

CHAPTER 446A

PUBLIC FACILITIES AUTHORITY

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446A.02 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of this chapter, the terms in this section have the meanings given them.

Subd. 1a. [Repealed by amendment, 2007 c 96 art 1 s 1]

Subd. 2. **Authority.** “Authority” means the Minnesota Public Facilities Authority.

Subd. 3. [Repealed by amendment, 2007 c 96 art 1 s 1]

Subd. 4. [Repealed by amendment, 2007 c 96 art 1 s 1]

Subd. 4a. **Eligible recipient.** “Eligible recipient” means a governmental unit or other entity that may be defined as an eligible recipient for specific programs within this chapter, and which may be different from one program to another.

Subd. 5. **Governmental unit.** “Governmental unit” means a state agency, home rule charter or statutory city, county, sanitary district, or other governmental subdivision.

Subd. 6. **Project.** “Project” means any eligible activity authorized in this chapter including the acquisition, design, construction, improvement, expansion, repair, or rehabilitation of all or part of any structure, facility, or equipment.

History: 2007 c 96 art 1 s 1

446A.03 MINNESOTA PUBLIC FACILITIES AUTHORITY.

Subdivision 1. **Membership.** The Minnesota Public Facilities Authority consists of the commissioner of employment and economic development, the commissioner of finance, the commissioner of the Pollution Control Agency, the commissioner of agriculture, the commissioner of health, and the commissioner of transportation.

Subd. 2. **Chair; other officers.** The commissioner of employment and economic development shall serve as the chair and chief executive officer of the authority. The authority shall have the position of vice-chair rotate annually among its members. In the absence of the chair or vice-chair at meetings of the authority members may elect a chair for the meeting, and may elect other officers as necessary from its members.

Subd. 3a. **Delegation.** In addition to any powers to delegate that members of the authority have as commissioners, they may delegate to the chair, vice-chair, or executive director their responsibilities as members of the authority for reviewing and approving financing of eligible projects that have been certified to the authority by another department or agency, projects that have been authorized by law, or programs specifically authorized by resolution of the authority.

Subd. 4. **Board actions.** (a) A majority of the authority, excluding vacancies, constitutes a quorum to conduct its business, to exercise its powers, and for all other purposes.

(b) The board may conduct its business by any technological means available, including teleconference calls or interactive video, that allows for an interaction between members. If a

meeting is conducted under this paragraph, a specific location must be available for the public to attend the meeting and at least one member must be present at that location.

Subd. 5. Executive director; staffing. The authority shall employ and the chair shall appoint, with the concurrence of the authority, an executive director in the unclassified service. The executive director shall be responsible for staff of the authority. The executive director shall perform duties that the authority may require in carrying out its responsibilities to manage and implement the funds and programs in this chapter, implementation of debt issuance authorized by the authority, compliance with all state and federal program requirements, and state and federal securities and tax laws and regulations.

Subd. 6. Administrative services. The authority shall enter into agreements for administrative and professional services, and technical support.

Subd. 7. [Repealed by amendment, 2007 c 96 art 1 s 2]

History: 2007 c 96 art 1 s 2

446A.04 POWERS; DUTIES; PROGRAM ADMINISTRATION.

Subdivision 1. [Repealed by amendment, 2007 c 96 art 1 s 3]

Subd. 2. Power to sue; enter contracts. The authority may sue and be sued. The authority may make and enter into contracts, leases, and agreements necessary to perform its duties and exercise its powers.

Subd. 3. Gifts; grants. The authority may apply for, accept, and disburse gifts, grants, loans, or other property from the United States, the state, private sources, or any other source for any of its purposes. Money received by the authority under this subdivision must be deposited in the state treasury and is appropriated to the authority to carry out its duties.

Subd. 4. Contract for services. The authority may retain or contract for the services of accountants, financial advisors, and other consultants or agents needed to perform its duties and exercise its powers.

Subd. 5. Fees. (a) The authority may set and collect fees for costs incurred by the authority, the Department of Employment and Economic Development, the Department of Health, the Pollution Control Agency, and the Department of Transportation, including costs for personnel, professional, and administrative services, for debt issuance related costs and the establishment and maintenance of reserve funds. Fees charged directly to borrowers or grantees upon executing a loan or grant agreement must not exceed one-half of one percent of the loan or grant amount. Servicing fees assessed to loan repayments must not exceed two percent of the loan repayment. The disposition of fees collected for costs incurred by the authority is governed by subdivision 20. The authority shall enter into interagency agreements to transfer funds into appropriate administrative accounts established for fees collected under this subdivision for costs incurred by the Department of Employment and Economic Development, the Department of Health, or the Pollution Control Agency. Fees collected under this subdivision for costs incurred by the Department of Transportation must be credited to the fund or account which is the source of the loan to which the fees are related.

(b) The authority shall annually report to the chairs of the finance and appropriations committees of the legislature on:

(1) the amount of fees collected under this subdivision for costs incurred by the authority;

(2) the purposes for which the fee proceeds have been spent; and

(3) the amount of any remaining balance of fee proceeds.

Subd. 6. Property. The authority may acquire, encumber, hold, and convey through lease, purchase, gift, or otherwise, any real or personal property.

Subd. 6a. Loans; grants. The authority may make and contract to make loans and grants to eligible recipients to finance projects that the eligible recipient may construct or acquire. The authority may acquire or contract to acquire notes and bonds issued by eligible recipients to finance those projects.

Subd. 6b. **Debt.** The authority may borrow money to administer its programs and may issue bonds or notes as evidence of the borrowing in accordance with sections 446A.12 to 446A.20.

Subd. 7. **In general.** The authority has all the powers necessary and convenient to carry out its duties under this chapter.

Subd. 8. **Powers.** In implementing the purposes and the programs described in this chapter, the authority has the powers in subdivisions 9 to 21.

Subd. 9. **Rules.** It may adopt, amend, and repeal rules necessary to effectuate its purposes.

Subd. 10. **Personal property.** It may acquire, hold, and dispose of personal property for its corporate purposes.

