

WATER LOAN PROGRAM AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrick Painter

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ changes the type of wastewater project that the Water Quality Board may fund;
- ▶ changes the type of drinking water project that the Drinking Water Board may fund;
- ▶ authorizes the Water Quality Board to give a grant for a nonpoint source project;
- ▶ authorizes the Water Quality Board and Drinking Water Board to charge an origination fee;
- ▶ creates two origination fee subaccounts; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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



28 73-10c-4.5, as enacted by Chapter 282, Laws of Utah 2000

29 73-10c-5, as last amended by Chapters 12 and 175, Laws of Utah 2001

30 ENACTS:

31 73-10c-10, Utah Code Annotated 1953

32 **Uncodified Material Affected:**

33 ENACTS UNCODIFIED MATERIAL



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

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

37 **73-10c-2. Definitions.**

38 As used in this chapter:

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

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

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

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

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

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

56 (i) has at least 15 service connections; or

57 (ii) serves an average of 25 individuals daily for at least 60 days of the year ~~[and].~~

58 (b) "Drinking water project" includes:

59 (i) collection, treatment, storage, and distribution facilities under the control of the
60 operator and used primarily with the system [~~and~~];

61 (ii) collection pretreatment or storage facilities used primarily in connection with the
62 system but not under [~~its~~] operator's control[-]; and

63 (iii) studies, planning, education activities, and design work that will promote
64 protecting the public from waterborne health risks.

65 (7) "Financial assistance programs" means the various programs administered by the
66 state whereby loans, grants, and other forms of financial assistance are made available to
67 political subdivisions of this state to finance the costs of water and wastewater projects.

68 (8) "Hardship Grant Assessment" means the charge the Water Quality Board or
69 Drinking Water Board assesses to recipients of loans [~~under~~] made from the subaccount created
70 in Subsection 73-10c-5(2)(b) or 73-10c-5(3)(b) in lieu of or in addition to interest charged on
71 these loans.

72 (9) "Nonpoint source project" means [~~any~~] a facility, system, practice, study, activity,
73 or mechanism [~~to abate, prevent, or reduce~~] that abates, prevents, or reduces the pollution of
74 waters of this state [~~caused~~] by a nonpoint [~~sources~~] source.

75 (10) "Political subdivision" means [~~any~~] a county, city, town, improvement district,
76 water conservancy district, special service district, drainage district, metropolitan water district,
77 irrigation district, separate legal or administrative entity created under Title 11, Chapter 13,
78 Interlocal Cooperation Act, or any other entity constituting a political subdivision under the
79 laws of this state.

80 (11) "Security fund" means the Water Development Security Fund created [~~by this~~
81 ~~chapter~~] in Section 73-10c-5.

82 (12) "Wastewater project" means: [~~any~~]

83 (a) a sewer, storm or sanitary sewage system, sewage treatment facility, lagoon, sewage
84 collection facility and system, and related pipelines, and all similar systems, [~~and~~] works, and
85 facilities necessary or desirable to collect, hold, cleanse, or purify any sewage or other polluted
86 waters of this state[-]; and

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

89 (13) "Waters of this state" means any stream, lake, pond, marsh, watercourse,

90 waterway, well, spring, irrigation system, drainage system, or other body or accumulation of
91 water whether surface, underground, natural, artificial, public, private, or other water resource
92 of the state which is contained within or flows in or through the state.

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

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

96 **73-10c-4. Credit enhancement and interest buy-down agreements -- Loans or**
97 **grants -- Hardship grants.**

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

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

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

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

111 (ii) municipal bond insurance; or

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

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

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

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

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

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

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

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

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

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

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

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

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

151 (a) money is available in the subaccount; and

152 (b) the Water Quality Board determines that the project would not be economically
153 feasible unless a grant were made.

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

155 **73-10c-4.5. Nonpoint source project loans and grants -- Project objectives --**
156 **Water Quality Board duties.**

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

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

- 166 (a) abate or reduce raw sewage discharges;
- 167 (b) repair or replace failing individual on-site wastewater disposal systems;
- 168 (c) abate or reduce untreated or uncontrolled runoff;
- 169 (d) improve critical aquatic habitat resources;
- 170 (e) conserve soil, water, or other natural resources;
- 171 (f) protect and improve ground water quality;
- 172 (g) preserve and protect the beneficial uses of waters of the state;
- 173 (h) reduce the number of water bodies not achieving water quality standards;
- 174 (i) improve watershed management; or
- 175 (j) prepare and implement total maximum daily load (TMDL) assessments.

