

STATE OF NEW YORK

8389

IN SENATE

January 25, 2024

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed,
and when printed to be committed to the Committee on Corporations,
Authorities and Commissions

AN ACT to amend the public authorities law, the environmental conserva-
tion law and the public health law, in relation to the allocation of
funds from the clean water state revolving fund and the drinking
water revolving fund by the environmental facilities corporation

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 1 of section 1285-j of the
2 public authorities law, as amended by chapter 262 of the laws of 2007,
3 is amended to read as follows:

4 (a) The corporation shall undertake and provide assistance in support
5 of the program to make financial assistance available to municipalities
6 to encourage and support the planning, development and construction of
7 municipal water pollution control projects in accordance with the
8 provisions of this section, section 17-1909 of the environmental conser-
9 vation law, and to make financial assistance available to eligible
10 borrowers through linked deposits made in accordance with article
11 sixteen of the state finance law. Moneys of the fund shall be allocated
12 to municipalities for eligible projects in proportion to the population
13 of such municipality and shall not be subject to a dollar amount limita-
14 tion.

15 § 2. Paragraph g of subdivision 1 of section 17-1909 of the environ-
16 mental conservation law, as amended by chapter 262 of the laws of 2007,
17 is amended to read as follows:

18 g. "Intended use plan" means the plan prepared pursuant to subdivision
19 two of this section, identifying the intended uses of the amounts avail-
20 able in the fund, including but not limited to: (i) a list of those
21 projects for construction of publicly owned treatment works on the
22 priority list developed pursuant to subdivision two of this section;
23 (ii) a list of projects developed pursuant to subdivision two of this
24 section anticipated to be financed by the fund through the water
25 pollution control linked deposit program; (iii) a description of the
26 short and long term goals and objectives of the fund; (iv) information
27 on the activities to be supported, including a description of project
28 categories, discharge requirements under the Federal Water Pollution

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 Control Act, terms of financial assistance, and eligible borrowers
2 pursuant to the water pollution control linked deposit program served;
3 (v) the criteria and method established for the distribution of funds;
4 and (vi) the amount of moneys from the fund[~~, not to exceed ten million~~
5 ~~dollars annually,~~] to be made available for linked loans under the water
6 pollution control linked deposit program during the period covered by
7 such intended use plan.

8 § 3. Paragraph a of subdivision 3 of section 17-1909 of the environ-
9 mental conservation law, as amended by chapter 259 of the laws of 2021,
10 is amended to read as follows:

11 a. The corporation is authorized to promulgate regulations, developed
12 in consultation with the commissioner and the director of the division
13 of the budget, for the purpose of carrying out its responsibilities
14 under this section, including establishing criteria and standards for
15 determining the amount of financial assistance to a municipality for an
16 eligible project; provided, however, that such regulations shall provide
17 that moneys of the fund shall be allocated to municipalities for eligi-
18 ble projects in proportion to the population of such municipality and
19 shall not be subject to a dollar amount limitation. To the extent finan-
20 cial assistance to a municipality for an eligible project is provided as
21 a loan from the proceeds of bonds or notes of the corporation, the
22 amount of an allocation applicable to the portion of such eligible
23 project financed with such loan shall be, subject to such maximum finan-
24 cial limitations as may otherwise be necessary and prescribed by the
25 commissioner and the director of the division of the budget, thirty-
26 three and one-third percent of the principal amount of such loan
27 outstanding at any time for such eligible project, to the extent reason-
28 ably practicable, and subject to such deviation as may be necessary, in
29 connection with the administration and investment of moneys in the fund,
30 unless allocations in differing amounts are necessary to preclude a
31 determination by the commissioner or the corporation pursuant to para-
32 graph e of subdivision eight of this section or unless an allocation in
33 a differing amount is required for an innovative technology demon-
34 stration project; provided, however, that in the case of any munici-
35 pality which has, during the period commencing on June first, nineteen
36 hundred ninety-two and ending on September thirtieth, two thousand twen-
37 ty-four, (i) submitted an application for financial assistance in the
38 form of such a loan for an eligible project, which application has been
39 accepted by the corporation, (ii) closed on such loan, and (iii)
40 commenced construction of such eligible project, the allocation applica-
41 ble to the portion of such project financed with such loan shall be,
42 subject to maximum financial limitations as may otherwise be necessary
43 and prescribed by the commissioner and the director of the division of
44 the budget, fifty percent of the principal balance outstanding on such
45 loan at any time for such eligible project, to the extent reasonably
46 practicable, and subject to such deviation as may be necessary, in
47 connection with the administration and investment of moneys in the fund,
48 unless allocations in differing amounts are necessary to preclude a
49 determination by the commissioner or the corporation pursuant to para-
50 graph e of subdivision eight of this section or unless an allocation in
51 a differing amount is required for an innovative technology demon-
52 stration project.