Subd. 11. **Real property.** It may acquire real property, or an interest in real property, in its own name, by purchase or foreclosure, where the acquisition is necessary or appropriate to protect a loan in which the authority has an interest and may sell, transfer, and convey the property to a buyer and, in the event the sale, transfer, or conveyance cannot be effected with reasonable promptness or at a reasonable price, may lease the property to a tenant.

Subd. 12. **Notes; mortgages; obligations; sale of.** It may sell, at public or private sale, any note, mortgage or other instrument or obligation evidencing or securing a loan.

Subd. 13. **Insurance.** It may procure insurance against a loss in connection with its property in the amounts, and from the insurers, as may be necessary or desirable.

Subd. 14. **Loan terms; modification.** It may consent, whenever it considers it necessary or desirable in the fulfillment of its purpose, to the modification of the rate of interest, time of payment, installment of principal or interest, or other term, of a contract or agreement to which the authority is a party.

Subd. 15. **Loan payments; interest and amortization.** It may establish and collect reasonable interest and amortization payments on loans, and in connection with them may establish and collect or authorize the collection of reasonable fees and charges or require money to be placed in escrow, sufficient to provide for the payment and security of its bonds, notes, commitments and other obligations and for their servicing, to provide reasonable allowances for or insurance against losses which may be incurred and to cover the cost of issuance of obligations and technical, consultative, and project assistance services.

Subd. 16. **Investments.** (a) It may cause any money not required for immediate disbursement, including the general reserve account, to be invested in direct obligations of or obligations guaranteed as to principal and interest by the United States, or in insured savings accounts, up to the amount of the insurance, in any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or to be deposited in a savings or other account in a bank insured by the Federal Deposit Insurance Corporation or to be invested in time certificates of deposit issued by a bank insured by the Federal Deposit Insurance Corporation and maturing within one year or less and in the investments described in section 11A.24, subdivision 4, except clause (d). It may deposit money in excess of the amount insured with security as provided in chapter 118A.

(b) Notwithstanding paragraph (a), it may invest and deposit money into accounts established pursuant to resolutions or indentures securing its bonds or notes in investments and deposit accounts or certificates, and with security, agreed upon with the holders or a trustee for the holders.

Subd. 17. **Consultative and technical services.** It may provide general consultative and technical services to assist in financing the entities to which loans may be made. It may enter into agreements or other transactions concerning the receipt or provision of those services.

Subd. 18. **Financial information.** Financial information, including credit reports, financial statements and net worth calculations, received or prepared by the authority regarding an authority loan, financial assistance, or insurance is private data with regard to data on

individuals as defined in section 13.02, subdivision 12 and nonpublic data with regard to data not on individuals as defined in section 13.02, subdivision 9.

Subd. 19. Appropriations; gifts; grants. The authority may accept appropriations, gifts, grants, bequests, and devises and use or dispose of them for its purposes. All gifts, grants, bequests, and revenues from those sources are appropriated to the authority.

Subd. 20. Proceeds appropriated to authority. Proceeds of the authority's bonds, notes, and other obligations; amounts granted or appropriated to the authority for the making or purchase or the insurance or guaranty of loans or for bond reserves; income from investment; money in the funds; and all revenues from loans, fees, and charges of the authority including rentals, royalties, dividends, or other proceeds are annually appropriated to the authority for the accomplishment of its corporate purposes and must be spent, administered, and accounted for in accordance with the applicable provisions of all bond and note resolutions, indentures, and other instruments, contracts, and agreements of the authority. Notwithstanding section 16A.28, these appropriations are available until expended.

Subd. 21. General purpose. The authority may do all things necessary and proper to fulfill its purpose.

History: 1987 c 386 art 3 s 29; 1994 c 632 art 2 s 51; 1995 c 233 art 2 s 56; 2001 c 7 s 90; 2007 c 96 art 1 s 3,13,15

446A.05 [Repealed, 2007 c 96 art 1 s 16]

446A.051 PROJECT FINANCIAL ASSISTANCE.

Subdivision 1. Determination of financial assistance. The authority shall assist eligible recipients in determining what grants or loans under sections 446A.06, 446A.07, 446A.072, 446A.073, 446A.074, 446A.075, and 446A.081 to apply for to finance projects and the manner in which the eligible recipient will pay for its portion of the project cost.

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.

Subd. 3. Financial feasibility review. (a) The authority shall review the proposed financing for each project certified to the authority to ascertain whether or not: (1) total financing of a project is assured; (2) the governmental unit's financial plan to pay for its portion of the project cost is feasible; (3) the proposed project and financing plan is an eligible use of the money; and (4) the proposal is in compliance with applicable state and federal tax and securities laws and regulations.

(b) Unless a project is specifically authorized by law, the authority may reject the proposed financing for a project meeting the requirements in paragraph (a) if a majority of members believe the financing of the project would not be in the best interests of the state or would be detrimental to the authority's funds or programs. A determination to reject a proposed project shall not be made in an arbitrary and capricious manner and must be supported by substantive evidence and documented by a resolution of the authority stating its findings.

History: 2007 c 96 art 1 s 4

446A.06 [Repealed, 2007 c 96 art 1 s 16]

446A.07 CLEAN WATER REVOLVING FUND.

Subdivision 1. Establishment of fund. The authority shall establish a clean water revolving fund to provide loans for the purposes and eligible costs authorized under title VI of the Federal Water Pollution Control Act. The fund must be credited with repayments.

Subd. 1a. Definitions. (a) For the purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Eligible recipients" means governmental units or other entities eligible to receive loans or other assistance as provided in title VI of the Federal Water Pollution Control Act.

(c) "Federal Water Pollution Control Act" means the Federal Water Pollution Control Act, as amended, United States Code, title 33, sections 1251 et seq.

Subd. 2. **State funds.** A state matching fund is established to be used in compliance with federal matching requirements specified in the Federal Water Pollution Control Act.

