

1                                   **WATER LOAN PROGRAM AMENDMENTS**

2   2007 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Patrick Painter**

5   Senate Sponsor: Margaret Dayton

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7 **LONG TITLE**

8 **General Description:**

9           This bill amends the loan and grant programs for water projects administered by the  
10 Department of Environmental Quality.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ changes the drinking water, nonpoint source, and wastewater project definitions;
- 14           ▶ changes the type of wastewater project that the Water Quality Board may fund;
- 15           ▶ changes the type of drinking water project that the Drinking Water Board may fund;
- 16           ▶ authorizes the Water Quality Board to give a grant for a nonpoint source project;
- 17           ▶ authorizes the Water Quality Board and Drinking Water Board to charge an  
18 origination fee;
- 19           ▶ establishes a repeal date for an uncodified section regarding fees;
- 20           ▶ creates two origination fee subaccounts; and
- 21           ▶ makes technical changes.

22 **Monies Appropriated in this Bill:**

23           None

24 **Other Special Clauses:**

25           None

26 **Utah Code Sections Affected:**

27 **AMENDS:**

28           **73-10c-2**, as last amended by Chapter 175, Laws of Utah 2001

29           **73-10c-4**, as last amended by Chapter 296, Laws of Utah 2002

30 73-10c-4.5, as enacted by Chapter 282, Laws of Utah 2000

31 73-10c-5, as last amended by Chapters 12 and 175, Laws of Utah 2001

32 ENACTS:

33 73-10c-10, Utah Code Annotated 1953

34 **Uncodified Material Affected:**

35 ENACTS UNCODIFIED MATERIAL



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section 73-10c-2 is amended to read:

39 **73-10c-2. Definitions.**

40 As used in this chapter:

41 (1) "Board" means the Board of Water Resources ~~[of the Department of Natural~~  
42 ~~Resources]~~ created in Section 73-10-1.5.

43 (2) "Council" means the Water Development Coordinating Council created ~~[pursuant~~  
44 ~~to Section]~~ by Sections 63-34-3~~[, and this chapter]~~ and 73-10c-3.

45 (3) "Credit enhancement agreement" means ~~[any]~~ an agreement entered into ~~[under]~~  
46 according to this chapter between the Drinking Water Board or the Water Quality Board, on  
47 behalf of the state, and a political subdivision, for the purpose of providing methods and  
48 assistance to political subdivisions to improve the security for and marketability of drinking  
49 water project obligations and wastewater project obligations.

50 (4) "Drinking Water Board" means the Drinking Water Board ~~[created in Title 19,~~  
51 ~~Chapter 4, Safe Drinking Water Act]~~ appointed according to Section 19-4-103.

52 (5) "Drinking water or wastewater project obligation" means, as appropriate, any bond,  
53 note, or other obligation of a political subdivision issued to finance all or part of the cost of  
54 acquiring, constructing, expanding, upgrading, or improving a drinking water project or  
55 wastewater project.

56 (6) (a) "Drinking water project" means any work or facility that is necessary or  
57 desirable to provide water for human consumption and other domestic uses~~[, which]~~ and:

