upon becoming law.