

IC 13-18-13

Chapter 13. Wastewater Revolving Loan Program

IC 13-18-13-1

Establishment

Sec. 1. The wastewater revolving loan program is established.
As added by P.L.1-1996, SEC.8.

IC 13-18-13-2

Revolving loan fund; purpose; source of funds; repayments; investments; costs

Sec. 2. (a) The wastewater revolving loan fund is established to provide money for loans and other financial assistance to or for the benefit of participants under this chapter. The authority shall administer, hold, and manage the fund.

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

- (1) gifts to the fund; and
- (2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The authority shall invest the money in the fund that is:

- (1) not currently needed to meet the obligations of the fund; and
- (2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the authority may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

- (1) the department;
- (2) the budget agency;
- (3) a participant;
- (4) the Indiana bond bank;
- (5) the authority; or
- (6) any person to which the authority or a participant is obligated, as provided in the trust agreement or indenture.

(f) Except as provided in the Clean Water Act, the cost of administering the fund may be paid from the fund.

(g) All money accruing to the fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.8; P.L.235-2005, SEC.131.

IC 13-18-13-3

Use of funds; authority power to contract with other entities to administer program and fund

Sec. 3. (a) Money in the fund may be used to do the following:

- (1) Provide loans or other financial assistance to participants for the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks.
- (2) Pay the cost of administering the fund and the program.
- (3) Conduct all other activities that are permitted by the Clean Water Act.

(b) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund or in carrying out the purposes of this chapter.

As added by P.L.1-1996, SEC.8. Amended by P.L.235-2005, SEC.132.

IC 13-18-13-4

Repealed

(Repealed by P.L.235-2005, SEC.212.)

IC 13-18-13-5

Authority duties

Sec. 5. The authority shall do the following:

- (1) Administer, hold, and manage all aspects of the fund, the program, the supplemental fund, and the supplemental program in accordance with this chapter.
- (2) Be the point of contact in relations with the United States Environmental Protection Agency.
- (3) Prepare and provide program information.
- (4) Ensure that each proposed financial assistance agreement meets the environmental and technical aspects of the program or supplemental program.
- (5) Periodically inspect project design and construction to determine compliance with the following:
 - (A) This chapter.
 - (B) The Clean Water Act.
 - (C) Construction plans and specifications.
- (6) Negotiate the negotiable aspects of each financial assistance agreement.
- (7) Manage any payment systems through which the state receives grant payments from the federal government for the program and disbursements to the fund.
- (8) Be the point of contact with participants and other interested persons in preparing and providing program information.
- (9) Prepare or cause to be prepared each financial assistance agreement.
- (10) Sign each financial assistance agreement.

(11) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.9; P.L.28-2004, SEC.116; P.L.235-2005, SEC.133.

IC 13-18-13-6

Repealed

(Repealed by P.L.235-2005, SEC.212.)

IC 13-18-13-7

Authority powers

Sec. 7. (a) The authority may do the following:

(1) Employ:

- (A) fiscal consultants;
- (B) engineers;
- (C) bond counsel;
- (D) other special counsel;
- (E) accountants; and
- (F) any other consultants, employees, and agents;

that the authority considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of those persons employed in subdivision (1) from money:

- (A) available in the fund or supplemental fund; or
- (B) otherwise made available for the program or the supplemental program.

(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the following:

- (A) The fund.
- (B) The program.
- (C) The supplemental fund.
- (D) The supplemental program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

(b) Notwithstanding any other law, the authority, program, or fund, or any person or agent acting on behalf of the authority or program, is not liable in damages or otherwise to any participant or party seeking to be a participant for any act or omission in connection with a loan or other financial assistance, or any application, service, or other undertaking, allowed by or taken under this chapter.

(c) No direction given by or service or other undertaking allowed or taken under this chapter by the authority is a defense for or otherwise excuses any act or omission of a participant otherwise

required or imposed by law upon a participant.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.11; P.L.235-2005, SEC.134.

IC 13-18-13-8

Fees

Sec. 8. (a) The authority may:

- (1) charge a fee for services provided; and
- (2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a participant under this chapter, regardless of whether the application is approved or rejected.

(b) A participant may pay fees charged under this section.

As added by P.L.1-1996, SEC.8. Amended by P.L.235-2005, SEC.135.

IC 13-18-13-9

Duty to use priority ranking system in making loans

Sec. 9. The authority shall use a priority ranking system in making loans or other financial assistance from the fund. The authority, in consultation with the department, shall develop the priority ranking system to achieve optimum water quality consistent with the water quality goals of the state and the Clean Water Act.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.12; P.L.235-2005, SEC.136.

IC 13-18-13-10

Prerequisites for loans or assistance

Sec. 10. The authority may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for:

- (i) planning, designing, constructing, renovating, improving, or expanding wastewater collection and treatment systems;
- (ii) any purpose eligible for assistance under the Clean Water Act; and
- (iii) other activities necessary or convenient to complete these tasks;

(B) to:

- (i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A); or
- (ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan

or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

(2) The authority shall establish the terms and conditions that the authority considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

(3) Notwithstanding any other law, the authority may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.13; P.L.235-2005, SEC.137.

IC 13-18-13-11

Documentation

Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the authority.

(2) Unless otherwise provided by the guidelines of the authority, the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.14; P.L.235-2005, SEC.138.

IC 13-18-13-12

Financial assistance agreements

Sec. 12. A participant receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the participant.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.15; P.L.235-2005, SEC.139.