Subd. 3. **Capitalization grant agreement.** The authority shall enter an agreement with the administrator of the United States Environmental Protection Agency to receive capitalization grants for the clean water revolving fund. The authority may exercise powers necessary to comply with the requirements specified in the agreement, which must be in compliance with the Federal Water Pollution Control Act.

Subd. 4. **Intended use plan.** (a) The authority shall annually prepare and submit to the United States Environmental Protection Agency an intended use plan. The plan must identify the intended uses of the amounts available to the clean water revolving fund, including a list of wastewater treatment and storm water projects and all other eligible activities to be funded during the fiscal year.

(b) To be eligible for placement on the intended use plan:

(1) a project must be listed on the Pollution Control Agency's project priority list;

(2) the applicant must submit a written request to the authority, including a brief description of the project, a project cost estimate and the requested loan amount, and a proposed project schedule; and

(3) for a construction loan, the project must have a facility plan approved by the Pollution Control Agency.

(c) The Pollution Control Agency shall annually provide to the authority its project priority list of wastewater and storm water projects to be considered for funding. The authority may not submit the plan until it has received the review and comment of the Pollution Control Agency or until 30 days have elapsed since the plan was submitted to the Pollution Control Agency, whichever occurs first. In addition, the authority shall offer eligible recipients seeking placement on the intended use plan an opportunity to review and comment on the plan before it is adopted. The plan may be amended to add additional projects for consideration for funding as it determines funds are available and additional projects are able to proceed.

Subd. 5. **Applications.** Applications by eligible recipients for loans from the clean water revolving fund must be made to the authority on forms requiring information prescribed by the authority. The Pollution Control Agency shall certify to the authority those projects that appear to meet the criteria set forth in the Federal Water Pollution Control Act, this section, and rules of the Pollution Control Agency.

Subd. 6. **Award and terms of loans.** The authority shall award loans for projects certified by the Pollution Control Agency or shall provide funding for the appropriate state agency or department to make loans for eligible activities identified in the intended use plan, provided the use of funds and the terms and conditions of the loans are in conformance with the federal Water Pollution Control Act, this section, and rules of the Pollution Control Agency and the authority adopted under this section.

Subd. 7. **Loan conditions.** When making loans from the revolving fund, the authority shall comply with the conditions of the Federal Water Pollution Control Act, including:

(a) Loans must be made at or below market interest rates, including interest-free loans, at terms not to exceed 20 years.

(b) The annual principal and interest payments must begin no later than one year after completion of a project. Loans must be fully amortized no later than 20 years after project completion.

(c) An eligible recipient shall establish a dedicated source of revenue for repayment of the loan.

(d) The fund must be credited with all payments of principal and interest on all loans.

(e) A loan may not be used to pay operating expenses or current obligations, unless specifically allowed by the Federal Water Pollution Control Act.

(f) A loan made by the authority must be secured by notes or bonds of the eligible recipient of the loan.

Subd. 8. **Other uses of revolving fund.** The clean water revolving fund may be used as provided in title VI of the Federal Water Pollution Control Act, including the following uses:

(1) to buy or refinance the debt obligation of governmental units for treatment works where debt was incurred and construction begun after March 7, 1985, at or below market rates;

(2) to guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates;

(3) to provide a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the authority if the bond proceeds are deposited in the fund;

(4) to provide loan guarantees, loans, or set-aside for similar revolving funds established by a governmental unit other than state agencies, or state agencies under sections 17.117, 103F.725, subdivision 1a, and 116J.617;

(5) to earn interest on fund accounts; and

(6) to pay the reasonable costs incurred by the authority and the Pollution Control Agency of administering the fund and conducting activities required under the Federal Water Pollution Control Act, including water quality management planning under section 205(j) of the act and water quality standards continuing planning under section 303(e) of the act.

Amounts spent under clause (6) may not exceed the amount allowed under the Federal Water Pollution Control Act.

Subd. 9. **Payments.** Payments from the fund must be made in accordance with the applicable state and federal law governing the payments, except that for projects other than those funded under section 17.117, 103F.725, subdivision 1a, 116J.617, or 462A.05, no payment for a project may be made to an eligible recipient until and unless the authority has determined the total estimated cost of the project and ascertained that financing of the project is assured by:

(1) a loan authorized by state law or the appropriation of proceeds of bonds or other money of the governmental unit to a fund for the construction of the project; and

(2) an irrevocable undertaking, by resolution of the eligible recipient of the governmental unit, to use all money made available for the project exclusively for the project, and to pay any additional amount by which the cost of the project exceeds the estimate by the appropriation to the construction fund of additional money or the proceeds of additional bonds to be issued by the eligible recipient.

Subd. 10. [Repealed by amendment, 2007 c 96 art 1 s 5]

Subd. 11. **Rules of Pollution Control Agency.** The Pollution Control Agency shall adopt rules relating to the certification of projects to the authority for funding, and other matters that the Pollution Control Agency considers necessary for proper administration of its duties under this section. Eligible activities are those required under the Federal Water Pollution Control Act of 1987, as amended.

History: 2007 c 96 art 1 s 5

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 design and planning, improvements to, and construction of municipal wastewater treatment systems. The purpose of the program is to assist governmental units demonstrating financial need in building cost-efficient 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. 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) At the time funds are appropriated under this section, the authority shall reserve supplemental assistance for projects in order of their rankings on the Pollution Control Agency's project priority list and in an amount based on their most recent cost estimates submitted to the authority or the as-bid costs, whichever is less.

Subd. 5a. Type and amount of assistance. (a) For a governmental unit receiving grant funding from the USDA/RECD, the authority shall provide assistance in the form of a grant of up to one-half of the eligible grant amount determined by USDA/RECD. A governmental unit may not receive a grant under this paragraph for more than \$4,000,000 or \$15,000 per existing connection, whichever is less, unless specifically approved by law. In the case of a sanitary district or other multijurisdictional project for which the USDA/RECD is unable to fully fund up to one-half of the eligible grant amount, the authority may provide up to an additional \$1,000,000 for each additional governmental unit participating up to a maximum of \$8,000,000 or \$15,000 per existing connection, whichever is less, but not to exceed the maximum grant level determined by the USDA/RECD as needed to keep the project affordable.

