

Senate Study Bill 1117

SENATE/HOUSE FILE _____
BY (PROPOSED IOWA FINANCE
AUTHORITY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the administration of the Iowa water pollution
2 control works and drinking water facilities financing program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1326XD 83
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1 1 Section 1. Section 16.131, subsection 2, Code 2009, is
1 2 amended by striking the subsection.
1 3 Sec. 2. Section 16.131, subsection 3, Code 2009, is
1 4 amended to read as follows:
1 5 3. The authority may issue its bonds and notes for the
1 6 purpose of funding the revolving loan funds created under
1 7 section ~~455B.295~~ 16.133A and ~~defraying the costs of payment of~~
~~1 8 the twenty percent state matching funds required for federal~~
~~1 9 funds received for projects pursuant to the Clean Water Act~~
~~1 10 and the Safe Drinking Water Act.~~
1 11 Sec. 3. Section 16.131, subsection 4, unnumbered paragraph
1 12 1, Code 2009, is amended to read as follows:
1 13 The authority may issue its bonds and notes for the
1 14 purposes established and may enter into one or more ~~lending~~
1 15 loan agreements or purchase agreements with one or more
1 16 bondholders or noteholders containing the terms and conditions
1 17 of the repayment of and the security for the bonds or notes.
1 18 The authority and the bondholders or noteholders or a trustee
1 19 agent designated by the authority may enter into agreements to
1 20 provide for any of the following:
1 21 Sec. 4. Section 16.131, Code 2009, is amended by adding
1 22 the following new subsections:
1 23 NEW SUBSECTION. 7. The authority shall determine the
1 24 interest rate and repayment terms for loans made under the
1 25 program, in cooperation with the department, and the authority
1 26 shall enter into loan agreements with eligible entities in
1 27 compliance with and subject to the terms and conditions of the
1 28 Clean Water Act, the Safe Drinking Water Act, and any other
1 29 applicable federal law.
1 30 NEW SUBSECTION. 8. The authority shall process, review,
1 31 and approve or deny loan applications pursuant to eligibility
1 32 requirements established by rule of the authority and in
1 33 accordance with the intended use plan applications approved by
1 34 the department.
1 35 NEW SUBSECTION. 9. The authority may charge loan
2 1 recipients fees and assess costs against such recipients
2 2 necessary for the continued operation of the program. Fees
2 3 and costs collected pursuant to this subsection shall be
2 4 deposited in the appropriate fund or funds described in
2 5 section 16.133A.
2 6 Sec. 5. NEW SECTION. 16.131A DEFINITIONS.
2 7 As used in sections 16.131 through 16.134, unless the
2 8 context otherwise requires:
2 9 1. "Clean Water Act" means the federal Water Pollution
2 10 Control Act of 1972, Pub. L. No. 92=500, as amended by the
2 11 Water Quality Act of 1987, Pub. L. No. 100=4, as published in
2 12 33 U.S.C. } 1251=1376, as amended.
2 13 2. "Commission" means the environmental protection
2 14 commission created under section 455A.6.
2 15 3. "Cost" means all costs, charges, expenses, or other
2 16 indebtedness incurred by a loan recipient and determined by
2 17 the department as reasonable and necessary for carrying out
2 18 all works and undertakings necessary or incidental to the
2 19 accomplishment of any project.

2 20 4. "Department" means the department of natural resources
2 21 created in section 455A.2.

2 22 5. "Eligible entity" means a person eligible under the
2 23 provisions of the Clean Water Act, the Safe Drinking Water
2 24 Act, and the commission rules to receive loans for projects
2 25 from any of the revolving loan funds.

2 26 6. "Loan recipient" means an eligible entity that has
2 27 received a loan under the program.

2 28 7. "Municipality" means a city, county, sanitary district,
2 29 state agency, or other governmental body or corporation
2 30 empowered to provide sewage collection and treatment services
2 31 or drinking water, or any combination of two or more of the
2 32 governmental bodies or corporations acting jointly, in
2 33 connection with a project.

2 34 8. "Program" means the Iowa water pollution control works
2 35 and drinking water facilities financing program created
3 1 pursuant to section 455B.294.

