

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 307

Introduced by Albrecht, 17.

Read first time January 15, 2019

Committee: Natural Resources

1 A BILL FOR AN ACT relating to water; to amend sections 71-5316, 71-5318,
2 71-5325, and 71-5327, Reissue Revised Statutes of Nebraska, and
3 section 81-15,151, Revised Statutes Cumulative Supplement, 2018; to
4 update a reference to federal law; to provide for transfers between
5 funds by the Director of Environmental Quality; to change authorized
6 terms of loans; to eliminate a termination provision; to harmonize
7 provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-5316, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 71-5316 For purposes of the Drinking Water State Revolving Fund Act,
4 unless the context otherwise requires:

5 (1) Safe Drinking Water Act means the federal Safe Drinking Water
6 Act, as the act existed on October 23, 2018 ~~May 22, 2001~~;

7 (2) Construction means any of the following: Preliminary planning to
8 determine the feasibility of a safe drinking water project for a public
9 water system; engineering, architectural, legal, fiscal, or economic
10 investigations or studies; surveys, designs, plans, working drawings,
11 specifications, procedures, or other necessary preliminary actions;
12 erection, building, acquisition, alteration, remodeling, improvement, or
13 extension of public water systems; or the inspection or supervision of
14 any of such items;

15 (3) Council means the Environmental Quality Council;

16 (4) Department means the Department of Environmental Quality;

17 (5) Director means the Director of Environmental Quality;

18 (6) Operate and maintain means all necessary activities, including
19 the normal replacement of equipment or appurtenances, to assure the
20 dependable and economical function of a public water system in accordance
21 with its intended purpose;

22 (7) Owner means any person owning or operating a public water
23 system;

24 (8) Public water system has the definition found in section 71-5301;
25 and

26 (9) Safe drinking water project means the structures, equipment,
27 surroundings, and processes required to establish and operate a public
28 water system.

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

31 71-5318 (1) The Drinking Water Facilities Loan Fund is created. The

1 fund shall be held as a trust fund for the purposes and uses described in
2 the Drinking Water State Revolving Fund Act.

3 The fund shall consist of federal capitalization grants, state
4 matching appropriations, proceeds of state match bond issues credited to
5 the fund, repayments of principal and interest on loans, transfers made
6 pursuant to section 71-5327, and other money designated for the fund. The
7 director may make loans from the fund pursuant to the Drinking Water
8 State Revolving Fund Act and may conduct activities related to financial
9 administration of the fund, administration or provision of technical
10 assistance through public water system source water assessment programs,
11 and implementation of a source water petition program under the Safe
12 Drinking Water Act. The state investment officer shall invest any money
13 in the fund available for investment pursuant to the Nebraska Capital
14 Expansion Act and the Nebraska State Funds Investment Act, except that
15 any bond proceeds in the fund shall be invested in accordance with the
16 terms of the documents under which the bonds are issued. The state
17 investment officer may direct that the bond proceeds shall be deposited
18 with the bond trustee for investment. Investment earnings shall be
19 credited to the fund.

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

24 The fund and the assets thereof may be used, to the extent permitted
25 by the Safe Drinking Water Act and the regulations adopted and
26 promulgated pursuant to such act, to pay or to secure the payment of
27 bonds and the interest thereon, except that amounts deposited into the
28 fund from state appropriations and the earnings on such appropriations
29 may not be used to pay or to secure the payment of bonds or the interest
30 thereon.

31 The director may transfer any money in the Drinking Water Facilities

1 Loan Fund to the Wastewater Treatment Facilities Construction Loan Fund
2 to meet the purposes of section 71-5327. The director shall identify any
3 such transfer in the intended use plan presented to the council for
4 annual review and adoption pursuant to section 71-5321.

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

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

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

27 The fund and assets thereof may be used, to the extent permitted by
28 the Safe Drinking Water Act and the regulations adopted and promulgated
29 pursuant to such act, to pay or secure the payment of bonds and the
30 interest thereon, except that amounts credited to the fund from state
31 appropriations and the earnings on such appropriations may not be used to

1 pay or to secure the payment of bonds or the interest thereon.

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

4 (3) There is hereby created the Drinking Water Administration Fund.
5 Any funds available for administering loans or fees collected pursuant to
6 the Drinking Water State Revolving Fund Act shall be remitted to the
7 State Treasurer for credit to such fund. The fund shall be administered
8 by the department for the purposes of the act. The state investment
9 officer shall invest any money in the fund available for investment
10 pursuant to the Nebraska Capital Expansion Act and the Nebraska State
11 Funds Investment Act. Investment earnings shall be credited to the fund.

12 The fund and assets thereof may be used, to the extent permitted by
13 the Safe Drinking Water Act and the regulations adopted and promulgated
14 pursuant to such act, to fund subdivisions (9), (10), and (11) of section
15 71-5322. The annual obligation of the state pursuant to subdivisions (9)
16 and (11) of section 71-5322 shall not exceed sixty-five percent of the
17 revenue from administrative fees collected pursuant to section 71-5321 in
18 the prior fiscal year.

19 The director may transfer any money in the Drinking Water
20 Administration Fund to the Drinking Water Facilities Loan Fund to meet
21 the state matching appropriation requirements of any applicable federal
22 capitalization grants or to meet the purposes of subdivision (9) of
23 section 71-5322.