53 § 4. Subdivision 1 of section 1162 of the public health law, as
54 amended by chapter 134 of the laws of 2007, is amended to read as
55 follows:

1 1. The corporation is authorized to promulgate regulations, developed
2 in consultation with the commissioner and the director of the division
3 of the budget, for the purpose of carrying out its responsibilities
4 under this title, including establishing criteria and standards for
5 determining the amount and kind of financial assistance to a recipient
6 for an eligible project. To the extent financial assistance to a recipi-
7 ent for an eligible project is provided from the proceeds of bonds or
8 notes of the corporation, the amount of an allocation applicable to the
9 portion of such eligible project financed with such financial assistance
10 shall be determined by the corporation in accordance with such regu-
11 lations, if any; provided, however, that such regulations shall provide
12 that moneys of the fund shall be allocated to municipalities for eligi-
13 ble projects in proportion to the population of such municipality and
14 shall not be subject to a dollar amount limitation.

15 § 5. Paragraph (b) of subdivision 1 of section 1285-m of the public
16 authorities law, as added by chapter 134 of the laws of 2007, is amended
17 to read as follows:

18 (b) There is hereby established in the custody of the corporation a
19 special fund to be known as the drinking water revolving fund. Except as
20 otherwise provided by this paragraph, moneys in the drinking water
21 revolving fund shall be segregated from all other funds of or in the
22 custody of the corporation subject to any rights of holders of corpo-
23 ration bonds or notes issued for the purposes of this section. Moneys
24 in the drinking water revolving fund shall only be used in accordance
25 with the provisions of this section and title four of article eleven of
26 the public health law; provided that, in addition, to the extent permit-
27 ted by federal or state law, moneys in the drinking water revolving fund
28 may be transferred to and used for the purposes authorized for the water
29 pollution control revolving fund, and moneys in the water pollution
30 control revolving fund may be transferred to and used for the purposes
31 authorized for the drinking water revolving fund. The moneys in the
32 drinking water revolving fund shall be applied to or paid out for
33 authorized purposes of such fund in accordance with subdivision four of
34 this section and title four of article eleven of the public health law.
35 To the extent approved by the commissioner of health and the commission-
36 er of environmental conservation and notwithstanding the provisions of
37 paragraph (a) of this subdivision, moneys in the drinking water revolv-
38 ing fund and in the water pollution control revolving fund may be held
39 together; provided that all such moneys are segregated from all other
40 funds of or in the custody of the corporation subject to any rights of
41 holders of corporation bonds or notes issued for the purposes of this
42 section; provided further, that the corporation shall establish and
43 maintain or cause there to be established and maintained a system of
44 tracking the application of such moneys to the purposes of this section.
45 The corporation may establish within the drinking water revolving fund
46 additional accounts or subaccounts and specify any conditions applicable
47 to the transfer of moneys between such accounts or subaccounts. With
48 respect to each eligible project, the corporation shall establish and
49 maintain a record of the allocation provided for the benefit of such
50 project in accordance with the terms of the applicable financing agree-
51 ment. Moneys of the fund shall be allocated to municipalities for eligi-
52 ble projects in proportion to the population of such municipality and
53 shall not be subject to a dollar amount limitation.

54 § 6. This act shall take effect immediately.