3 2 9. "Project" means one of the following:

3 3 a. In the context of water pollution control facilities,
3 4 the acquisition, construction, reconstruction, extension,
3 5 equipping, improvement, or rehabilitation of any works and
3 6 facilities useful for the collection, treatment, and disposal
3 7 of sewage and industrial waste in a sanitary manner including
3 8 treatment works as defined in section 212 of the Clean Water
3 9 Act, or the implementation and development of management
3 10 programs established under sections 319 and 320 of the Clean
3 11 Water Act, including construction and undertaking of nonpoint
3 12 source water pollution control projects and related
3 13 development activities authorized under those sections.

3 14 b. In the context of drinking water facilities, the
3 15 acquisition, construction, reconstruction, extending,
3 16 remodeling, improving, repairing, or equipping of waterworks,
3 17 water mains, extensions, or treatment facilities useful for
3 18 providing potable water to residents served by a water system,
3 19 including the acquisition of real property needed for any of
3 20 the foregoing purposes, and such other purposes and programs
3 21 as may be authorized under the Safe Drinking Water Act.

3 22 10. "Revolving loan funds" means the funds of the program
3 23 established under sections 16.133A and 455B.295.

3 24 11. "Safe Drinking Water Act" means Title XIV of the
3 25 federal Public Health Service Act, commonly known as the "Safe
3 26 Drinking Water Act", 42 U.S.C. } 300f et seq., as amended by
3 27 the Safe Drinking Water Amendments of 1996, Pub. L. No.
3 28 104-182, as amended.

3 29 12. "Water system" means any community water system or
3 30 nonprofit noncommunity water system, each as defined in the
3 31 Safe Drinking Water Act, that is eligible under the rules of
3 32 the department to receive a loan under the program for the
3 33 purposes of undertaking a project.

3 34 Sec. 6. Section 16.132, subsection 1, paragraph d, Code
3 35 2009, is amended to read as follows:

4 1 d. The amounts payable to the ~~department~~ authority by
4 2 eligible entities pursuant to loan agreements with eligible
4 3 entities.

4 4 Sec. 7. Section 16.132, subsection 5, Code 2009, is
4 5 amended to read as follows:

4 6 5. The bonds or notes issued by the authority are not an
4 7 indebtedness or other liability of the state or of a political
4 8 subdivision of the state within the meaning of any
4 9 constitutional or statutory debt limitations but are special
4 10 obligations of the authority, and are payable solely from the
4 11 income and receipts or other funds or property of the
4 12 ~~department authority~~, and the amounts on deposit in the
4 13 revolving loan funds, and the amounts payable to the
4 14 ~~department authority~~ under its loan agreements with eligible
4 15 entities ~~as defined in section 455B.291~~ to the extent that the
4 16 amounts are designated in the resolution, trust agreement, or
4 17 other instrument of the authority authorizing the issuance of
4 18 the bonds or notes as being available as security for such
4 19 bonds or notes. The authority shall not pledge the faith or
4 20 credit of the state or of a political subdivision of the state
4 21 to the payment of any bonds or notes. The issuance of any
4 22 bonds or notes by the authority does not directly, indirectly,
4 23 or contingently obligate the state or a political subdivision
4 24 of the state to apply money from, or levy or pledge any form
4 25 of taxation whatever to the payment of the bonds or notes.

4 26 Sec. 8. NEW SECTION. 16.133A FUNDS AND ACCOUNTS ==
4 27 PROGRAM FUNDS AND ACCOUNTS NOT PART OF STATE GENERAL FUND.

4 28 1. The authority may establish and maintain funds and
4 29 accounts determined to be necessary to carry out the purposes
4 30 of the program and shall provide for the funding,

4 31 administration, investment, restrictions, and disposition of
4 32 the funds and accounts. The department and the authority may
4 33 combine administration of the revolving loan funds and cross
4 34 collateralize the same to the extent permitted by the Clean
4 35 Water Act, the Safe Drinking Water Act, and other applicable
5 1 federal law. Moneys appropriated to and used by the authority
5 2 and department for purposes of paying the costs and expenses
5 3 associated with the administration of the program shall be
5 4 administered as determined by the authority and department.