(b) For a governmental unit not receiving grant funding from the USDA/RECD, the authority shall provide assistance in the form of a loan for the eligible project costs that exceed five percent of the market value of properties in the project service area, less the amount of any other grant funding received by the governmental unit for the project. A governmental unit may not receive a loan under this paragraph for more than \$4,000,000 or \$15,000 per existing connection, whichever is less, unless specifically approved by law. In the case of a sanitary district or other multijurisdictional project, the authority may provide a loan under this paragraph for up to an additional \$1,000,000 for each additional municipality participating up to a maximum of \$8,000,000 or \$15,000 per existing connection, whichever is less, unless specifically approved by law. A loan under this paragraph must bear no interest, must be repaid as provided in subdivision 7, and must only be provided in conjunction with a loan from the clean water revolving fund under section 446A.07.

(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 authority shall provide assistance in the form of half grant and half loan. Assistance from the authority may not be more than

\$25,000 per existing connection. Any additional grant amount received for the same project must be used to reduce the amount of the governmental unit's loan from the water pollution control revolving fund that exceeds five percent of the market value of properties in the project service area.

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. **Loan 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. 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 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. 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: 2007 c 96 art 1 s 6

446A.073 TOTAL MAXIMUM DAILY LOAD GRANTS.

Subdivision 1. Program established. When money is appropriated for grants under this program, the authority must make grants up to a maximum of \$3,000,000 to governmental units to cover up to one-half the cost of wastewater treatment or stormwater projects made necessary by wasteload reductions under total maximum daily load plans required by section 303(d) of the federal Clean Water Act, United States Code, title 33, section 1313(d).

Subd. 2. Grant application. Application for a grant must be made to the authority on forms prescribed by the authority for the total maximum daily load grant program, with additional information as required by the authority, including a project schedule and cost estimate for the work necessary to comply with the point source wasteload allocation. The Pollution Control Agency shall:

(1) in accordance with section 116.182, 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 to the authority those projects that have plans and specifications approved under section 115.03, subdivision 1, paragraph (f).

Subd. 3. Project priorities. When money is appropriated for grants under this program, the authority shall accept applications during the month of July and reserve money for projects expected to proceed with construction by the end of the fiscal year in the order listed on the Pollution Control Agency's project priority list, provided the project is included in a total maximum daily load plan that has been approved by the United States Environmental Protection Agency at the time the appropriation became law 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.

Subd. 4. Grant approval. The authority must make a grant to a governmental unit, as defined in section 116.182, subdivision 1, only after:

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

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

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

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

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

Subd. 5. Grant disbursement. Disbursement of a grant must be made for eligible project costs as incurred by the governmental unit and in accordance with a project financing agreement and applicable state and federal laws and rules governing the payments.

History: 2007 c 96 art 1 s 7

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 im-

provement 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.

History: 2007 c 96 art 1 s 8

446A.075 SMALL COMMUNITY WASTEWATER TREATMENT PROGRAM.

Subdivision 1. **Creation of account.** A small community wastewater treatment account is created in the special revenue fund. The authority shall make loans and grants from the account as provided in this section. Money in the fund is annually appropriated to the authority and does not lapse. The account shall be credited with all loan repayments and investment income from the account and servicing fees assessed under section 446A.04, subdivision 5. The authority shall manage and administer the small community wastewater treatment account and for these purposes, may exercise all powers provided in this chapter.

Subd. 1a. **Technical assistance grants.** If requested, and if it is an eligible use of funds, the authority shall provide technical assistance grants to governmental units as provided in this section to analyze possible solutions to problems from noncomplying individual sewage treatment systems. A grant under this subdivision shall equal \$10,000 plus \$500 per household, not to exceed a total of \$40,000. Technical assistance grant funds may be used to:

(1) contract with a licensed individual sewage treatment system professional for a preliminary analysis of the feasibility of installing new systems meeting the requirements of section 115.55; and

(2) to contract for services from the University of Minnesota Extension Service to advise the governmental unit on the feasibility of possible wastewater treatment alternatives and help the governmental unit develop the technical, managerial, and financial capacity necessary to build, operate, and maintain individual wastewater treatment systems.

Subd. 2. **Construction loans and grants.** (a) The authority shall award loans and grants as provided in this subdivision to governmental units from the small community wastewater treatment account for projects to replace noncomplying individual sewage treatment systems with an individual sewage treatment system or systems meeting the requirements of section 115.55. A governmental unit receiving a loan or grant from the account shall own the individual wastewater treatment systems built under the program and shall be responsible, either directly or through a contract with a private vendor, for all inspections, maintenance, and repairs necessary to ensure proper operation of the systems.

(b) Loans may be awarded for up to 100 percent of eligible project costs as described in this section.

(c) When the area to be served by a project has a median household income below the state average median household income, the governmental unit may receive 50 percent of the funding provided under this subdivision in the form of a grant. An applicant may submit income survey data collected by an independent party if it believes the most recent United States census does not accurately reflect the median household income of the area to be served.

Subd. 3. **Project priority list.** Governmental units seeking loans or grants from the small community wastewater treatment program shall first submit a project proposal to the Pollution Control Agency on a form prescribed by the Pollution Control Agency. A project proposal shall include the compliance status for all individual sewage treatment systems in the project area. The Pollution Control agency shall rank project proposals on its project priority list used for the clean water revolving fund under section 446A.07.

Subd. 4. **Applications.** Governmental units with projects on the project priority list shall submit applications for loans or grants under this program to the authority on forms prescribed by the authority. An application for technical assistance funds shall include the number of households served by individual sewage treatment systems in the community and the proposed use of funds. An application for construction funds shall include:

(1) a list of the individual sewage treatment systems proposed to be replaced over a period of up to three years;

(2) a project schedule and cost estimate for each year of the project;

(3) a financing plan for repayment of the loan; and

(4) a management plan providing for the inspection, maintenance, and repairs necessary to ensure proper operation of the systems.