24 Sec. 3. Section 71-5325, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 71-5325 Loan terms shall include, but not be limited to, the
27 following:

28 (1) The term of the loan shall not exceed thirty ~~twenty~~ years,
29 except for systems serving disadvantaged communities which term may not
30 exceed forty ~~thirty~~ years;

31 (2) The interest rate shall be at or below market interest rates;

1 (3) The annual principal and interest payment shall commence not
2 later than one year after completion of any project; and

3 (4) The loan recipient shall immediately repay any loan when a grant
4 has been received which covers costs provided for by such loan.

5 Sec. 4. Section 71-5327, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 71-5327 At any time after the first year the fund is effective ~~and~~
8 ~~prior to federal fiscal year 2002~~ the director state may: (1) Reserve a
9 dollar amount equal up to thirty-three percent of a capitalization grant
10 made pursuant to section 1452 of the ~~federal~~ Safe Drinking Water Act and
11 add the funds reserved to any funds provided to the state pursuant to
12 section 601 of the Federal ~~federal~~ Water Pollution Control Act; and (2)
13 reserve in any year a dollar amount up to the dollar amount that may be
14 reserved under subdivision (1) of this section of ~~from~~ the capitalization
15 grants made pursuant to section 601 of the Federal ~~federal~~ Water
16 Pollution Control Act and add the reserved funds to any funds provided to
17 the state pursuant to section 1452 of the federal Safe Drinking Water
18 Act.

19 Sec. 5. Section 81-15,151, Revised Statutes Cumulative Supplement,
20 2018, is amended to read:

21 81-15,151 (1)(a) The Wastewater Treatment Facilities Construction
22 Loan Fund is hereby created. The fund shall be held as a trust fund for
23 the purposes and uses described in the Wastewater Treatment Facilities
24 Construction Assistance Act.

25 (b) The fund shall consist of federal capitalization grants, state
26 matching appropriations, repayments of principal and interest on loans,
27 transfers made pursuant to section 71-5327, and other money designated
28 for the fund. The director may make loans from the fund pursuant to the
29 act and may use (i) up to four percent of all federal capitalization
30 grant awards to the fund, (ii) up to four hundred thousand dollars per
31 year, or (iii) the equivalent of one-fifth percent per year of the

1 current valuation of the fund for the reasonable cost of administering
2 the fund and conducting activities under Title VI of the federal Clean
3 Water Act.

4 (c) The state investment officer shall invest any money in the fund
5 available for investment pursuant to the Nebraska Capital Expansion Act
6 and the Nebraska State Funds Investment Act, except that (i) amounts
7 designated by the director for use in the linked deposit program shall be
8 deposited with eligible financial institutions by the director and (ii)
9 any bond proceeds in the fund shall be invested in accordance with the
10 terms of the documents under which the bonds are issued. The state
11 investment officer may direct that the bond proceeds shall be deposited
12 with the bond trustee for investment. Investment earnings shall be
13 credited to the fund.

14 (d) The department may create or direct the creation of accounts
15 within the fund as the department determines to be appropriate and useful
16 in administering the fund and in providing for the security, investment,
17 and repayment of bonds.

18 (e) The fund and the assets thereof may be used, to the extent
19 permitted by the Clean Water Act, as amended, and the regulations adopted
20 and promulgated pursuant to such act, (i) to pay or to secure the payment
21 of bonds and the interest thereon, except that amounts deposited into the
22 fund from state appropriations and the earnings on such appropriations
23 may not be used to pay or to secure the payment of bonds or the interest
24 thereon, (ii) to deposit as provided by the linked deposit program, and
25 (iii) to buy or refinance the debt obligation of municipalities for
26 wastewater treatment works if the debt was incurred and construction was
27 begun after March 7, 1985. Eligibility and terms of such refinancing
28 shall be in accordance with the Wastewater Treatment Facilities
29 Construction Assistance Act.

30 (f) The director may transfer any money in the Wastewater Treatment
31 Facilities Construction Loan Fund to the Drinking Water Facilities Loan

1 Fund to meet the purposes of section 71-5327. The director shall identify
2 any such transfer in the intended use plan presented to the council for
3 annual review and adoption pursuant to section 71-5321.

4 (2)(a) There is hereby created the Construction Administration Fund.
5 Any funds available for administering loans or fees collected pursuant to
6 the Wastewater Treatment Facilities Construction Assistance Act shall be
7 deposited in such fund. The fund shall be administered by the department
8 for the purposes of the act. The state investment officer shall invest
9 any money in the fund available for investment pursuant to the Nebraska
10 Capital Expansion Act and the Nebraska State Funds Investment Act.
11 Investment earnings shall be credited to the fund.

12 (b) The Construction Administration Fund and assets thereof may be
13 used, to the extent permitted by the Clean Water Act and the regulations
14 adopted and promulgated pursuant to such act, to fund subdivisions (11),
15 (12), and (13) of section 81-15,153. The annual obligation of the state
16 pursuant to subdivisions (11) and (13) of such section shall not exceed
17 sixty-five percent of the revenue from administrative fees collected
18 pursuant to this section in the prior fiscal year.

19 (c) The director may transfer any money in the Construction
20 Administration Fund to the Wastewater Treatment Facilities Construction
21 Loan Fund to meet the nonfederal match requirements of any applicable
22 federal capitalization grants or to meet the purposes of subdivision (11)
23 of section 81-15,153.

24 Sec. 6. Original sections 71-5316, 71-5318, 71-5325, and 71-5327,
25 Reissue Revised Statutes of Nebraska, and section 81-15,151, Revised
26 Statutes Cumulative Supplement, 2018, are repealed.