Chapter 10c
Water Development Coordinating Council

73-10c-1 Legislative findings.

The Legislature finds that the conservation, development, treatment, restoration, and protection of the waters of this arid state are a state purpose and a matter of statewide concern. The needs and requirements associated with conserving, developing, treating, restoring, and protecting the waters of this state are of such magnitude and complexity that they justify state participation and assistance. The federal Safe Drinking Water Act, 42 United States Code Annotated Secs. 300f et seq. (federal drinking water act) establishes a national policy to ensure delivery of safe drinking water to the public, establishes maximum pollution levels, monitoring and reporting requirements and provides penalties, including the assessment of fines, for political subdivisions that violate the act. The Federal Water Pollution Control Act, Title 33, Chapter 26, United States Code (federal water pollution control act), establishes a national policy and program for the restoration, preservation, and protection of the nation's waters. The political subdivisions of this state are prohibited by the federal water pollution control act from polluting the navigable waters of the United States and are subject to various penalties, including the assessment of fines, for failing to meet the minimum standards of the federal water pollution control act. Pursuant to the requirements of the federal pollution control act, the state has established water quality standards and effluent limitations with respect to the waters of this state. These standards and limitations have been adopted by the United States Environmental Protection Agency for the purpose of issuing permits for wastewater projects and the state must certify compliance with these standards and limitations in order for the federal permit to be obtained. Under the federal water pollution control act, the state and its political subdivisions may receive grants, subject to the availability of funds, to meet the requirements of the federal water pollution control act if the state or its political subdivisions make contributions to the nonfederal share of construction costs of treatment works. It is desirable that the state assist in providing financing mechanisms to aid political subdivisions in securing needed water treatment and transporting water and in the acquisition and construction of drinking water projects and wastewater projects in order to accomplish the foregoing purposes, to protect the public health and welfare, to meet the anticipated growth in the state and to encourage development of the state's resources.

Enacted by Chapter 354, 1983 General Session

73-10c-2 Definitions.

As used in this chapter:

(1) "Board" means the Board of Water Resources created in Section 73-10-1.5.

(2) "Council" means the Water Development Coordinating Council created by Sections 79-2-201 and 73-10c-3.

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

(4) "Drinking Water Board" means the Drinking Water Board appointed according to Section 19-4-103.

(5) "Drinking water or wastewater project obligation" means, as appropriate, any bond, note, or other obligation of a political subdivision issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading, or improving a drinking water project or wastewater project.
(6)
(a) "Drinking water project" means any work or facility that is necessary or desirable to provide water for human consumption and other domestic uses and:
(i) has at least 15 service connections; or
(ii) serves an average of 25 individuals daily for at least 60 days of the year.
(b) "Drinking water project" includes:
(i) collection, treatment, storage, and distribution facilities under the control of the operator and used primarily with the system;
(ii) collection pretreatment or storage facilities used primarily in connection with the system but not under operator's control; and
(iii) studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks.
(7) "Financial assistance programs" means the various programs administered by the state whereby loans, grants, and other forms of financial assistance are made available to political subdivisions of this state to finance the costs of water and wastewater projects.
(8) "Hardship Grant Assessment" means the charge the Water Quality Board or Drinking Water Board assesses to recipients of loans made from the subaccount created in Subsection 73-10c-5(2)(b) or 73-10c-5(3)(b) in lieu of or in addition to interest charged on these loans.
(9) "Nonpoint source project" means a facility, system, practice, study, activity, or mechanism that abates, prevents, or reduces the pollution of waters of this state by a nonpoint source.
(10) "Political subdivision" means a county, city, town, improvement district, water conservancy district, special service district, drainage district, metropolitan water district, irrigation district, separate legal or administrative entity created under Title 11, Chapter 13, Interlocal Cooperation Act, or any other entity constituting a political subdivision under the laws of this state.
(11) "Security fund" means the Water Development Security Fund created in Section 73-10c-5.
(12) "Wastewater project" means:
(a) a sewer, storm or sanitary sewage system, sewage treatment facility, lagoon, sewage collection facility and system, and related pipelines, and all similar systems, works, and facilities necessary or desirable to collect, hold, cleanse, or purify any sewage or other polluted waters of this state; and
(b) a study, pollution prevention activity, or pollution education activity that will protect the waters of this state.
(13) "Waters of this state" means any stream, lake, pond, marsh, watercourse, waterway, well, spring, irrigation system, drainage system, or other body or accumulation of water whether surface, underground, natural, artificial, public, private, or other water resource of the state which is contained within or flows in or through the state.
(14) "Water Quality Board" means the Water Quality Board appointed according to Section 19-5-103.