Subd. 5. **Awards.** The authority shall award loans and grants as provided in this section to governmental units with approved applications based on their ranking on the Pollution Control Agency's project priority list. Prior to the award of construction loans or grants under subdivision 2, paragraph (b), the Pollution Control Agency shall certify that the individual sewage treatment systems to be built appear to meet the criteria set forth in section 115.55 and rules of the Pollution Control Agency. The total amount awarded for construction loans and grants under subdivision 2, paragraph (b), shall be based on the estimated project costs for the portion of the project expected to be completed within one year, up to an annual maximum of \$500,000. For projects expected to take more than one year to complete, the authority may make a multiyear commitment for a period not to exceed three years, contingent on the future availability of funds. Each year of a multiyear commitment must be funded by a separate loan or loan and grant agreement meeting the terms and conditions in subdivision 6. A governmental unit receiving a loan or loan and grant under a multiyear commitment shall have priority for additional loan and grant funds in subsequent years.

Subd. 6. **Loan terms and conditions.** Loans from the small community wastewater treatment account shall comply with the following terms and conditions:

(1) principal and interest payments must begin no later than two years after the loan is awarded;

(2) loans shall carry an interest rate of one percent;

(3) loans shall be fully amortized within ten years of the first scheduled payment or, if the loan amount exceeds \$10,000 per household, shall be fully amortized within 20 years but not to exceed the expected design life of the system;

(4) a governmental unit receiving a loan must establish a dedicated source or sources of revenues for repayment of the loan and must issue a general obligation note to the authority for the full amount of the loan; and

(5) each property owner voluntarily seeking assistance for repair or replacement of an individual treatment system under this program must provide a utility easement to the governmental unit to allow access to the system for management and repairs.

Subd. 7. **Special assessment deferral.** (a) A governmental unit receiving a loan under this section that levies special assessments to repay the loan may defer payment of the assessments under the provisions of sections 435.193 to 435.195.

(b) A governmental unit that defers payment of special assessments for one or more properties under paragraph (a) may request deferral of that portion of the debt service on its loan, and the authority shall accept appropriate amendments to the general obligation note of the governmental unit. If special assessment payments are later received from properties that received a deferral, the funds received shall be paid to the authority with the next scheduled loan payment.

Subd. 8. **Eligible costs.** (a) Eligible costs for technical assistance grants as provided in subdivision 1a shall include the cost of soil borings.

(b) Eligible costs for construction loans and grants shall include the costs for design, construction, related legal fees, and land acquisition.

Subd. 9. **Disbursements.** Loan and grant disbursements by the authority under this section must be made for eligible project costs as incurred by the recipients, and must be made in accordance with the project loan or grant and loan agreement and applicable state law.

Subd. 10. **Audits.** A governmental unit receiving a loan under this section must annually provide to the authority for the term of the loan a copy of its annual independent audit or, if the governmental unit is not required to prepare an independent audit, a copy of the annual financial reporting form it provides to the state auditor.

History: 2007 c 96 art 1 s 9

446A.081 DRINKING WATER REVOLVING FUND.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Eligible recipient" means governmental units or other entities eligible to receive loans or other assistance as provided in the federal Safe Drinking Water Act.

(c) "Federal Safe Drinking Water Act" means the federal Safe Drinking Water Act, as amended, United States Code, title 42, sections 300f et seq.

Subd. 2. **Establishment of fund.** The authority shall establish a drinking water revolving fund to provide loans and other forms of financial assistance authorized by the federal Safe Drinking Water Act, as determined by the authority under the rules adopted under this section for the purposes and eligible costs authorized under the federal Safe Drinking Water Act. The fund must be credited with repayments. The federal Safe Drinking Water Act requires that the fund corpus must be managed so as to be available in perpetuity for the financing of drinking water systems in the state. At a minimum, 15 percent of the funds received each federal fiscal year shall be available solely for providing loans to public water systems which regularly serve fewer than 10,000 individuals.

Subd. 3. **State funds.** A state matching fund is established to be used in compliance with federal matching requirements specified in the federal Safe Drinking Water Act.

Subd. 4. **Capitalization grant agreement.** The authority shall enter into an agreement with the administrator of the United States Environmental Protection Agency to receive capitalization grants for the fund. The authority and the Department of Health shall enter into an operating agreement with the administrator of the United States Environmental Protection Agency to satisfy the criteria in the act to operate the fund. The authority and the Department of Health may exercise the powers necessary to comply with the requirements specified in the agreements and to ensure that loan recipients comply with all applicable federal and state requirements.

Subd. 5. **Intended use plan.** The authority shall annually prepare and submit to the United States Environmental Protection Agency an intended use plan. The plan must identify the intended uses of the amounts available to the drinking water revolving loan fund. The Department of Health shall provide a prioritized list of drinking water projects and other eligible activities to be considered for funding by the authority. The plan may be amended by the authority and include additional eligible projects proposed by the Department of Health.

Subd. 6. **Applications.** Applications by municipalities, privately owned public water systems, and eligible entities identified in the annual intended use plan for loans from the fund must be made to the authority on the forms prescribed by the rules of the authority and the rules of the Department of Health adopted under this section. The authority shall forward the application to the Department of Health within ten days of receipt. The Department of Health shall approve those applications that appear to meet the criteria in the federal Safe Drinking Water Act, this section, and the rules of the Department of Health or the authority.

Subd. 7. **Award and terms of loans.** The authority shall award loans to those municipalities, privately owned public water systems, and other eligible entities approved by the Department of Health, provided that the applicant is able to comply with the terms and conditions of the authority loan, which must be in conformance with the federal Safe Drinking Water Act, this section, and the rules of the authority adopted under this section.

Subd. 8. **Loan conditions.** (a) When making loans from the drinking water revolving fund, the authority shall comply with the conditions of the federal Safe Drinking Water Act, including the criteria in paragraphs (b) to (e).

(b) Loans must be made at or below market interest rates, including zero interest loans, for terms not to exceed 20 years.