5 5 2. The funds or accounts held by the authority, or a
5 6 trustee acting on behalf of the authority pursuant to a trust
5 7 agreement related to the program, shall not be considered part
5 8 of the general fund of the state, are not subject to
5 9 appropriation for any other purpose by the general assembly,
5 10 and in determining a general fund balance shall not be
5 11 included in the general fund of the state, but shall remain in
5 12 the funds and accounts maintained by the authority or trustee
5 13 pursuant to a trust agreement. Funds and accounts held by the
5 14 authority, or a trustee acting on behalf of the authority
5 15 pursuant to a trust agreement related to the program, are
5 16 separate dedicated funds and accounts under the administration
5 17 and control of the authority and subject to section 16.31.

5 18 Sec. 9. Section 16.134, subsections 1 and 2, Code 2009,
5 19 are amended to read as follows:

5 20 1. The Iowa finance authority shall establish and
5 21 administer a wastewater treatment financial assistance
5 22 program. The purpose of the program shall be to provide
5 23 grants to enhance water quality and to assist communities to
5 24 comply with water quality standards adopted by the department
5 25 of natural resources. The program shall be administered in
5 26 accordance with rules adopted by the authority pursuant to
5 27 chapter 17A. For purposes of this section, "program" means
5 28 the wastewater treatment financial assistance program.

5 29 2. A wastewater treatment financial assistance fund is
5 30 created ~~under the authority of the Iowa finance authority.~~
5 31 ~~The fund and~~ shall consist of appropriations made to the fund
5 32 and transfers of interest, earnings, and moneys from other
5 33 funds as provided by law. Moneys in the fund are not subject
5 34 to section 8.33. Notwithstanding section 12C.7, subsection 2,
5 35 interest or earnings on moneys in the fund shall be credited
6 1 to the fund.

6 2 Sec. 10. Section 16.134, subsection 4, paragraph a, Code
6 3 2009, is amended to read as follows:

6 4 a. Communities shall be eligible for financial assistance
6 5 by qualifying as a disadvantaged community and seeking
6 6 financial assistance for the installation or upgrade of
6 7 wastewater treatment facilities due to regulatory activity in
6 8 response to water quality standards adopted by the department
6 9 of natural resources in calendar year 2006. For purposes of
6 10 this section, the term "disadvantaged community" means the
6 11 same as defined by the department ~~of natural resources for the~~
6 12 ~~drinking water facilities revolving loan fund established in~~
6 13 ~~section 455B.295.~~ Communities with a population of three
6 14 thousand or more do not qualify for financial assistance under
6 15 the program.

6 16 Sec. 11. Section 455B.291, Code 2009, is amended to read
6 17 as follows:

6 18 455B.291 DEFINITIONS.

6 19 As used in this part, unless the context requires
6 20 otherwise:

6 21 1. "Administration funds" means ~~the water pollution~~
6 22 ~~control works administration fund and the drinking water~~
6 23 ~~facilities administration fund funds established pursuant to~~
6 24 ~~this part for the costs and expenses associated with~~
6 25 ~~administering the program under this part and section 16.133A.~~

6 26 2. "Authority" means the Iowa finance authority
6 27 established in section 16.2.

6 28 3. "Clean Water Act" means the federal Water Pollution
6 29 Control Act of 1972, Pub. L. No. 92=500, as amended by the
6 30 Water Quality Act of 1987, Pub. L. No. 100=4, as published in
6 31 33 U.S.C. } 1251==1376, as amended.

6 32 4. "Cost" means all costs, charges, expenses, or other
6 33 indebtedness incurred by a loan recipient and determined by
6 34 the ~~director~~ department as reasonable and necessary for
6 35 carrying out all works and undertakings necessary or
7 1 incidental to the accomplishment of any project.

7 2 5. ~~"Drinking water facilities administration fund" means~~
7 3 ~~the drinking water facilities administration fund established~~
7 4 ~~in section 455B.295.~~

7 5 6. ~~"Drinking water facilities revolving loan fund" means~~
7 6 ~~the drinking water facilities revolving loan fund established~~

~~7 7 in section 455B.295.~~

7 8 ~~7- 5.~~ "Eligible entity" means a person eligible under the
7 9 provisions of the Clean Water Act, the Safe Drinking Water
7 10 Act, and the commission rules to receive loans for projects
7 11 from ~~either any~~ of the revolving loan funds.

