

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 819

- 02/21/2013 Authored by Murphy, M.; Gunther; Urdahl; Sawatzky and Johnson, B.,
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy
- 03/06/2013 Adoption of Report: Pass and re-referred to the Committee on State Government Finance and Veterans Affairs
- 03/13/2013 Adoption of Report: Pass and re-referred to the Committee on Environment, Natural Resources and Agriculture Finance
- 04/02/2013 Adoption of Report: Pass and re-referred to the Committee on Ways and Means
- 04/10/2013 Adoption of Report: Pass and Read Second Time
- 04/19/2013 Calendar for the Day
Read Third Time
Passed by the House and transmitted to the Senate

1.1 A bill for an act
 1.2 relating to the Public Facilities Authority; reorganizing certain grant programs;
 1.3 providing for small community wastewater treatment grants; amending
 1.4 Minnesota Statutes 2012, sections 446A.073, subdivisions 1, 3, 4; 446A.075,
 1.5 subdivisions 1a, 2, 5; repealing Minnesota Statutes 2012, sections 446A.051,
 1.6 subdivision 2; 446A.074.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2012, section 446A.073, subdivision 1, is amended to
 1.9 read:

1.10 Subdivision 1. **Program established.** When money is appropriated for grants under
 1.11 this program, the authority ~~must make~~ shall award grants up to a maximum of \$3,000,000
 1.12 to governmental units to cover up to one-half the cost of wastewater treatment or storm
 1.13 water projects made necessary by:

1.14 (1) a wasteload ~~reductions~~ reduction prescribed under a total maximum daily load
 1.15 plans plan required by section 303(d) of the federal Clean Water Act, United States Code,
 1.16 title 33, section 1313(d);

1.17 (2) a phosphorus concentration or mass limit which requires discharging one
 1.18 milligram per liter or less at permitted design flow which is incorporated into a permit
 1.19 issued by the Pollution Control Agency;

1.20 (3) any other water quality-based effluent limit established under section 115.03,
 1.21 subdivision 1, paragraph (e), clause (8), and incorporated into a permit issued by the
 1.22 Pollution Control Agency that exceeds secondary treatment limits; or

1.23 (4) a total nitrogen limit of ten milligrams per liter or less for a land-based treatment
 1.24 system.

2.1 Sec. 2. Minnesota Statutes 2012, section 446A.073, subdivision 3, is amended to read:

2.2 Subd. 3. **Project priorities.** When money is appropriated for grants under this
 2.3 program, the authority shall accept applications during the month of July and reserve
 2.4 money for projects expected to proceed with construction by the end of the fiscal year in
 2.5 the order listed on the Pollution Control Agency's project priority list, ~~provided the project~~
 2.6 ~~is included in a total maximum daily load plan that has been approved by the United~~
 2.7 ~~States Environmental Protection Agency at the time the appropriation became law and in~~
 2.8 an amount based on the cost estimate submitted to the authority in the grant application or
 2.9 the as-bid costs, whichever is less.

2.10 Sec. 3. Minnesota Statutes 2012, section 446A.073, subdivision 4, is amended to read:

2.11 Subd. 4. **Grant approval.** The authority must make a grant ~~to a governmental unit,~~
 2.12 ~~as defined in section 116.182, subdivision 1,~~ for an eligible project only after:

2.13 ~~(1) the commissioner of the Pollution Control Agency has certified to the United~~
 2.14 ~~States Environmental Protection Agency a total maximum daily load plan for identified~~
 2.15 ~~waters of this state that includes a point source wasteload allocation;~~

2.16 ~~(2) the Environmental Protection Agency has approved the plan;~~

2.17 ~~(3) a governmental unit affected by the plan~~ (1) the applicant has submitted the
 2.18 as-bid cost for the wastewater treatment or storm water ~~projects necessary to comply with~~
 2.19 ~~the point source wasteload allocation~~ project;

2.20 ~~(4)~~ (2) the Pollution Control Agency has approved the as-bid costs and certified the
 2.21 grant eligible portion of the project; and

2.22 ~~(5)~~ (3) the authority has determined that the additional financing necessary to
 2.23 complete the project has been committed from other sources.