IC 13-18-13-13

Sale of loans

Sec. 13. The authority may sell loans or evidences of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the authority. Proceeds of sales under this section shall be deposited in the fund.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.16; P.L.235-2005, SEC.140.

IC 13-18-13-14

Pledge of loans

Sec. 14. (a) The authority may pledge loans or evidences of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund to secure:

- (1) other loans or financial assistance from the fund to or for the benefit of participants; or
- (2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent permitted by the Clean Water Act.

(b) The authority must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) or a pledge of property made by the authority under this section is binding from the time the pledge is made. Any pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) is binding on the authority. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency;
- (3) the fund; or
- (4) the authority;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the authority.

(e) Action taken to:

- (1) enforce a pledge under this section or IC 4-23-21-8(e)

(before its repeal); and
(2) realize the benefits of the pledge;
is limited to the property pledged.

(f) A pledge under this section or IC 4-23-21-8(e) (before its repeal) does not create a liability or indebtedness of the state.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.17; P.L.235-2005, SEC.141.

IC 13-18-13-15

Interest rate

Sec. 15. (a) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:

- (1) Credit risk.
- (2) Environmental enforcement and protection.
- (3) Affordability.
- (4) Other fiscal factors the authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different participants or for different loans or other financial assistance to the same participants.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.18; P.L.235-2005, SEC.142.

IC 13-18-13-16

User charges

Sec. 16. The authority shall require that a participant receiving a loan or other financial assistance under this chapter establish under applicable statute and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

- (1) operate and maintain the wastewater collection and treatment system; and
- (2) pay the obligations of the system.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.19; P.L.235-2005, SEC.143.

IC 13-18-13-17

Defaults; withholding payments from participants; effect on validity of loan or financial assistance

Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state:

(1) that is the custodian of money payable to a participant, other than money in payment for goods or services provided by the participant; and

(2) after written notice from the budget director that the participant is in default on the payment of principal or interest on a loan or evidence of other financial assistance;

may withhold payment of money from that participant and pay over the money to the authority or the Indiana bond bank as directed by the chairman of the authority, for the purpose of curing the default.

(b) The withholding of payment from the participant and payment to:

(1) the authority; or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the loan or other financial assistance.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.20; P.L.235-2005, SEC.144.

IC 13-18-13-18

Rules

Sec. 18. The authority may adopt guidelines, without complying with IC 4-22-2, to govern the administration of this chapter.

As added by P.L.1-1996, SEC.8. Amended by P.L.235-2005, SEC.145.

IC 13-18-13-19

Borrowing money; issuance and sale of notes; renewal or extension; maturity; compliance with statutory requirements

Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money from the authority by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend the notes periodically on terms agreed to with the authority, and the authority may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

(1) in the amounts; and

(2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the authority.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue its notes and sell the notes to the authority, and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. These notes are:

- (1) valid and binding obligations of the political subdivision;
- (2) enforceable in accordance with the terms of the notes; and
- (3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither:

- (1) the provisions of this section; nor
- (2) the actual issuance by a political subdivision of notes under subsection (b);

relieves the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.21; P.L.235-2005, SEC.146.

IC 13-18-13-20

Alternative to making loans or providing financial assistance; guarantee of obligations or bonds

Sec. 20. (a) As an alternative to making loans or providing other financial assistance to participants, the authority may use the money in the fund or the supplemental fund to provide a leveraged loan program and other financial assistance programs permitted by the Clean Water Act to or for the benefit of participants, including using money in the fund or the supplemental fund to enhance the obligations of participants issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

- (i) a capital or reserve fund established under IC 4-4-11 or another statute or a trust agreement or indenture as contemplated by section 2(e) of this chapter; or
- (ii) an account established within such a fund; or

(B) provide interest subsidies;

- (2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the authority or the Indiana bond bank, if credit market access is improved or interest rates are reduced; or
- (3) guaranteeing all or a part of obligations issued by participants or of bonds issued by the authority or the Indiana bond bank.

(b) The authority may enter into any agreements with the Indiana

bond bank or participants to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund and the supplemental fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.22; P.L.235-2005, SEC.147.

IC 13-18-13-21

Repealed

(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-22

Repealed

(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-23

Repealed

(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-24

Repealed

(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-25

Repealed

(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-26

Repealed

(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-27

Repealed

(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-28

Repealed

(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-29

Repealed

(Repealed by P.L.132-1999, SEC.33.)

IC 13-18-13-30

Use of funds to secure leveraged loan or other financial assistance in connection with drinking water revolving loan fund

Sec. 30. Notwithstanding any other law, and to the extent permitted by the federal Clean Water Act and the federal Safe

Drinking Water Act (42 U.S.C. 300f et seq.), money in the fund, together with loan repayments to be deposited in the fund, may be used to secure a leveraged loan program or other financial assistance programs established in connection with the drinking water revolving loan fund established by IC 13-18-21-2.

As added by P.L.104-1998, SEC.2.

IC 13-18-13-31 Version a

Criminal penalty for application misstatement

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 31. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or other financial assistance from the fund commits a Class D felony.

As added by P.L.137-2007, SEC.14.

IC 13-18-13-31 Version b

Criminal penalty for application misstatement

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 31. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or other financial assistance from the fund commits a Level 6 felony.

As added by P.L.137-2007, SEC.14. Amended by P.L.158-2013, SEC.185.