- 58           (i) has at least 15 service connections; or
- 59           (ii) serves an average of 25 individuals daily for at least 60 days of the year [~~and~~].
- 60           (b) "Drinking water project" includes:
- 61           (i) collection, treatment, storage, and distribution facilities under the control of the
- 62 operator and used primarily with the system [~~and~~];
- 63           (ii) collection pretreatment or storage facilities used primarily in connection with the
- 64 system but not under [~~its~~] operator's control[-]; and
- 65           (iii) studies, planning, education activities, and design work that will promote
- 66 protecting the public from waterborne health risks.
- 67           (7) "Financial assistance programs" means the various programs administered by the
- 68 state whereby loans, grants, and other forms of financial assistance are made available to
- 69 political subdivisions of this state to finance the costs of water and wastewater projects.
- 70           (8) "Hardship Grant Assessment" means the charge the Water Quality Board or
- 71 Drinking Water Board assesses to recipients of loans [~~under~~] made from the subaccount created
- 72 in Subsection 73-10c-5(2)(b) or 73-10c-5(3)(b) in lieu of or in addition to interest charged on
- 73 these loans.
- 74           (9) "Nonpoint source project" means [~~any~~] a facility, system, practice, study, activity,
- 75 or mechanism [~~to abate, prevent, or reduce~~] that abates, prevents, or reduces the pollution of
- 76 waters of this state [~~caused~~] by a nonpoint [~~sources~~] source.
- 77           (10) "Political subdivision" means [~~any~~] a county, city, town, improvement district,
- 78 water conservancy district, special service district, drainage district, metropolitan water district,
- 79 irrigation district, separate legal or administrative entity created under Title 11, Chapter 13,
- 80 Interlocal Cooperation Act, or any other entity constituting a political subdivision under the
- 81 laws of this state.
- 82           (11) "Security fund" means the Water Development Security Fund created [~~by this~~
- 83 ~~chapter~~] in Section 73-10c-5.
- 84           (12) "Wastewater project" means: [~~any~~]
- 85           (a) a sewer, storm or sanitary sewage system, sewage treatment facility, lagoon, sewage

86 collection facility and system, and related pipelines, and all similar systems, ~~and~~ works, and  
87 facilities necessary or desirable to collect, hold, cleanse, or purify any sewage or other polluted  
88 waters of this state[-]; and

89 (b) a study, pollution prevention activity, or pollution education activity that will  
90 protect the waters of this state.

91 (13) "Waters of this state" means any stream, lake, pond, marsh, watercourse,  
92 waterway, well, spring, irrigation system, drainage system, or other body or accumulation of  
93 water whether surface, underground, natural, artificial, public, private, or other water resource  
94 of the state which is contained within or flows in or through the state.

95 (14) "Water Quality Board" means the Water Quality Board ~~[created in Title 19,~~  
96 ~~Chapter 5, Water Quality Act]~~ appointed according to Section 19-5-103.

97 Section 2. Section **73-10c-4** is amended to read:

98 **73-10c-4. Credit enhancement and interest buy-down agreements -- Loans or**  
99 **grants -- Hardship grants.**

100 (1) On behalf of the state, the Water Quality Board and the Drinking Water Board may  
101 each enter into credit enhancement agreements with political subdivisions containing terms and  
102 provisions that the acting board determines will reasonably improve the security for or  
103 marketability of drinking water and wastewater project obligations, including any of the  
104 following:

105 (a) a term providing security for drinking water and wastewater project obligations, as  
106 provided in Subsection 73-10c-6(2)(b), by agreeing to purchase the drinking water or  
107 wastewater project obligations of, or to make loans to, political subdivisions from a subaccount  
108 of the security fund for the purpose of preventing defaults in the payment of principal and  
109 interest on drinking water and wastewater project obligations;

110 (b) a term making loans to political subdivisions to pay the cost of obtaining:

111 (i) letters of credit from banks, savings and loan institutions, insurance companies, or  
112 other financial institutions;

113 (ii) municipal bond insurance; or

114 (iii) other forms of insurance or security to provide security for drinking water and  
115 wastewater project obligations; and

116 (c) a term providing other methods and assistance to political subdivisions [~~which~~] that  
117 are reasonable and proper to enhance the marketability of or security for drinking water and  
118 wastewater project obligations.

119 (2) (a) The Drinking Water Board and the Water Quality Board may each make loans  
120 from a security fund subaccount to political subdivisions to finance all or part of drinking water  
121 and wastewater project costs by following the procedures and requirements of Sections  
122 73-10c-4.1 and 73-10c-4.2.

123 (b) These loans may only be made after credit enhancement agreements, interest  
124 buy-down agreements, and all other financing alternatives have been evaluated by the acting  
125 board and the board determines those options are unavailable or unreasonably expensive for the  
126 subdivision requesting assistance.