(c) The annual principal and interest payments must begin no later than one year after completion of the project. Loans must be amortized no later than 20 years after project completion.

(d) A loan recipient must identify and establish a dedicated source of revenue for repayment of the loan, and provide for a source of revenue to properly operate, maintain, and repair the water system.

(e) The fund must be credited with all payments of principal and interest on all loans, except the costs as permitted under section 446A.04, subdivision 5, paragraph (a).

(f) A loan may not be used to pay operating expenses or current obligations, unless specifically allowed by the federal Safe Drinking Water Act.

(g) A loan made by the authority must be secured by notes or bonds of the governmental unit and collateral to be determined by the authority for private borrowers.

Subd. 9. Other uses of fund. The drinking water revolving loan fund may be used as provided in the act, including the following uses:

(1) to buy or refinance the debt obligations, at or below market rates, of public water systems for drinking water systems, where the debt was incurred after the date of enactment of the act, for the purposes of construction of the necessary improvements to comply with the national primary drinking water regulations under the federal Safe Drinking Water Act;

(2) to purchase or guarantee insurance for local obligations to improve credit market access or reduce interest rates;

(3) to provide a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the authority if the bond proceeds are deposited in the fund;

(4) to provide loans or loan guarantees for similar revolving funds established by a governmental unit or state agency;

(5) to earn interest on fund accounts;

(6) to pay the reasonable costs incurred by the authority, the Department of Employment and Economic Development, and the Department of Health for conducting activities as authorized and required under the act up to the limits authorized under the act; and

(7) to develop and administer programs for water system supervision, source water protection, and related programs required under the act.

Subd. 10. Payments. Payments from the fund to borrowers must be in accordance with the applicable state and federal laws governing the payments, except no payment for a project may be made to a borrower until and unless the authority has determined that the total estimated cost of the project and the financing of the project are assured by:

(1) a loan authorized by state law or appropriation of proceeds of bonds or other money of the borrower to a fund for the construction of the project; and

(2) an irrevocable undertaking, by resolution of the governing body of the borrower, to use all money made available for the project exclusively for the project, and to pay any additional amount by which the cost of the project exceeds the estimate by the appropriation to the construction fund of additional money or proceeds of additional bonds to be issued by the borrower.

Subd. 11. [Repealed by amendment, 2007 c 96 art 1 s 10]

Subd. 12. Rules of the department. The Department of Health shall adopt rules relating to the procedures for administration of the Department of Health's duties under the act and this section.

History: 2007 c 96 art 1 s 10

446A.085 TRANSPORTATION REVOLVING LOAN FUND.

Subdivision 1. Definitions. (a) For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Act" means the National Highway System Designation Act of 1995, Public Law 104-59, as amended.

(c) "Borrower" means the state, counties, cities, and other governmental entities eligible under the act and state law to apply for and receive loans from the transportation revolving loan fund.

(d) "Loan" means financial assistance provided for all or part of the cost of a project including money disbursed in anticipation of reimbursement or repayment, loan guarantees, lines of credit, credit enhancements, equipment financing leases, bond insurance, or other forms of financial assistance.

Subd. 2. Purpose. The purpose of the transportation revolving loan fund is to provide loans for public transportation projects eligible for financing or aid under any federal act or program or state law, including, without limitation, the study of the feasibility of construction, reconstruction, resurfacing, restoring, rehabilitation, or replacement of transportation facilities; acquisition of right-of-way; and maintenance, repair, improvement, or construction of city, town, county, or state highways, roads, streets, rights-of-way, bridges, tunnels, railroad-highway crossings, drainage structures, signs, maintenance and operation facilities, guardrails, and protective structures used in connection with highways or transit projects. Enhancement items, including without limitation bicycle paths, ornamental lighting, and landscaping, are eligible for financing provided they are an integral part of overall project design and construction of a federal-aid highway. Money in the fund may not be used for any toll facilities project or congestion-pricing project.

Subd. 3. Establishment of fund. A transportation revolving loan fund is established to make loans for the purposes described in subdivision 2. A highway account is established in the fund for highway projects eligible under United States Code, title 23. A transit account is established in the fund for transit capital projects eligible under United States Code, title 49. A state funds general loan account is established in the fund for transportation projects eligible under state law. Other accounts may be established in the fund as necessary for its management and administration. The transportation revolving loan fund receives federal money under the act and money from any source. Money received under this section must be paid to the commissioner of finance and credited to the transportation revolving loan fund. Money in the fund is annually appropriated to the authority and does not lapse. The fund must be credited with investment income, and with repayments of principal and interest, except for servicing fees assessed under section 446A.04, subdivisions 5 and 15.

Subd. 4. Management of fund and accounts. The authority shall manage and administer the transportation revolving loan fund and individual accounts in the fund. For those purposes, the authority may exercise all powers provided in this chapter.

Subd. 6. [Repealed by amendment, 2007 c 96 art 1 s 11]

Subd. 7. Applications. (a) Applicants for loans must submit an application to the authority on forms prescribed by the authority. The applicant must provide the following information:

- (1) the estimated cost of the project and the amount of the loan sought;
 - (2) other possible sources of funding in addition to loans sought from the transportation revolving loan fund;
 - (3) the proposed methods and sources of funds to be used for repayment of loans received; and
 - (4) information showing the financial status and ability of the borrower to repay loans.
- (b) Each project must be certified by the commissioner of transportation under subdivision 8 before its consideration by the authority.

Subd. 8. Certification of projects. The commissioner of transportation shall consider the following information when evaluating projects to certify to the authority:

- (1) a description of the nature and purpose of the proposed transportation project including an explanation of the need for the project and the reasons why it is in the public interest;
- (2) the relationship of the project to the area transportation improvement program, the approved statewide transportation improvement program, and to any transportation plans required under state or federal law;
- (3) the estimated cost of the project and the amount of loans sought;
- (4) proposed sources of funding in addition to loans sought from the transportation revolving loan fund;

- (5) the need for the project as part of the overall transportation system;
- (6) the overall economic impact of the project; and
- (7) the extent to which completion of the project will improve the movement of people and freight.

