

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1406

AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-1.2-14-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 1.2. As used in this chapter, "non-revenue water" means the difference between the amount of water that enters a water distribution system and the amount of water provided to users of the water distribution system.**

SECTION 2. IC 5-1.2-14-3, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 3. (a)** The water infrastructure assistance fund is established as a source of money for grants, loans, and other financial assistance to, or for the benefit of, participants in the program.

(b) The fund shall be administered, held, and managed by the authority.

(c) The authority shall invest or cause to be invested all or a part of the fund, pursuant to the authority's investment policy, in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment under this subsection may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture referred to in this subsection may permit disbursements by the trustee to the

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authority, the department, the budget agency, a participant, or any other person as provided in the trust agreement or indenture.

(d) The fund consists of the following:

- (1) Fees and other amounts received by the state, paid by the treasurer of state to the authority upon warrants issued by the auditor of state, and deposited in the fund.
- (2) Appropriations to the fund from the general assembly.
- (3) Grants and gifts of money to the fund.
- (4) Proceeds of the sale of:
 - (A) gifts to the fund; and
 - (B) loans, evidences of other financial assistance, and other obligations evidencing the loans or other financial assistance, as provided in sections 5 through 9 of this chapter.
- (5) Repayments of loans and other financial assistance from the fund, including interest, premiums, and penalties.

(e) Fees and other amounts received by the state pursuant to law concerning the funding of the water infrastructure assistance fund shall be paid monthly by the treasurer of state to the authority upon warrants issued by the auditor of state and deposited in the fund.

(f) The expenses of administering the fund shall be paid from money in the fund.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(h) All:

- (1) money accruing to the fund; and**
- (2) money allotted to the state under federal law for the purposes of the fund;**

is continuously appropriated for the purposes specified in this chapter.

SECTION 3. IC 5-1.2-14-4, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. **(a)** Money in the water infrastructure assistance fund may be used to do the following:

- (1) Provide grants, loans, and other financial assistance to or for the benefit of participants for:
 - (A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems; and
 - (B) other activities necessary or convenient to complete the tasks referred to in clause (A) whether or not the other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

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(2) Provide grants, loans, or other financial assistance to or for the benefit of participants for:

(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems; and

(B) other activities necessary or convenient to complete the tasks referred to in clause (A) whether or not the other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(3) Provide grants to political subdivisions for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(4) Undertake tasks associated with the development and preparation of water, wastewater, and storm water infrastructure and resource analyses.

(5) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(b) The authority may make loans or provide other financial assistance from the water infrastructure assistance fund to or for the benefit of a participant to do any of the following:

(1) Establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by this chapter.

(2) Provide interest subsidies.

(3) Pay financing charges, including interest on the loan or other financial assistance:

(A) during design and construction of a water or wastewater infrastructure project based upon a viable financial plan; and

(B) for a reasonable period after the completion of construction.

SECTION 4. IC 5-1.2-14-5, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. **(a)** The authority shall adopt guidelines to establish criteria for the making of grants, loans, and other financial assistance from the water infrastructure assistance fund.

(b) The authority shall establish:

(1) the interest rate; or

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(2) parameters for establishing the interest rate; on each loan made from the water infrastructure assistance fund, including parameters for establishing the amount of interest subsidies.

(c) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan under subsection (b), may take into account the following:

(1) Credit risk.

(2) Environmental, water quality, and health protection.

(3) Affordability.

(4) Other fiscal factors the authority considers relevant, including the wastewater or drinking water program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

(d) Based on the factors set forth in subsection (c)(1) through (c)(4), more than one (1) interest rate may be established and used:

(1) for loans or other financial assistance to different participants; or

(2) for different loans or other financial assistance to the same participant.

SECTION 5. IC 5-1.2-14-8, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) To receive a loan, grant, or other financial assistance from the water infrastructure assistance fund, a participant:

(1) must have an asset management program that meets standards established by the authority; and

(2) must demonstrate to the authority that it has a plan to participate with one (1) or more other participants in cooperative activities, which may include using the proceeds of the loan or grant to pay a part of the costs associated with a cooperative activity.

(b) To receive a loan or grant from the water infrastructure assistance fund for purposes of cybersecurity, a participant must satisfy the same requirements that are established under this chapter for loans or grants for projects for other purposes.

(c) A participant receiving a grant, loan, or other financial assistance from the water infrastructure assistance fund shall enter into a financial assistance agreement with the authority. A financial assistance agreement entered into under this section is a valid, binding, and enforceable agreement of the participant.

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(d) After receiving a loan or grant from the water infrastructure assistance fund, a participant must maintain its asset management program:

- (1) as long as the loan remains unpaid; or**
- (2) during the useful life of the asset financed with the loan or grant.**

(e) In addition to meeting the other requirements established under this section, a participant must, if appropriate, conduct or participate in efforts to determine and eliminate the causes of non-revenue water in its water distribution system.

(f) Notwithstanding any other law, the authority may establish and implement requirements that:

- (1) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and**
- (2) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.**

SECTION 6. IC 5-1.2-14-8.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8.2. (a) The authority shall establish a project prioritization system for the purposes of awarding loans and grants from the water infrastructure assistance fund. The project prioritization system must be based on a model that includes at least the following variables:

- (1) The effect of a project on public health and safety.**
- (2) The effect upon the user rates and charges of participants.**
- (3) The existence of plans for collaboration with other entities.**
- (4) The existence of a plan to measure and manage non-revenue water.**
- (5) Whether an applicant is employing other best practices as determined by the authority.**

(b) The authority shall use the results of the project prioritization system established under subsection (a) to create a project priority list, and shall use the project priority list in awarding grants, loans, and other financial assistance under this chapter. The authority may adjust the project priority list established under this section:

- (1) if the authority determines that unforeseen circumstances require an adjustment; or**
- (2) in case of an emergency.**

SECTION 7. IC 5-1.2-14-8.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2019]: **Sec. 8.4.** The authority shall set aside forty percent (40%) of the water infrastructure assistance fund for purposes of providing grants, loans, and other financial assistance to or for the benefit of utilities serving less than three thousand two hundred (3,200) customers.

SECTION 8. IC 5-1.2-14-8.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 8.6.** The authority may provide services to a participant in connection with a loan or other financial assistance from the water infrastructure assistance fund, including advisory services and other services.

SECTION 9. IC 5-1.2-14-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 12.** The authority shall, if appropriate, require a participant receiving a loan or other financial assistance from the water infrastructure assistance fund to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

- (1) operate and maintain its water system or wastewater collection and treatment system; and
- (2) pay the obligations of its water system or wastewater collection and treatment system, including all debt service associated with financial assistance from the water infrastructure assistance fund.

SECTION 10. IC 5-1.2-14-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 13. (a)** As an alternative to making loans or providing other financial assistance to participants, the authority may use the money in the water infrastructure assistance fund to provide a leveraged loan program and other financial assistance programs to or for the benefit of participants, including using money in the water infrastructure assistance fund to enhance the obligations of participants issued for the purposes of this chapter by:

- (1) granting money to:
 - (A) be deposited in:
 - (i) a capital fund or reserve fund established under IC 5-1.2-4 or another statute or a trust agreement or indenture as contemplated by this chapter; or
 - (ii) an account established within a fund described in item (i); or



(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the authority, if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by participants or bonds issued by the authority.

(b) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the water infrastructure assistance fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 11. IC 5-1.2-14-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 14. Notwithstanding any other law, money in the water infrastructure assistance fund, together with loan repayments to be deposited in the fund, may be used to establish a leveraged loan program or other financial assistance programs established in connection with the water infrastructure assistance fund.**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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