Amended by Chapter 344, 2009 General Session

73-10c-3 Water Development Coordinating Council created -- Purpose -- Members.
(1)

(a) There is created within the Department of Natural Resources a Water Development Coordinating Council. The council is comprised of:
(i) the director of the Division of Water Resources;
(ii) the executive secretary of the Water Quality Board;
(iii) the executive secretary of the Drinking Water Board;
(iv) the director of the Housing and Community Development Division or the director's designee;
(v) the state treasurer or the state treasurer's designee;
(vi) the commissioner of the Department of Agriculture and Food, or the commissioner's designee; and
(vii) an individual appointed by the governor with the advice and consent of the Senate who is:
(A) familiar with water infrastructure projects, including planning, financing, construction, or operation; and
(B) employed by a water conservancy district that is subject to the asset management criteria of Section 17B-2a-1010.
(b) The council shall choose a chair and vice chair from among the council's own members, except the chair and vice chair may not be from the same department.
(c) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(i) Section 63A-3-106;
(ii) Section 63A-3-107; and
(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
(2) The purposes of the council are to:
(a) coordinate the use and application of the money available to the state to give financial assistance to political subdivisions of this state so as to promote the conservation, development, treatment, restoration, and protection of the waters of this state;
(b) promote the coordination of the financial assistance programs administered by the state and the use of the financing alternative most economically advantageous to the state and its political subdivisions;
(c) promote the consideration by the Board of Water Resources, Drinking Water Board, and Water Quality Board of regional solutions to the water and wastewater needs of individual political subdivisions of this state;
(d) assess the adequacy and needs of the state and its political subdivisions with respect to water-related infrastructures and advise the governor and the Legislature on those funding needs;
(e) conduct reviews and reports on water-related infrastructure issues as directed by statute;
(f) engage in planning and prioritization of water infrastructure projects in accordance with Chapter 10g, Part 6, Planning and Prioritization; and
(g) expend money from the Water Infrastructure Fund in accordance with Section 73-10g-107.

Amended by Chapter 335, 2024 General Session

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

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

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

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

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

(ii) municipal bond insurance; or

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

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

(2)

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

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

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

(3)

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

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

(4)

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

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

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

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

(7) The Water Quality Board may make a grant from the Hardship Grant Program for Wastewater Projects Subaccount created in Subsection 73-10c-5(2)(c) for a nonpoint source project as provided by Section 73-10c-4.5 if:
  (a) money is available in the subaccount; and
  (b) the Water Quality Board determines that the project would not be economically feasible unless a grant were made.

Amended by Chapter 142, 2007 General Session

73-10c-4.1 Wastewater projects -- Loan criteria and requirements -- Process for approval.

(1) The Water Quality Board shall review the plans and specifications for a wastewater project before approval of any loan and may condition approval on the availability of loan funds and on assurances that the Water Quality Board considers necessary to ensure that loan funds are used to pay the wastewater project costs and that the wastewater project is completed.
(2)
  (a) Each loan shall specify the terms for repayment, with the term, interest rate or rates, including a variable rate, and security as determined by the Water Quality Board.
  (b) The loan may be evidenced by general obligation or revenue bonds or other obligations of the political subdivision.
  (c) Loan payments made by a political subdivision shall be deposited in the Water Quality Security Subaccount as described in Section 73-10c-5.
  (d) The loans are subject to the provisions of Title 63B, Chapter 1b, State Financing Consolidation Act.
(3) In determining the priority for a wastewater project loan, the Water Quality Board shall consider:
  (a) the ability of the political subdivision to obtain money for the wastewater project from other sources or to finance the project from its own resources;
  (b) the ability of the political subdivision to repay the loan;
  (c) whether or not a good faith effort to secure all or part of the services needed from the private sector of the economy has been made; and
  (d) whether or not the wastewater project:
    (i) meets a critical local or state need;
    (ii) is cost effective;
    (iii) will protect against present or potential health hazards;
    (iv) is needed to comply with minimum standards of the federal Water Pollution Control Act, Title 33, Chapter 26, United States Code, or any similar or successor statute;
    (v) is needed to comply with the minimum standards of Title 19, Chapter 5, Water Quality Act, or any similar or successor statute;
    (vi) is designed to reduce the pollution of the waters of this state; and
    (vii) meets any other consideration considered necessary by the Water Quality Board.
(4) In determining the cost effectiveness of a wastewater project the Water Quality Board shall:
  (a) require the preparation of a cost-effective analysis of feasible wastewater treatment or conveyance alternatives capable of meeting state and federal water quality and public health requirements;
  (b) consider monetary costs, including the present worth or equivalent annual value of all capital costs and operation, maintenance, and replacement costs; and
  (c) ensure that the alternative selected is the most economical means of meeting applicable state and federal wastewater and water quality or public health requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations.