127 (c) Loans may be made from the security fund subaccount at interest rates determined  
128 by the board.

129 [~~(d) Loans may not be made from the \$5,000,000 appropriated to the security fund~~  
130 ~~subaccount by the Legislature for fiscal year 1983-84.]~~

131 (3) (a) The Drinking Water Board and the Water Quality Board may each make loans  
132 or grants from the security fund to political subdivisions for interest buy-down agreements for  
133 drinking water or wastewater project obligations.

134 (b) The Drinking Water Board may make loans or grants from the security account to  
135 political subdivisions for planning for drinking water projects.

136 (4) (a) Of the total amount of money annually available to the Drinking Water Board  
137 and Water Quality Board for financial assistance to political subdivisions, at least 10% shall be  
138 allocated by each board for credit enhancement and interest buy-down agreements.

139 (b) The requirement specified in Subsection (4)(a) shall apply only so long as sales and  
140 use tax is transferred to the Utah Wastewater Loan Program Subaccount and Drinking Water  
141 Loan Program Subaccount as provided in Section 59-12-103.

142 (5) To the extent money is available in the hardship grant subaccounts of the security  
 143 fund, the Drinking Water Board and the Water Quality Board may each make grants to political  
 144 subdivisions that meet the drinking water or wastewater project loan considerations  
 145 respectively, but whose projects are determined by the granting board to not be economically  
 146 feasible unless grant assistance is provided.

147 (6) The Drinking Water and Water Quality Boards may at any time transfer money out  
 148 of their respective hardship grant subaccounts of the security fund to their respective loan  
 149 program subaccounts.

150 (7) The Water Quality Board may make a grant from the Hardship Grant Program for  
 151 Wastewater Projects Subaccount created in Subsection 73-10c-5(2)(c) for a nonpoint source  
 152 project as provided by Section 73-10c-4.5 if:

- 153 (a) money is available in the subaccount; and
- 154 (b) the Water Quality Board determines that the project would not be economically  
 155 feasible unless a grant were made.

156 Section 3. Section **73-10c-4.5** is amended to read:

157 **73-10c-4.5. Nonpoint source project loans and grants -- Project objectives --**  
 158 **Water Quality Board duties.**

159 (1) The Water Quality Board may make [~~loans~~] a loan from the Utah Wastewater Loan  
 160 Program Subaccount created in Subsection 73-10c-5(2)(a) or from the Utah State Revolving  
 161 Fund for Wastewater Projects Subaccount created in Subsection 73-10c-5(2)(b) or a grant from  
 162 the Hardship Grant Program for Wastewater Projects Subaccount created in Subsection  
 163 73-10c-5(2)(c) to a political [~~subdivisions, individuals, corporations, associations~~] subdivision,  
 164 individual, corporation, association, state or federal agency, or other private [~~entities~~] entity to  
 165 acquire, construct, or implement a nonpoint source [~~projects~~] project.

166 (2) The Water Quality Board may only award [~~the loans only~~] a loan or grant for a  
 167 nonpoint source [~~projects~~] project that will achieve one or more of the following objectives:

- 168 (a) abate or reduce raw sewage discharges;
- 169 (b) repair or replace failing individual on-site wastewater disposal systems;

- 170 (c) abate or reduce untreated or uncontrolled runoff;
- 171 (d) improve critical aquatic habitat resources;
- 172 (e) conserve soil, water, or other natural resources;
- 173 (f) protect and improve ground water quality;
- 174 (g) preserve and protect the beneficial uses of waters of the state;
- 175 (h) reduce the number of water bodies not achieving water quality standards;
- 176 (i) improve watershed management; or
- 177 (j) prepare and implement total maximum daily load (TMDL) assessments.
- 178 (3) The Water Quality Board shall:
  - 179 (a) determine the amount, term, and interest rate for each loan made under this section;
  - 180 (b) assure that adequate security is obtained for each loan;
  - 181 (c) establish criteria and procedures for determining priority nonpoint source projects
  - 182 and award loans in accordance with those priorities; and
  - 183 (d) make rules to implement this section in accordance with Title 63, Chapter 46a,
  - 184 Utah Administrative Rulemaking Act.