176 (3) The Water Quality Board shall:

- 177 (a) determine the amount, term, and interest rate for each loan made under this section;
- 178 (b) assure that adequate security is obtained for each loan;
- 179 (c) establish criteria and procedures for determining priority nonpoint source projects
180 and award loans in accordance with those priorities; and

181 (d) make rules to implement this section in accordance with Title 63, Chapter 46a,
182 Utah Administrative Rulemaking Act.

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

184 **73-10c-5. Water Development Security Fund created -- Water Quality Security**
185 **and Drinking Water Security Subaccounts created -- Use -- Revolving loan funds --**
186 **Hardship grants.**

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

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

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

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

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

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

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

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

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

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

206 (iv) money received from the repayment of loans made by the Water Quality Board
207 under Section 73-10c-4.5;

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

209 (vi) money received under and subject to the restrictions of 33 U.S.C.A. 1251 et seq.,
210 federal Clean Water Act, and which is eligible for use in state revolving loan funds established
211 to meet the requirements of the act; and

212 (vii) all investment income derived from money in the Utah State Revolving Fund for
213 Wastewater Projects Subaccount; [~~and~~]

214 (c) the Hardship Grant Program for Wastewater Projects Subaccount, which consists
215 of:

- 216 (i) money appropriated to the subaccount by the Legislature;
- 217 (ii) money received as interest payments on loans made by the Water Quality Board
218 under Sections 73-10c-4 and 73-10c-6, from the Utah Wastewater Loan Program Subaccount;
- 219 (iii) money deposited in the subaccount under any other law;
- 220 (iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients;
- 221 and

222 (v) all investment income derived from money in the Utah Wastewater Loan Program
223 Subaccount or the Hardship Grant Program for Wastewater Projects Subaccount[-]; and
224 (d) the Water Quality Origination Fee Subaccount, which consists of the origination
225 fee paid under Section 73-10c-10.

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

- 227 (a) the Drinking Water Loan Program Subaccount, which consists of:
 - 228 (i) money appropriated to the subaccount by the Legislature;
 - 229 (ii) money received from the repayment of the principal of loans made by the Drinking
230 Water Board under Sections 73-10c-4 and 73-10c-6, from the Drinking Water Loan Program
231 Subaccount; and

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

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

- 235 (i) money appropriated to the subaccount by the Legislature;
- 236 (ii) money received from the Utah Drinking Water Loan Program Subaccount and
237 applied to meet match requirements for federal funds under 42 U.S.C.A. 300f et seq., federal
238 Safe Drinking Water Act;
- 239 (iii) money received from the repayment of loans made by the Drinking Water Board
240 under Section 73-10c-4 from the State Revolving Fund for Drinking Water Projects
241 Subaccount;

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

243 (v) money received under and subject to the restrictions of 42 U.S.C.A. 300f et seq.,
244 federal Safe Drinking Water Act, and which is eligible for use in state revolving loan funds

245 established to meet the requirements of the act; and

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

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

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

251 (ii) money received from interest payments on loans made by the Drinking Water
252 Board under Sections 73-10c-4 and 73-10c-6, from the Drinking Water Loan Program
253 Subaccount;

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

255 (iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients;
256 and

257 (v) all investment income derived from money in the Drinking Water Loan Program
258 Subaccount or the Hardship Grant Program for Drinking Water Projects Subaccount~~[-]; and~~

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

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

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

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

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

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

278 (7) Funds received under [~~Section 1452 of the federal~~] the Safe Drinking Water Act, 42
279 [U.S.C.A.] U.S.C. Sec. 300f et seq.[;] may be used for providing financial assistance to
280 community water systems and nonprofit noncommunity water systems as defined and within
281 the limits of that act.

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

283 **73-10c-10. Origination fee.**

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

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

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

292 (4) The loan ~~H→ [or grant] ←H~~ recipient may pay the origination fee from the loan
292a ~~H→ [-or grant] ←H~~
293 proceeds.

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

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

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

Legislative Review Note
as of 1-8-07 7:02 AM

Office of Legislative Research and General Counsel

H.B. 99 - Water Loan Program Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/16/2007, 8:22:17 AM, Lead Analyst: Djambov, I.

Office of the Legislative Fiscal Analyst