(5) A loan may not be made for a wastewater project that is not in the public interest as determined by the Water Quality Board.

Amended by Chapter 382, 2008 General Session

73-10c-4.2 Drinking water projects -- Loan criteria and requirements -- Process for approval.

(1) The Drinking Water Board shall review the plans and specifications for a drinking water project before approval of any loan and may condition approval on the availability of loan funds and on the assurances that the Drinking Water Board considers necessary to ensure that loan funds are used to pay the drinking water project costs and that the drinking water project is completed.

(2)
- (a) Each loan shall specify the terms for repayment, with the term, interest rate or rates, including a variable rate, and security as determined by the Drinking Water Board.
- (b) The loan may be evidenced by general obligation or revenue bonds or other obligations of the political subdivision.
- (c) Loan payments made by a political subdivision shall be deposited in the Drinking Water Security Subaccount as described in Section 73-10c-5.
- (d) The loans are subject to the provisions of Title 63B, Chapter 1b, State Financing Consolidation Act.

(3) In determining the priority for a drinking water project loan, the Drinking Water Board shall consider:
- (a) the ability of the political subdivision to obtain money for the drinking water project from other sources or to finance such project from its own resources;
- (b) the ability of the political subdivision to repay the loan;
- (c) whether or not a good faith effort to secure all or part of the services needed from the private sector of the economy has been made; and
- (d) whether or not the drinking water project:
  - (i) meets a critical local or state need;
  - (ii) is cost effective;
  - (iii) will protect against present or potential health hazards;
  - (iv) is needed to comply with minimum standards of the federal Safe Drinking Water Act, or any similar or successor statute;
  - (v) is needed to comply with the minimum standards of Title 19, Chapter 4, Safe Drinking Water Act, or any similar or successor statute; and
  - (vi) meets any other consideration considered necessary by the Drinking Water Board.

(4) In determining the cost effectiveness of a drinking water project the Drinking Water Board shall:
- (a) require the preparation of a cost-effective analysis of feasible drinking water projects;
- (b) consider monetary costs, including the present worth or equivalent annual value of all capital costs and operation, maintenance, and replacement cost; and
- (c) ensure that the alternative selected is the most economical means of meeting applicable water quality or public health requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations.

(5) A loan may not be made for a drinking water project that is not in the public interest as determined by the Drinking Water Board.

Amended by Chapter 382, 2008 General Session

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

(1) The Water Quality Board may make a loan from the Utah Wastewater Loan Program Subaccount created in Subsection 73-10c-5(2)(a) or from the Utah State Revolving Fund for Wastewater Projects Subaccount created in Subsection 73-10c-5(2)(b) or a grant from the Hardship Grant Program for Wastewater Projects Subaccount created in Subsection 73-10c-5(2)(c) to a political subdivision, individual, corporation, association, state or federal agency, or other private entity to acquire, construct, or implement a nonpoint source project.

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

(a) abate or reduce raw sewage discharges;

(b) repair or replace failing individual on-site wastewater disposal systems;

(c) abate or reduce untreated or uncontrolled runoff;

(d) improve critical aquatic habitat resources;

(e) conserve soil, water, or other natural resources;

(f) protect and improve ground water quality;

(g) preserve and protect the beneficial uses of waters of the state;

(h) reduce the number of water bodies not achieving water quality standards;

(i) improve watershed management; or

(j) prepare and implement total maximum daily load (TMDL) assessments.