2.24 Sec. 4. Minnesota Statutes 2012, section 446A.075, subdivision 1a, is amended to read:

2.25 Subd. 1a. **Technical assistance grants.** If requested, and if it is an eligible use
 2.26 of funds, the authority may provide technical assistance grants to governmental units
 2.27 seeking to address noncomplying subsurface sewage treatment systems. A grant under
 2.28 this subdivision must not exceed ~~\$10,000~~ \$20,000 plus ~~\$500~~ \$1,000 per household, for
 2.29 a maximum total of ~~\$40,000~~ \$60,000. Technical assistance grant funds may be used
 2.30 ~~by the~~ a county recipient to pay its qualified staff for services listed in clauses (1) to
 2.31 (3) or by a governmental unit to contract with a licensed subsurface sewage treatment
 2.32 system business, county, the University of Minnesota on-site sewage treatment program, a
 2.33 regional development commission, or other qualified nonprofit organization for one or
 2.34 more of the following services:

3.1 (1) conduct site evaluations and prepare a report by a certified subsurface sewage
 3.2 treatment system designer indicating the feasibility of installing new subsurface sewage
 3.3 treatment systems meeting the requirements of section 115.55;

3.4 (2) provide independent advice on the feasibility of subsurface sewage treatment
 3.5 system alternatives; and

3.6 (3) assist the governmental unit to develop the technical, managerial, and financial
 3.7 capacity necessary to build, operate, and maintain subsurface sewage treatment systems.

3.8 Sec. 5. Minnesota Statutes 2012, section 446A.075, subdivision 2, is amended to read:

3.9 Subd. 2. **Construction loans and grants.** (a) The authority may award loans and
 3.10 grants as provided in this subdivision to governmental units from the small community
 3.11 wastewater treatment account for projects to replace noncomplying subsurface sewage
 3.12 treatment systems with a subsurface sewage treatment system or systems meeting the
 3.13 requirements of section 115.55 or a land-based treatment system with a state disposal
 3.14 system permit. A governmental unit receiving a loan or grant from the account shall own
 3.15 the subsurface sewage treatment systems built under the program and shall be responsible,
 3.16 either directly or through a contract with a private vendor, for all inspections, maintenance,
 3.17 and repairs necessary to ensure proper operation of the systems.

3.18 (b) Loans as provided in subdivision 6 may be awarded for up to 100 percent
 3.19 of eligible project costs as described in this section minus any grants awarded under
 3.20 paragraph (c) or from other sources.

3.21 (c) ~~When the area to be served by a project has a median household income below~~
 3.22 ~~the state average median household income, the governmental unit may receive 50 percent~~
 3.23 ~~of the funding provided under this subdivision in the form of a grant. An applicant may~~
 3.24 ~~submit income survey data collected by an independent party if it believes the most recent~~
 3.25 ~~United States census does not accurately reflect the median household income of the area~~
 3.26 ~~to be served. The authority may award a grant to a project if the estimated average annual~~
 3.27 ~~residential wastewater system cost after completion of the project would otherwise exceed~~
 3.28 ~~1.4 percent of the median household income of the project service area. In determining the~~
 3.29 ~~estimated average annual residential wastewater system cost, the authority must consider~~
 3.30 ~~the total costs associated with building, operating, and maintaining the wastewater system~~
 3.31 ~~including debt service. The amount of the grant shall be 80 percent of the amount~~
 3.32 ~~needed to reduce the average annual residential wastewater system cost to 1.4 percent of~~
 3.33 ~~the median household income, but not to exceed 80 percent of the eligible project cost~~
 3.34 ~~minus any other grants.~~

4.1 Sec. 6. Minnesota Statutes 2012, section 446A.075, subdivision 5, is amended to read:

4.2 Subd. 5. **Awards.** (a) The authority must award loans and grants as provided in this
4.3 section to governmental units with approved applications based on their ranking on the
4.4 Pollution Control Agency's project priority list.

4.5 (b) Except as provided in paragraph (c), prior to the award of construction loans or
4.6 grants under subdivision 2, paragraph (b), the Pollution Control Agency shall certify
4.7 that the ~~subsurface sewage~~ land-based treatment systems to be built ~~appear to meet~~ are
4.8 designed according to the criteria set forth in section 115.55 and rules of the Pollution
4.9 Control Agency.

4.10 (c) If a governmental unit receives preliminary approval by the Pollution Control
4.11 Agency of its feasibility report prepared under subdivision 1a, clause (1), the authority
4.12 may make a partial construction award for eligible design costs.

4.13 (d) The total amount awarded for a construction loans and grants project under
4.14 subdivision 2, paragraph (b), shall be based on the estimated project costs for the portion
4.15 of the project expected to be completed within one year, up to an annual maximum of
4.16 \$500,000. For projects expected to take more than one year to complete, the authority
4.17 may make a multiyear commitment for a period not to exceed three years, contingent on
4.18 the future availability of funds. Each year of a multiyear commitment must be funded
4.19 by a separate loan or loan and grant agreement meeting the terms and conditions in
4.20 subdivision 6. A governmental unit receiving a loan or loan and grant under a multiyear
4.21 commitment shall have priority for additional loan and grant funds in subsequent years
4.22 must not exceed \$2,000,000.

