

446A.072 WASTEWATER INFRASTRUCTURE FUNDING PROGRAM.

Subdivision 1. **Establishment of program.** The authority will establish a wastewater infrastructure funding program to provide supplemental assistance to governmental units receiving funding through the clean water revolving fund program or the United States Department of Agriculture Rural Economic and Community Development's (USDA/RECD) Water and Waste Disposal Loans and Grants program for the predesign, design, and construction of municipal wastewater treatment systems, including purchase of land and easements. The purpose of the program is to assist governmental units demonstrating financial need to build cost-effective projects to address existing environmental or public health problems. To implement the program, the authority shall establish a wastewater infrastructure fund to provide grants and loans for the purposes authorized under title VI of the Federal Water Pollution Control Act. The fund shall be credited with all investment income from the fund and all repayments of loans, grants, and penalties.

Subd. 2. [Repealed, 2002 c 393 s 91]

Subd. 3. **Program administration.** (a) The authority shall provide supplemental assistance, as provided in subdivision 5a to governmental units:

(1) whose projects are listed on the Pollution Control Agency's project priority list;

(2) that demonstrate their projects are a cost-effective solution to an existing environmental or public health problem; and

(3) whose projects are approved by the USDA/RECD or certified by the commissioner of the Pollution Control Agency.

(b) For a governmental unit receiving grant funding from the USDA/RECD, applications must be made to the USDA/RECD with additional information submitted to the authority as required by the authority. Eligible project costs and affordability criteria shall be determined by the USDA/RECD.

(c) For a governmental unit not receiving grant funding from the USDA/RECD, application must be made to the authority on forms prescribed by the authority for the clean water revolving fund program with additional information as required by the authority. In accordance with section 116.182, the Pollution Control Agency shall:

(1) calculate the essential project component percentage which must be multiplied by the total project cost to determine the eligible project cost; and

(2) review and certify approved projects to the authority.

(d) Each fiscal year the authority shall make funds available for projects based on their ranking on the Pollution Control Agency's project priority list. The authority shall reserve funds for a project when the applicant receives a funding commitment from the United States Department of Agriculture Rural Development (USDA/RECD) or submits plans and specifications to the Pollution Control Agency. Funds must be reserved in an amount based on the project cost estimate submitted to the authority prior to the appropriation of the funds and awarded based on the lesser of that amount or the as-bid cost.

Subd. 4. [Repealed, 2002 c 393 s 91]

Subd. 4a. [Repealed, 1998 c 404 s 84]

Subd. 5. [Repealed, 2002 c 393 s 91]

Subd. 5a. Type and amount of assistance. (a) For a governmental unit receiving grant funding from the USDA/RECD, the authority may provide assistance in the form of a grant of up to 65 percent of the eligible grant need determined by USDA/RECD. A governmental unit may not receive a grant under this paragraph for more than \$4,000,000 per project or \$15,000 per existing connection, whichever is less, unless specifically approved by law.

(b) For a governmental unit receiving a loan from the clean water revolving fund under section 446A.07, the authority may provide assistance under this section in the form of a grant if the average annual residential wastewater system cost after completion of the project would otherwise exceed 1.4 percent of the median household income of the project service area. In determining whether the average annual residential wastewater system cost would exceed 1.4 percent, the authority must consider the total costs associated with building, operating, and maintaining the wastewater system, including existing wastewater debt service, debt service on the eligible project cost, and operation and maintenance costs. Debt service costs for the proposed project are calculated based on the maximum loan term permitted for the clean water revolving fund loan under section 446A.07, subdivision 7. The amount of the grant is equal to 80 percent of the amount needed to reduce the average annual residential wastewater system cost to 1.4 percent of median household income in the project service area, to a maximum of \$4,000,000 per project or \$15,000 per existing connection, whichever is less, unless specifically approved by law. The eligible project cost is determined by multiplying the total project costs minus any other grants by the essential project component percentage calculated under subdivision 3, paragraph (c), clause (1). In no case may the amount of the grant exceed 80 percent of the eligible project cost.