7 12 ~~8- 6.~~ "Loan recipient" means an eligible entity that has
7 13 received a loan from ~~either any~~ of the revolving loan funds.

7 14 ~~9- 7.~~ "Municipality" means a city, county, sanitary
7 15 district, state agency, or other governmental body or
7 16 corporation empowered to provide sewage collection and
7 17 treatment services, or any combination of two or more of the
7 18 governmental bodies or corporations acting jointly, in
7 19 connection with a project.

7 20 ~~10- 8.~~ "Program" means the Iowa water pollution control
7 21 works and drinking water facilities financing program created
7 22 pursuant to section 455B.294.

7 23 ~~11- 9.~~ "Project" means one of the following:

7 24 a. In the context of water pollution control facilities,
7 25 the acquisition, construction, reconstruction, extension,
7 26 equipping, improvement, or rehabilitation of any works and
7 27 facilities useful for the collection, treatment, and disposal
7 28 of sewage and industrial waste in a sanitary manner including
7 29 treatment works as defined in section 212 of the Clean Water
7 30 Act, or the implementation and development of management
7 31 programs established under sections 319 and 320 of the Clean
7 32 Water Act, including construction and undertaking of nonpoint
7 33 source water pollution control projects and related
7 34 development activities authorized under those sections.

7 35 b. In the context of drinking water facilities, the
8 1 acquisition, construction, reconstruction, extending,
8 2 remodeling, improving, repairing, or equipping of waterworks,
8 3 water mains, extensions, or treatment facilities useful for
8 4 providing potable water to residents served by a water system,
8 5 including the acquisition of real property needed for any of
8 6 the foregoing purposes, and such other purposes and programs
8 7 as may be authorized under the Safe Drinking Water Act.

~~8 8 12- 10. "Revolving loan funds" means the water pollution
8 9 control works revolving loan fund and the drinking water
8 10 facilities revolving loan fund funds of the program
8 11 established under sections 16.133A and 455B.295.~~

8 12 ~~13- 11.~~ "Safe Drinking Water Act" means Title XIV of the
8 13 federal Public Health Service Act, commonly known as the "Safe
8 14 Drinking Water Act", 42 U.S.C. } 300f et seq., as amended by
8 15 the Safe Drinking Water Amendments of 1996, Pub. L. No.
8 16 104-182, as amended.

~~8 17 14. "Water pollution control works administration fund"
8 18 means the water pollution control works administration fund
8 19 established in section 455B.295.~~

~~8 20 15. "Water pollution control works revolving loan fund"
8 21 means the water pollution control works revolving loan fund
8 22 established in section 455B.295.~~

8 23 ~~16- 12.~~ "Water system" means any community water system
8 24 or nonprofit noncommunity water system, each as defined in the
8 25 Safe Drinking Water Act, that is eligible under the rules of
8 26 the department to receive a loan under the program for the
8 27 purposes of undertaking a project.

8 28 Sec. 12. Section 455B.295, subsections 1, 2, and 3, Code
8 29 2009, are amended by striking the subsections.

8 30 Sec. 13. Section 455B.295, subsection 4, Code 2009, is
8 31 amended to read as follows:

8 32 ~~4- 1.~~ The department ~~and the authority~~ may establish and
8 33 maintain ~~other~~ funds or accounts determined to be necessary to
8 34 carry out the purposes of this part and shall provide for the
8 35 funding, administration, investment, restrictions, and
9 1 disposition of the funds and accounts. The department and the
9 2 authority may combine administration of the revolving loan
9 3 funds, and cross collateralize the same, ~~and the~~
~~9 4 administration funds to the extent permitted by the Clean
9 5 Water Act, the Safe Drinking Water Act, and other applicable
9 6 federal law. Moneys appropriated to the department and the
9 7 authority for purposes of paying the costs and expenses
9 8 associated with the administration of the program shall be
9 9 administered as determined by the department and the
9 10 authority.~~