Subd. 9. **Loan conditions.** A loan made under this section must:

- (1) bear interest at or below market rates or as otherwise specified in federal law;
- (2) have a repayment term not longer than 30 years;
- (3) be fully amortized no later than 30 years after project completion;
- (4) be subject to repayment of principal and interest beginning not later than five years after the facility financed with a loan has been completed, or in the case of a highway project, five years after the facility has opened to traffic; and
- (5) be disbursed for specific project elements only after all applicable environmental requirements have been met.

Subd. 10. **Loans in anticipation of future apportionments.** A loan may be made to a county, or to a statutory or home rule charter city having a population of 5,000 or more, in anticipation of repayment of the loan from sums that will be apportioned to a county from the county state-aid highway fund under section 162.07 or to a city from the municipal state-aid street fund under section 162.14.

Subd. 11. **Payment by county or city.** Notwithstanding the allocation provisions of section 162.08 for counties, and the apportionment provisions of section 162.14 for cities, sums apportioned under section 162.13 to a statutory or home rule charter city, or under section 162.07 to a county, that has loan repayments due to the transportation revolving loan fund, shall be paid by the commissioner of transportation to the appropriate loan fund to offset the loan repayments that are due.

Subd. 12. [Repealed by amendment, 2007 c 96 art 1 s 11]

Subd. 13. **Duties and Rules of Department of Transportation.** The commissioner of transportation shall establish and adopt rules to implement a program to identify, assist with development, and certify projects eligible for loans under this section to the authority.

Subd. 14. [Repealed by amendment, 2007 c 96 art 1 s 11]

History: 2007 c 96 art 1 s 11,15

446A.086 STATE MAY GUARANTEE COUNTY BUILDING DEBT; REPAYMENT.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Authority" means the Minnesota Public Facilities Authority.

(c) "Commissioner" means the commissioner of finance.

(d) "Debt obligation" means a general obligation bond issued by a county, a bond to which the general obligation of a county is pledged under section 469.034, subdivision 2, or a bond payable from a county lease obligation under section 641.24, to provide funds for the construction of:

- (1) jails;
- (2) correctional facilities;
- (3) law enforcement facilities;
- (4) social services and human services facilities;
- (5) solid waste facilities; or
- (6) qualified housing development projects as defined in section 469.034, subdivision 2.

Subd. 2. **Application.** (a) This section provides a state guarantee of the payment of principal and interest on debt obligations if:

- (1) the obligations are issued after June 30, 2000;

(2) application to the Public Facilities Authority is made before issuance; and

(3) the obligations are covered by an agreement meeting the requirements of subdivision 3.

(b) Applications to be covered by the provisions of this section must be made in a form and contain the information prescribed by the authority. Applications are subject to a fee of \$500 for the first bond issue requested by the county and \$250 for each bond issue thereafter.

(c) Application fees paid under this section must be deposited in a separate county bond guarantee account in the general fund. Money in the county bond guarantee account is appropriated to the authority for purposes of administering this section.

(d) Neither the authority nor the commissioner is required to promulgate administrative rules under this section and the procedures and requirements established by the authority or commissioner under this section are not subject to chapter 14.

Subd. 3. Agreement. (a) For specified debt obligations of a county to be covered by this section, the county must enter an agreement with the authority obligating the county to be bound by this section.

(b) This agreement must be in a form prescribed by the authority and contain any provisions required by the authority, including, at least, an obligation to:

(1) deposit with the paying agent three days before the date on which the payment is due an amount sufficient to make that payment;

(2) notify the authority, if the county will be unable to make all or a portion of the payment; and

(3) include a provision in the bond resolution and county's agreement with the paying agent for the debt obligation that requires the paying agent to inform the commissioner if it becomes aware of a default or potential default in the payment of principal or interest on that issue or if, on the day two business days before the date a payment is due on that issue, there are insufficient funds to make the payment on deposit with the paying agent.

(c) Funds invested in a refunding escrow account established under section 475.67 that are to become available to the paying agent on a principal or interest payment date are deemed to be on deposit with the paying agent three business days before the payment date.

(d) The provisions of an agreement under this subdivision are binding as to an issue as long as any debt obligation of the issue remains outstanding.

(e) This section and the obligations of the state under this section are not a public debt of the state under article XI, section 4, of the Minnesota Constitution, and the legislature may, at any time, choose not to appropriate amounts under subdivision 4, paragraph (b).

Subd. 4. Notifications; payment; appropriation. (a) After receipt of a notice of a default or potential default in payment of principal or interest in debt obligations covered by this section or an agreement under this section, and after consultation with the county, the paying agent, and after verification of the accuracy of the information provided, the authority shall notify the commissioner of the potential default. The notice must include a final figure as to the amount due that the county will be unable to repay on the date due.

(b) Upon receipt of this notice from the authority, the commissioner shall issue a warrant and authorize the authority to pay to the paying agent for the debt obligation the specified amount on or before the date due. The amounts needed for the purposes of this subdivision are annually appropriated to the authority from the general fund.

Subd. 5. Interest on state paid amount. If the state has paid part or all of the principal or interest due on a county's debt obligation, the amount paid bears interest from the date paid by the state until the date of repayment. The interest rate is the commissioner's invested cash rate as it is certified by the commissioner. Interest only accrues on the amounts paid and outstanding less the reduction in aid under subdivision 7 and other payments received from the county.

Subd. 6. Pledge of county's full faith and credit. If the state has paid part or all of the principal or interest due on a county's debt obligation, the county's pledge of its full faith and

credit and unlimited taxing powers to repay the principal and interest due on those debt obligations becomes, without an election or the requirement of a further authorization, a pledge of the full faith and credit and unlimited taxing powers of the county to repay to the state the amount paid, with interest. Amounts paid by the state must be repaid in the order in which the state payments were made.