185 Section 4. Section 73-10c-5 is amended to read:

186 **73-10c-5. Water Development Security Fund created -- Water Quality Security**  
 187 **and Drinking Water Security Subaccounts created -- Use -- Revolving loan funds --**  
 188 **Hardship grants.**

189 (1) There is established an enterprise fund known as the Water Development Security  
 190 Fund which includes the Water Quality Security Subaccount and the Drinking Water Security  
 191 Subaccount.

192 (2) The Water Quality Security Subaccount consists of [~~three~~] four subaccounts:

- 193 (a) the Utah Wastewater Loan Program Subaccount, which consists of:
  - 194 (i) money appropriated to the subaccount by the Legislature;
  - 195 (ii) money received from the repayment of the principal of loans made by the Water
  - 196 Quality Board under Sections 73-10c-4 and 73-10c-6 from the Utah Wastewater Loan Program
  - 197 Subaccount; and

198 (iii) money deposited in the subaccount under any other law;  
199 (b) the Utah State Revolving Fund for Wastewater Projects Subaccount, which consists  
200 of:  
201 (i) money appropriated to the subaccount by the Legislature;  
202 (ii) money received from the Utah Wastewater Loan Program Subaccount applied to  
203 meet match requirements for federal funds under 33 U.S.C.A. 1251 et seq., federal Clean  
204 Water Act;  
205 (iii) money received from the repayment of loans made by the Water Quality Board  
206 under Section 73-10c-4 from the Utah State Revolving Fund for Wastewater Projects  
207 Subaccount;  
208 (iv) money received from the repayment of loans made by the Water Quality Board  
209 under Section 73-10c-4.5;  
210 (v) money deposited in the subaccount under any other law;  
211 (vi) money received under and subject to the restrictions of 33 U.S.C.A. 1251 et seq.,  
212 federal Clean Water Act, and which is eligible for use in state revolving loan funds established  
213 to meet the requirements of the act; and  
214 (vii) all investment income derived from money in the Utah State Revolving Fund for  
215 Wastewater Projects Subaccount; [~~and~~]  
216 (c) the Hardship Grant Program for Wastewater Projects Subaccount, which consists  
217 of:  
218 (i) money appropriated to the subaccount by the Legislature;  
219 (ii) money received as interest payments on loans made by the Water Quality Board  
220 under Sections 73-10c-4 and 73-10c-6, from the Utah Wastewater Loan Program Subaccount;  
221 (iii) money deposited in the subaccount under any other law;  
222 (iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients;  
223 and  
224 (v) all investment income derived from money in the Utah Wastewater Loan Program  
225 Subaccount or the Hardship Grant Program for Wastewater Projects Subaccount[-]; and

226            (d) the Water Quality Origination Fee Subaccount, which consists of the origination  
227 fee paid under Section 73-10c-10.

228            (3) The Drinking Water Security Subaccount consists of [~~three~~] four subaccounts:

229            (a) the Drinking Water Loan Program Subaccount, which consists of:

230            (i) money appropriated to the subaccount by the Legislature;

231            (ii) money received from the repayment of the principal of loans made by the Drinking  
232 Water Board under Sections 73-10c-4 and 73-10c-6, from the Drinking Water Loan Program  
233 Subaccount; and

234            (iii) money deposited in the subaccount under any other law;

235            (b) the State Revolving Fund for Drinking Water Projects Subaccount, which consists  
236 of:

237            (i) money appropriated to the subaccount by the Legislature;

238            (ii) money received from the Utah Drinking Water Loan Program Subaccount and  
239 applied to meet match requirements for federal funds under 42 U.S.C.A. 300f et seq., federal  
240 Safe Drinking Water Act;