(3) The Water Quality Board shall:

(a) determine the amount, term, and interest rate for each loan made under this section;

(b) assure that adequate security is obtained for each loan;

(c) establish criteria and procedures for determining priority nonpoint source projects and award loans in accordance with those priorities; and

(d) make rules to implement this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 382, 2008 General Session

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

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

(2) The Water Quality Security Subaccount consists of four subaccounts:

(a) the Utah Wastewater Loan Program Subaccount, which consists of:

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

(ii) money received from the repayment of the principal of loans made by the Water Quality Board under Sections 73-10c-4 and 73-10c-6 from the Utah Wastewater Loan Program Subaccount; and

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

(b) the Utah State Revolving Fund for Wastewater Projects Subaccount, which consists of:

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

(ii) money received from the Utah Wastewater Loan Program Subaccount applied to meet match requirements for federal funds under 33 U.S.C.A. 1251 et seq., federal Clean Water Act;

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

(iv) money received from the repayment of loans made by the Water Quality Board under Section 73-10c-4.5;
(v) money deposited in the subaccount under any other law;
(vi) money received under and subject to the restrictions of 33 U.S.C.A. 1251 et seq., federal Clean Water Act, and which is eligible for use in state revolving loan funds established to meet the requirements of the act; and
(vii) all investment income derived from money in the Utah State Revolving Fund for Wastewater Projects Subaccount;
(c) the Hardship Grant Program for Wastewater Projects Subaccount, which consists of:
(i) money appropriated to the subaccount by the Legislature;
(ii) money received as interest payments on loans made by the Water Quality Board under Sections 73-10c-4 and 73-10c-6, from the Utah Wastewater Loan Program Subaccount;
(iii) money deposited in the subaccount under any other law;
(iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients; and
(v) all investment income derived from money in the Utah Wastewater Loan Program Subaccount or the Hardship Grant Program for Wastewater Projects Subaccount; and
(d) the Water Quality Origination Fee Subaccount, which consists of the origination fee paid under Section 73-10c-10.
(3) The Drinking Water Security Subaccount consists of four subaccounts:
(a) the Drinking Water Loan Program Subaccount, which consists of:
(i) money appropriated to the subaccount by the Legislature;
(ii) money received from the repayment of the principal of loans made by the Drinking Water Board under Sections 73-10c-4 and 73-10c-6, from the Drinking Water Loan Program Subaccount; and
(iii) money deposited in the subaccount under any other law;
(b) the State Revolving Fund for Drinking Water Projects Subaccount, which consists of:
(i) money appropriated to the subaccount by the Legislature;
(ii) money received from the Utah Drinking Water Loan Program Subaccount and applied to meet match requirements for federal funds under 42 U.S.C.A. 300f et seq., federal Safe Drinking Water Act;
(iii) money received from the repayment of loans made by the Drinking Water Board under Section 73-10c-4 from the State Revolving Fund for Drinking Water Projects Subaccount;
(iv) money deposited in the subaccount under any other law;
(v) money received under and subject to the restrictions of 42 U.S.C.A. 300f et seq., federal Safe Drinking Water Act, and which is eligible for use in state revolving loan funds established to meet the requirements of the act; and
(vi) all investment income derived from money in the State Revolving Fund for Drinking Water Projects Subaccount;
(c) the Hardship Grant Program for Drinking Water Projects Subaccount, which consists of:
(i) money appropriated to the subaccount by the Legislature;
(ii) money received from interest payments on loans made by the Drinking Water Board under Sections 73-10c-4 and 73-10c-6, from the Drinking Water Loan Program Subaccount;
(iii) money deposited in the subaccount under any other law;
(iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients; and
(v) all investment income derived from money in the Drinking Water Loan Program Subaccount or the Hardship Grant Program for Drinking Water Projects Subaccount; and
(d) the Drinking Water Origination Fee Subaccount, which consists of the origination fee paid under Section 73-10c-10.

(4) State money in the Water Quality Security Subaccount and the Drinking Water Security Subaccount may be applied to meet match requirements for federal funds under the Clean Water Act, 33 U.S.C. Sec. 1251 et seq. and the Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq.
(5) If the money in the security fund is insufficient for the purposes for which the security fund is established, the council shall ask the governor to request the Legislature to appropriate additional money to the account.
(6)
(a) The Drinking Water Board and Water Quality Board may use the money in the appropriate security fund subaccount only to the extent of the money available in the account, for the support of drinking water projects and wastewater projects in accordance with the terms of credit enhancement agreements, grant agreements, and loan agreements.
(b) Repayments to the security fund from loans made by the acting board, money allocated by the Legislature, and interest accrued on the money shall remain available for use by that board for further project funding.
(c) The Drinking Water Board and Water Quality Board may use the money in the origination fee subaccount to administer this chapter.
(7) Funds received under the Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq. may be used for providing financial assistance to community water systems and nonprofit noncommunity water systems as defined and within the limits of that act.