9 11 Sec. 14. Section 455B.295, Code 2009, is amended by adding
9 12 the following new subsection:

9 13 NEW SUBSECTION. 2. The funds or accounts held by the
9 14 department, or a trustee acting on behalf of the department
9 15 pursuant to a trust agreement related to the program, shall
9 16 not be considered part of the general fund of the state, are
9 17 not subject to appropriation for any other purpose by the

9 18 general assembly, and in determining a general fund balance
9 19 shall not be included in the general fund of the state, but
9 20 shall remain in the funds and accounts maintained by the
9 21 department or trustee pursuant to a trust agreement. Funds
9 22 and accounts held by the department, or a trustee acting on
9 23 behalf of the department pursuant to a trust agreement related
9 24 to the program, are separate dedicated funds and accounts
9 25 under the administration and control of the department.

9 26 Sec. 15. Section 455B.296, subsections 2 and 3, Code 2009,
9 27 are amended to read as follows:

9 28 2. The department and the authority shall establish fiscal
9 29 controls and accounting procedures during appropriate
9 30 accounting periods for payments received for deposit in and
9 31 disbursements ~~received and made by~~ from the revolving loan
9 32 ~~funds, and the administration funds, and other funds~~
~~9 33 established pursuant to section 455B.295, subsection 4, and to~~
9 34 fund balances at the beginning and end of the accounting
9 35 periods.

10 1 3. Upon receipt of the joint recommendation of the
10 2 department and the authority with respect to the amounts to be
10 3 so reserved and transferred, and subject in all respects to
10 4 the applicable provisions of the Clean Water Act, Safe
10 5 Drinking Water Act, and other applicable federal law, the
10 6 governor may direct that the recommended portion of a
10 7 capitalization grant made in respect of one of the revolving
10 8 loan funds in any year be reserved for the transfer to ~~the~~
~~10 9 other another~~ revolving loan fund. The authority and the
10 10 department may effect the transfer of any funds reserved for
10 11 such purpose, as directed by the governor, and shall cause the
10 12 records of the program to reflect the transfer. Any sums so
10 13 transferred shall be expended in accordance with the intended
10 14 use plan for the applicable revolving loan fund.

10 15 Sec. 16. Section 455B.297, Code 2009, is amended to read
10 16 as follows:

10 17 455B.297 LOANS TO ELIGIBLE ENTITIES.

10 18 Moneys deposited in the revolving loan funds shall be used
10 19 for the primary purpose of making loans to eligible entities
10 20 to finance the ~~cost~~ eligible costs of projects in accordance
10 21 with the intended use plans developed by the department under
10 22 section 455B.296. The loan recipients and the purpose, ~~and~~
10 23 ~~amount, interest rate, and repayment terms~~ of the loans shall
10 24 be determined by the director, in accordance with rules
10 25 adopted by the commission, in compliance with and subject to
10 26 the terms and conditions of the Clean Water Act, the Safe
10 27 Drinking Water Act, and other applicable federal law, as
10 28 applicable, and any resolution, agreement, indenture, or other
10 29 document of the authority, and rules adopted by the authority,
10 30 relating to any bonds, notes, or other obligations issued for
10 31 the program which may be applicable to the loan.

10 32 Sec. 17. Section 455B.298, Code 2009, is amended to read
10 33 as follows:

10 34 455B.298 POWERS AND DUTIES OF THE DIRECTOR.

10 35 The director shall:

11 1 1. ~~Process, and review loan, and approve or deny intended~~
11 2 ~~use plan applications to determine if an application meets the~~
11 3 ~~eligibility requirements set by the rules of the department.~~

11 4 2. ~~Approve loan applications of eligible entities which~~
11 5 ~~satisfy the rules adopted by the commission, and the intended~~
11 6 ~~use plans developed by the department under section 455B.296.~~

11 7 3. ~~2. Process and review all documents relating to~~
11 8 ~~projects and the extending of loans the planning, design,~~
11 9 ~~construction, and operation of water pollution control works~~
11 10 ~~and drinking water facilities pursuant to this part.~~

11 11 4. ~~3. Prepare and process, in coordination with the~~
11 12 ~~authority, documents relating to the extending of loans, the~~
11 13 ~~sale and issuance of bonds, notes, or other obligations of the~~
11 14 ~~authority relating to the program, and the administration of~~
11 15 the program.