Subd. 7. Aid reduction for repayment. (a) Except as provided in paragraph (b), the commissioner may reduce, by the amount paid by the state under this section on behalf of the county, plus the interest due on the state payments, the county program aid under section 477A.0124. The amount of any aid reduction reverts from the appropriate account to the state general fund.

(b) If, after review of the financial situation of the county, the authority advises the commissioner that a total reduction of the aids would cause an undue hardship on the county, the authority, with the approval of the commissioner, may establish a different schedule for reduction of aids to repay the state. The amount of aids to be reduced are decreased by any amounts repaid to the state by the county from other revenue sources.

Subd. 8. Tax levy for repayment. (a) With the approval of the authority, a county may levy in the year the state makes a payment under this section an amount up to the amount necessary to provide funds for the repayment of the amount paid by the state plus interest through the date of estimated repayment by the county. The proceeds of this levy may be used only for this purpose unless they exceed the amount actually due. Any excess must be used to repay other state payments made under this section or must be deposited in the debt redemption fund of the county. The amount of aids to be reduced to repay the state are decreased by the amount levied.

(b) If the state is not repaid in full for a payment made under this section by November 30 of the calendar year following the year in which the state makes the payment, the authority shall require the county to certify a property tax levy in an amount up to the amount necessary to provide funds for repayment of the amount paid by the state plus interest through the date of estimated repayment by the county. To prevent undue hardship, the authority may allow the county to certify the levy over a five-year period. The proceeds of the levy may be used only for this purpose unless they are in excess of the amount actually due, in which case the excess must be used to repay other state payments made under this section or must be deposited in the debt redemption fund of the county. If the authority orders the county to levy, the amount of aids reduced to repay the state are decreased by the amount levied.

(c) A levy under this subdivision is an increase in the levy limits of the county for purposes of section 275.065, subdivision 6, and must be explained as a specific increase at the meeting required under that provision.

Subd. 9. Mandatory plan; technical assistance. If the state makes payments on behalf of a county under this section or the county defaults in the payment of principal or interest on an outstanding debt obligation, it must submit a plan to the authority for approval specifying the measures it intends to implement to resolve the issues which led to its inability to make the payment and to prevent further defaults. If the authority determines that a county's plan is not adequate, the authority shall notify the county that the plan has been disapproved, the reasons for the disapproval, and that the state will not make future payments under this section for debt obligations of the affected county issued after the date specified in that notice until its plan is approved. The authority may also notify the county that until its plan is approved, aids due the county will be withheld after a date specified in the notice.

Subd. 10. Continuing disclosure agreements. The authority may enter into written agreements or contracts relating to the continuing disclosure of information needed to facilitate the ability of counties to issue debt obligations according to federal securities laws, rules, and regulations, including securities and exchange commission rules and regulations, sec-

tion 240.15c2–12. The agreements or contracts may be in any form the authority deems reasonable and in the state's best interests.

History: 2000 c 493 s 3; 2001 c 214 s 4; 2003 c 112 art 2 s 50; 2003 c 127 art 12 s 9; 1Sp2003 c 21 art 10 s 11; 2005 c 151 art 5 s 41; 2006 c 259 art 9 s 6; 2007 c 96 art 1 s 19

446A.09 REPORT; AUDIT.

The authority shall report to the legislature and the governor by January 15 of each year. The report must include a complete operating and financial statement covering the authority's operations during the year, including amounts of income from all sources. The report must also include the authority's analysis of the interest rate subsidy provided to borrowers on loans made during the year. Books and records of the authority are subject to audit by the legislative auditor in the manner prescribed for state agencies.

History: 2007 c 96 art 1 s 12

446A.11 Subdivision 1. [Renumbered 446A.04, subd 8]

Subd. 2. [Renumbered 446A.04, subd 9]

Subd. 3. [Renumbered 446A.04, subd 10]

Subd. 4. [Renumbered 446A.04, subd 11]

Subd. 5. [Renumbered 446A.04, subd 12]

Subd. 6. [Renumbered 446A.04, subd 13]

Subd. 7. [Renumbered 446A.04, subd 14]

Subd. 8. [Renumbered 446A.04, subd 15]

Subd. 9. [Renumbered 446A.04, subd 16]

Subd. 10. [Renumbered 446A.04, subd 17]

Subd. 11. [Renumbered 446A.04, subd 18]

Subd. 12. [Renumbered 446A.04, subd 19]

Subd. 13. [Renumbered 446A.04, subd 20]

Subd. 14. [Renumbered 446A.04, subd 21]

446A.14 INTEREST RATE SWAPS AND OTHER AGREEMENTS.

[For text of subd 1, see M.S.2006]

Subd. 2. **Powers of authority.** For the purposes of this section, the authority may exercise all powers provided in this chapter. The authority may consent, whenever it considers it necessary or desirable in connection with agreements entered into under this subdivision, to modifications, amendments, or waivers of the terms of the agreements. The proceeds of any agreements entered into pursuant to this subdivision are appropriated to the authority pursuant to section 446A.04, subdivision 20. The agreements entered into pursuant to this subdivision are not subject to sections 16C.03, subdivision 4, and 16C.05.

History: 2007 c 96 art 1 s 15

446A.15 BOND FUND.

[For text of subs 1 and 2, see M.S.2006]

Subd. 3. **Investment.** Money in a debt service reserve fund not required for immediate use may be invested in accordance with section 446A.04, subdivision 16, paragraph (b).

[For text of subs 4 and 5, see M.S.2006]

Subd. 6. [Repealed, 2007 c 96 art 1 s 16]

History: 2007 c 96 art 1 s 15

446A.17 NONLIABILITY.

Subdivision 1. **Nonliability of individuals.** No member of the authority, staff of the authority, or other person executing the bonds, loans, interest rate swaps, or other agreements or

contracts of the authority is liable personally on the bonds, loans, interest rate swaps, or other agreements or contracts of the authority or is subject to any personal liability or accountability by reason of their issuance, execution, delivery, or performance.

[For text of subd 2, see M.S.2006]

History: 2007 c 96 art 1 s 14