4.23 Sec. 7. **WASTEWATER INFRASTRUCTURE FUNDING; CONVERSION OF**
4.24 **CERTAIN LOANS TO GRANTS.**

4.25 For supplemental assistance provided under its wastewater infrastructure funding
4.26 program in the form of a loan, the public facilities authority may convert the loan to a
4.27 grant to the extent that the authority determines that the governmental unit would have
4.28 met, at the time the loan was made, the criteria in Minnesota Statutes 2012, section
4.29 446A.072, subdivision 5a, paragraph (b). If a loan is converted to a grant only in part,
4.30 then, notwithstanding section 446A.072, subdivision 7, the authority may determine the
4.31 manner in which the repayment schedule for the loan is to be adjusted.

4.32 Sec. 8. **INSTRUCTIONS TO REVISOR.**

4.33 (a) In Minnesota Statutes, the revisor shall remove references to the sections
4.34 repealed in section 9.

5.1 (b) In Minnesota Statutes, the revisor shall change the headnote to section 446A.073
5.2 to "Point Source Implementation Grants."

5.3 **Sec. 9. REPEALER.**

5.4 Minnesota Statutes 2012, sections 446A.051, subdivision 2; and 446A.074, are
5.5 repealed.

446A.051 PROJECT FINANCIAL ASSISTANCE.

Subd. 2. **Grant limitations.** If a project is eligible for a grant under section 446A.073, 446A.074, or 446A.075, the total grant shall not exceed the greater of the maximum amount from a single program or the amount the project could receive under section 446A.072.

446A.074 CLEAN WATER LEGACY PHOSPHORUS REDUCTION GRANTS.

Subdivision 1. **Creation of account.** A clean water legacy capital improvement account is created in the state treasury. Money in the account may only be used for grants for eligible capital costs as provided in this section. Money in the clean water legacy capital improvement account, including interest earned, is appropriated to the authority for the purposes of this section.

Subd. 2. **Grants.** The authority shall award grants from the clean water legacy capital improvement account to governmental units for the capital costs of wastewater treatment facility projects or a portion thereof that will reduce the discharge of total phosphorus from the facility to one milligram per liter or less. A project is eligible for a grant if it meets the following requirements:

(1) the applicable phosphorus discharge limit is incorporated in a permit issued by the Pollution Control Agency for the wastewater treatment facility on or after March 28, 2000, the grantee agrees to comply with the applicable limit as a condition of receiving the grant, or the grantee made improvements to a wastewater treatment facility on or after March 28, 2000, that include infrastructure to reduce the discharge of total phosphorus to one milligram per liter or less;

(2) the governmental unit has submitted plans and specifications for the project to the Pollution Control Agency and a grant application to the authority on a form prescribed by the authority; and

(3) the Pollution Control Agency has approved the plans and specifications, and certified the project and the as-bid or final eligible costs to the authority.

Subd. 3. **Eligible capital costs.** Eligible capital costs for phosphorus reduction grants under subdivision 4, paragraph (a), include engineering and inspection costs and the as-bid construction costs for phosphorus treatment. Eligible capital costs for phosphorus reduction grants under subdivision 4, paragraph (b), include the final, incurred construction, engineering, and inspection costs for phosphorus treatment.

Subd. 4. **Grant amounts and priorities.** (a) Priority must be given to projects that start construction on or after July 1, 2006, and rank on the Pollution Control Agency's project priority list. If a project is approved and certified by the Pollution Control Agency before July 1, 2010, the amount of the grant is 75 percent of the eligible capital cost of the project up to a maximum of \$500,000. If a project is approved and certified by the Pollution Control Agency on or after July 1, 2010, the amount of the grant is 50 percent of the eligible capital cost of the project up to a maximum of \$500,000.

(b) Projects that meet the eligibility requirements in subdivision 2 and have started construction before July 1, 2006, may be eligible for grants to reimburse up to 75 percent of the eligible capital cost of the project, less any amounts previously received in grants from other sources, provided that reimbursement is an eligible use of funds. Application for a grant under this paragraph must be submitted to the authority no later than June 30, 2008. Priority for award of grants under this paragraph must be based on the date of Pollution Control Agency approval of the project plans and specifications.

(c) In each fiscal year that money is available for grants, the authority shall accept applications during the month of July. Money shall first be reserved until May 1 of that fiscal year for projects under paragraph (a) in the order listed on the Pollution Control Agency's project priority list and in an amount based on the cost estimate submitted to the authority in the grant application or the as-bid costs, whichever is less. Any money reserved for projects that are not approved and certified by the Pollution Control Agency by May 1 of that year shall be available to award grants under paragraph (b).

(d) Disbursements of grants 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 law.

Subd. 5. **Fees.** The authority may charge the grant recipient a fee for its administrative costs not to exceed one-half of one percent of the grant amount, to be paid upon execution of the grant agreement.