(c) Notwithstanding the limits in paragraphs (a) and (b), for a governmental unit receiving supplemental assistance under this section after January 1, 2002, if the authority determines that the governmental unit's construction and installation costs are significantly increased due to geological conditions of crystalline bedrock or karst areas and discharge limits that are more stringent than secondary treatment, the maximum award under this section shall not be more than \$25,000 per existing connection.

Subd. 5b. Special assessment deferral. A governmental unit receiving a loan under subdivision 5a that levies special assessments to repay the loan under subdivision 5a or section 446A.07 may defer payment of such assessments under the provisions of sections 435.193 to 435.195.

Subd. 6. Disbursements. Disbursements of grants or loans awarded under this section by the authority to recipients must be made for eligible project costs as incurred by the recipients, and must be made by the authority in accordance with the project financing agreement and applicable state and federal laws and rules governing the payments.

Subd. 7. Loan repayments. Notwithstanding the limitations set forth in section 475.54, subdivision 1, this subdivision shall govern the maturities and mandatory sinking fund redemptions of the loans under this section. A governmental unit receiving a loan under this section shall repay the loan in semiannual payment amounts determined by the authority. The payment amount must be based on the average payments on the governmental unit's clean water revolving fund loan or, if greater, the minimum amount required to fully repay the loan by the maturity date. Payments must begin within one year of the date of the governmental unit's final payment on the clean water revolving fund loan. The final maturity date of the loan under this section must be no later than 20 years from the date of the first payment on the loan under this

section and no later than 40 years from the date of the first payment on the clean water revolving fund loan.

Subd. 8. **Eligibility.** A governmental unit is eligible for assistance under this section only after applying for grant funding from other sources and funding has been obtained, rejected, or the authority has determined that the potential funding is unlikely.

Subd. 9. **Funding limitation.** Supplemental assistance may not be used to reduce the sewer service charges of a significant wastewater contributor, or a single user that has caused the need for the project or whose current or projected flow and load exceed one-half of the current wastewater treatment plant's capacity.

Subd. 10. [Repealed, 2002 c 393 s 91]

Subd. 11. **Report on needs.** By February 1 of each even-numbered year, the authority, in conjunction with the Pollution Control Agency, shall prepare a report to the Finance Division of the senate Environment and Natural Resources Committee and the house of representatives Environment and Natural Resources Finance Committee on wastewater funding assistance needs of governmental units under this section.

Subd. 12. **System replacement fund.** Each governmental unit receiving a loan or grant under this section shall establish a system replacement fund and shall annually deposit a minimum of \$.50 per 1,000 gallons of flow for major rehabilitation or expansion of the treatment system, or replacement of the treatment system at the end of its useful life. Money must remain in the account for the life of the loan from the authority or USDA/RECD, unless use of the fund is approved in writing by the authority for major rehabilitation, expansion, or replacement of the treatment system. By March 1 each year during the life of the loan, each recipient shall submit a report to the authority regarding the amount deposited and the fund balance for the prior calendar year. Failure to comply with the requirements of this subdivision shall result in the authority assessing a penalty fee to the recipient equal to one percent of the supplemental assistance amount for each year of noncompliance. Failure to make the required deposit or pay the penalty fee as required constitutes a default on the loan.

Subd. 13. [Repealed, 2002 c 393 s 91]

Subd. 14. **Consistency with land use plans.** A governmental unit applying for a project in an unsewered area shall include in its application to the authority a certification from the county in which the project is located that:

- (1) the project is consistent with the county comprehensive land use plan, if the county has adopted one;
- (2) the project is consistent with the county water plan, if the county has adopted one; and
- (3) the county has adopted specific land use ordinances or controls so as to meet or exceed the requirements of Minnesota Rules, part 7080.0305.

History: 1996 c 463 s 45; 1997 c 246 s 18; 1998 c 404 s 50-52; 1999 c 223 art 2 s 48; 2000 c 492 art 1 s 60; 2002 c 393 s 65-75; 2006 c 281 art 4 s 24; 2007 c 96 art 1 s 6; 2008 c 277 art 3 s 3; 2008 c 300 s 37,38; 2010 c 290 s 3-6