Amended by Chapter 342, 2011 General Session

73-10c-6 Credit enhancement agreement -- Provisions for use of funds.
(1)
(a) A credit enhancement agreement may be made for the purpose of facilitating financing for political subdivisions.
(b) A credit enhancement agreement may provide for the use of funds from the security fund to accomplish the purposes specified in Section 73-10c-4.
(2)
(a) The political subdivision, prior to the sale or issuance of a drinking water or a wastewater project obligation, shall:
(i) apply to the Drinking Water Board or Water Quality Board to have its drinking water or wastewater project obligation or both, as desired, designated as covered by a credit enhancement agreement; and
(ii) have entered into a credit enhancement agreement with the Drinking Water Board or Water Quality Board setting forth the terms and conditions of the security or other forms of assistance provided by the agreement.
(b) The Drinking Water Board and Water Quality Board may not designate any drinking water or wastewater project obligation as covered by the credit enhancement agreement:
(i) unless immediately after the designation there is on deposit in the security fund, based on the purchase or then market price of the investments therein, whichever is lower, an amount determined by the Drinking Water Board or Water Quality Board to be sufficient to:
(A) reasonably improve the security for and marketability of the drinking water or wastewater project obligation, or both; and
(B) comply with the terms and provisions of all existing credit enhancement agreements; and
(ii) while held by the state, any agency of the state, the federal government, or any agency of the federal government.

(c) A drinking water project obligation may not be designated as covered by a credit enhancement agreement unless the drinking water project for which it was issued by the political subdivision has been approved by the Department of Environmental Quality, acting through the Drinking Water Board.

(d) A wastewater project obligation may not be designated as secured by a credit enhancement unless the wastewater project for which it was issued by the political subdivision has been approved by the Department of Environmental Quality, acting through the Water Quality Board.

(3)

(a) A credit enhancement agreement must provide that the security provided under this chapter and the credit enhancement agreement:

(i) is limited to the money available in the security fund; and

(ii) does not constitute a pledge of or charge against the general revenues, credit, or taxing powers of the state or any political subdivision.

(b) A credit enhancement agreement which obligates the state to pay principal of or interest on any drinking water or wastewater project obligation, including any credit enhancement agreement entered into under Section 73-10c-4, may provide that:

(i) the political subdivision or its agent will notify the council whenever it is not able to pay principal of or interest on the drinking water or wastewater project obligation covered by the credit enhancement agreement and request payment from the security fund; and

(ii) money in the security fund needed to make the payment requested by the political subdivision may be segregated within the security fund and held until the requested payment is made.

(c) A default of the political subdivision under the drinking water or wastewater project obligation may not alter, in any manner, the obligations of the state as provided in the credit enhancement agreement.

(d) Any drinking water or wastewater project obligation covered by the credit enhancement agreement which is represented by a bond, note, or other written instrument shall bear a legend which states these provisions and makes reference to this chapter and the credit enhancement agreement pursuant to which the obligation is secured.

(4) Any credit enhancement agreement for a drinking water or wastewater project obligation may provide that the Drinking Water Board or Water Quality Board:

(a) purchase from the money in the security fund the obligation which the political subdivision is unable to pay, whereupon the Drinking Water Board or Water Quality Board, on behalf of the state, will become the holder of the obligation and entitled to all rights of a holder under the terms of the obligation;

(b) pay, as a loan to the political subdivision from the money in the security fund, to the holder of the obligation the principal or interest, or both, due or to become due on the obligation which the political subdivision is unable to pay;

(c) take both actions referred to in Subsections (4)(a) and (b) relating to any issue of obligations; or

(d) take any other action specified in or contemplated by the credit enhancement agreement.

(5)

(a) Any credit enhancement agreement must require that the political subdivision repay to the state any loan of money made from the security fund to make any payments specified in the credit enhancement agreement, which repayment obligation may also be evidenced by bonds or notes of the political subdivision, as the Drinking Water Board or Water Quality Board may determine.