241            (iii) money received from the repayment of loans made by the Drinking Water Board  
242 under Section 73-10c-4 from the State Revolving Fund for Drinking Water Projects  
243 Subaccount;

244            (iv) money deposited in the subaccount under any other law;

245            (v) money received under and subject to the restrictions of 42 U.S.C.A. 300f et seq.,  
246 federal Safe Drinking Water Act, and which is eligible for use in state revolving loan funds  
247 established to meet the requirements of the act; and

248            (vi) all investment income derived from money in the State Revolving Fund for  
249 Drinking Water Projects Subaccount; [~~and~~]

250            (c) the Hardship Grant Program for Drinking Water Projects Subaccount, which  
251 consists of:

252            (i) money appropriated to the subaccount by the Legislature;

253            (ii) money received from interest payments on loans made by the Drinking Water

254 Board under Sections 73-10c-4 and 73-10c-6, from the Drinking Water Loan Program

255 Subaccount;

256 (iii) money deposited in the subaccount under any other law;

257 (iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients;

258 and

259 (v) all investment income derived from money in the Drinking Water Loan Program

260 Subaccount or the Hardship Grant Program for Drinking Water Projects Subaccount[-]; and

261 (d) the Drinking Water Origination Fee Subaccount, which consists of the origination  
262 fee paid under Section 73-10c-10.

263 (4) State monies in the Water Quality Security Subaccount and the Drinking Water  
264 Security Subaccount may be applied to meet match requirements for federal funds under [~~33~~  
265 ~~U.S.C.A. 1251 et seq., federal Clean Water Act and 42 U.S.C.A. 300f et seq., federal Safe~~  
266 ~~Drinking Water Act]~~ the Clean Water Act, 33 U.S.C. Sec. 1251 et seq. and the Safe Drinking  
267 Water Act, 42 U.S.C. Sec. 300f et seq.

268 (5) If the money in the security fund is insufficient for the purposes for which the  
269 security fund is established, the council shall ask the governor to request the Legislature to  
270 appropriate additional money to the account.

271 (6) (a) The Drinking Water Board and Water Quality Board may use the money in the  
272 appropriate security fund subaccount only to the extent of the money available in the account,  
273 for the support of drinking water projects and wastewater projects in accordance with the terms  
274 of credit enhancement agreements, grant agreements, and loan agreements.

275 (b) Repayments to the security fund from loans made by the acting board, monies  
276 allocated by the Legislature, and interest accrued on these monies shall remain available for use  
277 by that board for further project funding.

278 (c) The Drinking Water Board and Water Quality Board may use the money in the  
279 origination fee subaccount to administer this chapter.

280 (7) Funds received under [~~Section 1452 of the federal~~] the Safe Drinking Water Act, 42  
281 [~~U.S.C.A.~~] U.S.C. Sec. 300f et seq.[;] may be used for providing financial assistance to

282 community water systems and nonprofit noncommunity water systems as defined and within  
283 the limits of that act.

284 Section 5. Section **73-10c-10** is enacted to read:

285 **73-10c-10. Origination fee.**

286 (1) The Drinking Water Board and the Water Quality Board may establish an  
287 origination fee for a loan to fund the administration of the programs created by this chapter by  
288 following the procedures and requirements of Section 63-38-3.2.

289 (2) The origination fee shall be part of the department fee schedule established under  
290 Section 19-1-201.

291 (3) Notwithstanding Subsection 63-38-3.2(2)(e), the board shall deposit the fee in the  
292 origination fee subaccount created in Section 73-10c-5 and use the fee to administer this  
293 chapter.

294 (4) The loan recipient may pay the origination fee from the loan proceeds.

295 Section 6. **Fee and repeal date.**

296 (1) The department may initially establish and assess the origination fee authorized  
297 under Section 73-10c-10 without legislative approval by following the procedures and  
298 requirements for setting regulatory fees for a new program under Subsection 63-38-3.2(5).

299 (2) This uncodified section is repealed July 1, 2008.