11 16 5. ~~4. Include in the budget prepared pursuant to section~~
11 17 ~~455A.4, subsection 1, paragraph "c", an annual budget for the~~
11 18 ~~administration of the program and the use and disposition of~~
11 19 ~~amounts on deposit in the administration funds.~~

11 20 6. ~~Charge each loan recipient a loan origination fee and~~
11 21 ~~an annual loan servicing fee. The amount of the loan~~
11 22 ~~origination fees and the loan servicing fees established shall~~
11 23 ~~be relative to the amount of a loan made from the revolving~~
11 24 ~~loan fund. The director shall deposit the receipts from the~~
11 25 ~~loan origination fees and the loan servicing fees in the~~
11 26 ~~appropriate administration fund.~~

11 27 7. ~~Consult with and receive the approval of the authority~~
11 28 ~~concerning the terms and conditions of loan agreements as to~~

~~11 29 the financial integrity of the loan.~~

11 30 5. Receive fees pursuant to the program as determined in
11 31 conjunction with the authority.

11 32 ~~8- 6. Perform other acts and assume other duties and~~
11 33 ~~responsibilities necessary for the operation of the program~~
11 34 ~~and for the carrying out of the Clean Water Act and the Safe~~
11 35 ~~Drinking Water Act.~~

EXPLANATION

12 1 This bill relates to the administration of the Iowa water
12 2 pollution control works and drinking water facilities
12 3 financing program.

12 4 The Iowa water pollution control works and drinking water
12 5 facilities financing program is jointly administered by the
12 6 Iowa finance authority and the department of natural
12 7 resources. The bill modifies the allocation of duties and
12 8 responsibilities of the authority and department under the
12 9 program. The bill adds provisions in Code chapter 16 that are
12 10 currently only in Code chapter 455B relating to definitions
12 11 and establishment and maintenance of funds and accounts under
12 12 the program.

12 13 In dividing the duties under the program, the bill provides
12 14 that the department shall process, review, and approve or deny
12 15 intended use plan applications; process and review all
12 16 documents relating to the planning, design, construction, and
12 17 operation of water facilities; prepare and process, in
12 18 coordination with the authority, documents relating to the
12 19 administration of the program; include in the department's
12 20 annual budget a budget for the administration of the program
12 21 and the use and disposition of amounts on deposit in the
12 22 administration of the funds; receive fees under the program;
12 23 and perform other acts and assume other duties and
12 24 responsibilities necessary for the operation of the program.
12 25 The bill provides that the authority shall cooperate with the
12 26 department in administering and financing the program; may
12 27 issue bonds and notes for the purposes of funding funds under
12 28 the program; may enter into lending agreements or purchase
12 29 agreements with bondholders or noteholders; shall determine
12 30 the interest rate and repayment terms of the loans under the
12 31 program and enter into loan agreements with eligible entities;
12 32 shall process, review, and approve or deny loan applications
12 33 under the program; and may charge fees and costs necessary for
12 34 the continued operation of the program.

13 1 The bill eliminates specific references to funds under the
13 2 program and provides general provisions relating to the
13 3 creation of funds and accounts under the program. The bill
13 4 provides that funds or accounts held by the department or the
13 5 authority, or a trustee acting on behalf of the department or
13 6 authority, shall not be considered part of the general fund of
13 7 the state, are not subject to appropriation for any other
13 8 purpose by the general assembly, and in determining a general
13 9 fund balance shall not be included in the general fund of the
13 10 state, but shall remain in the funds and accounts maintained
13 11 by the department or authority or trustee pursuant to a trust
13 12 agreement. The bill provides that funds and accounts held by
13 13 the department or authority, or a trustee acting on behalf of
13 14 the department authority, are separate dedicated funds and
13 15 accounts under the administration and control of the
13 16 department or authority.

13 17 The bill provides that moneys appropriated to the
13 18 department and the authority for purposes of paying the
13 19 administration costs and expenses shall be administered as
13 20 determined by the department and the authority.

13 21 The bill makes conforming amendments.

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