(b) The loan may be for a term, may bear interest at a rate or rates or may bear no interest, as the Drinking Water Board or Water Quality Board may determine, and may be secured by any security the Drinking Water Board or Water Quality Board may determine.
(c) The interest rate for any loan contemplated by, but not made at the time the credit enhancement agreement is executed, may be specified in relationship to a prime rate or other identifiable rate existing at the time the loan is made.
(d) The term of the loan may be specified in the credit enhancement agreement as a maximum term and the actual term stated when the loan is made.
(e) Any security for the loan may include:
(i) a pledge of the revenues from the particular drinking water project or wastewater project;
(ii) an assignment from the holder or holders of the drinking water or wastewater project obligation of the holders' interest in any security for the obligation in the amount needed to service the indebtedness represented by the loan; or
(iii) any other security device.
(f) The Drinking Water Board or Water Quality Board, on behalf of the state, is subrogated to all rights of the holder of the drinking water or wastewater project obligation against the political subdivision which issued the obligation with respect to the collection of the amount of the loan, but the state is not relieved by this subrogation from its obligation to make payments from the security fund as provided in its credit enhancement agreement with the political subdivision.
(6) Prior to entering into a credit enhancement agreement, the Drinking Water Board or Water Quality Board shall obtain an opinion of counsel experienced in bond matters to the effect that the drinking water or wastewater project obligation to be purchased or with respect to which a loan is to be made, is a valid and binding obligation of the political subdivision which issued it.
(7) Prior to making any payment under the credit enhancement agreement, the Drinking Water Board or Water Quality Board shall:
(a) verify the correctness of the information in any notification referred to in Subsection (3); and
(b) determine that funds in the security fund are adequate to purchase the drinking water or wastewater project obligations or to make any loan of funds provided by the credit enhancement agreement.

Amended by Chapter 175, 2001 General Session

73-10c-7 Use of deposits in security fund.

All money and investments on deposit in the security fund shall be held for the purposes for which the security fund is established, as provided in this chapter, and may not be used for any other purpose.

Amended by Chapter 175, 2001 General Session

73-10c-8 Rules.

The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer this chapter, including the application by political subdivisions for the securing of their drinking water or wastewater project obligations, the approval of obligations to be secured, the verification of notices with respect to inabilities of political subdivisions to pay principal and interest, and the credit enhancement agreements with political subdivisions setting forth the terms and conditions under which obligations may be secured under this chapter.

Amended by Chapter 382, 2008 General Session

73-10c-9 Investments of money in security fund.

(1) Unless otherwise required to preserve the exemption of any obligations of the state from federal taxation, the state treasurer shall invest the money in the security fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.
(2) If necessary to preserve the exemption of any obligations of the state from federal taxation, the board may make investments in any manner necessary to preserve this exemption.

Amended by Chapter 175, 2001 General Session

73-10c-10 Origination fee.

(1) The Drinking Water Board and the Water Quality Board may establish an origination fee for a loan to fund the administration of the programs created by this chapter by following the procedures and requirements of Section 63J-1-504.
(2) The Drinking Water Board may establish an origination fee for a federally funded loan to fund the administration of programs allowed by 42 U.S.C. Sec. 300j-12, and regulations created thereunder, by following the procedures and requirements of Section 63J-1-504.
(3) An origination fee established in accordance with this section shall be part of the department fee schedule established under Section 19-1-201.
(4) Notwithstanding the requirements of Section 63J-1-504, the board shall deposit a fee paid in accordance with this section in the origination fee subaccount created in Section 73-10c-5 and use the fee to administer this chapter.
(5) The loan recipient may pay the origination fee from the loan proceeds.

Amended by Chapter 104, 2011 General Session

73-10c-11 Actions related to coordination of growth and conservation planning.

(1)
  (a) The council shall identify how different agencies may work together to assist the following in coordinating growth and conservation planning related to water:
    (i) municipalities, as defined in Section 10-1-104;
    (ii) counties;
    (iii) water conservancy districts, as defined in Section 17B-1-102; and
    (iv) public water systems, as defined in Section 19-4-102.
  (b) To comply with Subsection (1)(a), the council shall consider Sections 10-9a-403, 17-27a-403, 19-4-114, and 73-10-32.
(2) The council shall identify incentives that are most effective to help the entities described in Subsection (1) to, where feasible:
  (a) develop and implement conservation plans; and
  (b) regionalize water systems.

Enacted by Chapter 238, 2023 General Session