

**73-10-8 Water Resources Construction Fund -- Creation and contents of fund -- Use -- Investigation Account created -- Interest -- Retainage -- Loans and grants for dam safety work.**

- (1) There is created the Water Resources Construction Fund, which consists of:
  - (a) money appropriated or otherwise made available to it by the Legislature;
  - (b) money from the sale or management of the 500,000 acres of land selected for the establishment of reservoirs under Section 12 of the Utah Enabling Act;
  - (c) charges assessed against water and power users pursuant to Section 73-10-6; and
  - (d) interest accrued pursuant to Subsection (5).
- (2) The board may authorize the use of money in the fund for the following purposes:
  - (a) to develop water conservation projects, including paying the costs of construction, engineering, investigation, inspection, and other related expenses;
  - (b) to provide loans and grants to dam owners to conduct dam safety studies;
  - (c) to provide loans and grants to dam owners:
    - (i) to upgrade dams in conformance with the minimum standards established by the state engineer in rules; or
    - (ii) for nonstructural solutions developed to meet minimum standards or lower hazard ratings that are approved by the state engineer, including the purchase of habitable structures, purchase of flood easements, and installation of early warning systems; or
  - (d) as otherwise provided by law.
- (3) The board may provide for the repayment of the costs of investigation, engineering, and inspection out of the first money to be paid under a contract for the construction of a water project. The money repaid shall be deposited into a subaccount within the Water Resources Construction Fund known as the Investigation Account, to be used by the board for the purpose of making investigations for the development and use of the water resources of the state.
- (4) Contributions of money, property, or equipment may be received from any political subdivision of the state, federal agency, water users' association, person, or corporation for use in making investigations, constructing projects, or otherwise carrying out the purposes of this section.
- (5) All money deposited into the Water Resources Construction Fund shall be invested by the state treasurer with interest accruing to the Water Resources Construction Fund.
- (6) If any payment on a contract with a private contractor to construct a project funded by the Water Resources Construction Fund is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.
- (7) Loans to dam owners for dam safety studies and to upgrade dams in conformance with minimum standards shall be secured by taking water rights associated with the dam.
- (8) The following restrictions apply to any grant made to a dam owner for a dam safety study:
  - (a) only a nonprofit mutual irrigation company or a water users association is eligible to receive a grant;
  - (b) the dam safety study shall be required by the state engineer pursuant to Section 73-5a-503; and
  - (c) the amount of any grant shall be limited to up to 50% of the costs of the dam safety study.
- (9)
  - (a) The board may provide grants to mutual irrigation companies and water users associations to upgrade dams in conformance with minimum standards of the state engineer. Each grant authorized by the board for the upgrade of a dam of a mutual irrigation company or water users association in conformance with the minimum standards shall be sufficient to pay for 80% of the costs to upgrade the dam.
  - (b)

- (i) Pursuant to guidelines specified in Subsection (9)(b)(ii), the board may provide loans or grants, or both, to entities other than mutual irrigation companies and water users associations to upgrade dams in conformance with minimum standards of the state engineer.
- (ii) In determining the type of financial assistance to be provided to an entity other than a mutual irrigation company or water users association, the board shall consider the dam owner's ability to pay and may consider other factors including:
  - (A) the degree of hazard;
  - (B) the threat to public safety;
  - (C) the state engineer's priority list of dams;
  - (D) the cost effectiveness of the restoration;
  - (E) the number of potential and actual applications for financial assistance; and
  - (F) the funds available.
- (10) The amount of money in the fund that may be used for grants for dam safety studies shall be limited to the amount of money appropriated to the fund for that purpose.
- (11) The board shall consult with the state engineer in establishing a priority list of dams to be upgraded with money in the fund.
- (12) A dam owner who has initiated or completed construction approved by the state engineer to upgrade the dam in conformance with minimum standards may apply for a grant or loan from the board as reimbursement for those construction expenditures.

Amended by Chapter 342, 2011 General Session