

First Regular Session of the 122nd General Assembly (2021)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 348

AN ACT to amend the Indiana Code concerning utility infrastructure and to make an appropriation.

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

SECTION 1. IC 2-5-49 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 49. Task Force for Wastewater Infrastructure Investment and Service to Underserved Areas

Sec. 1. As used in this chapter, "task force" refers to the task force on wastewater infrastructure investment and service to underserved areas established by section 2 of this chapter.

Sec. 2. The task force on wastewater infrastructure investment and service to underserved areas is established.

Sec. 3. The task force consists of the following eighteen (18) members:

(1) Six (6) members of the senate, appointed as follows:

(A) Four (4) members shall be appointed by the president pro tempore. The president pro tempore shall designate one (1) of the members appointed under this clause as co-chair of the task force.

(B) Two (2) members shall be appointed by the minority leader of the senate.

(2) Six (6) members of the house of representatives, appointed as follows:

SEA 348 — CC 1



(A) Four (4) members shall be appointed by the speaker. The speaker shall designate one (1) of the members appointed under this clause as co-chair of the task force.

(B) Two (2) members shall be appointed by the minority leader of the house of representatives.

(3) One (1) officer or employee of the state, appointed by the governor.

(4) One (1) individual appointed by the governor to represent the interests of operators of wastewater management systems.

(5) One (1) individual who:

(A) is an engineer or another professional; and

(B) has the expertise in the design and construction of wastewater management systems necessary for the prudent operation of those systems;

appointed by the governor.

(6) One (1) individual appointed by the governor to represent the interests of ratepayers and others who constitute the source of funding for wastewater management systems.

(7) One (1) elected official appointed by the governor to represent the interests of municipal jurisdictions that are served by wastewater operators that are not under the jurisdiction of the Indiana utility regulatory commission.

(8) One (1) member of the general public who is not described in subdivisions (4) through (5), appointed by the governor.

Sec. 4. (a) A majority of the members of the task force constitutes a quorum.

(b) The affirmative vote of at least a majority of the members at a meeting at which a quorum is present is necessary for the task force to take official action other than to meet and take testimony.

(c) The task force shall meet at the call of the co-chairs.

Sec. 5. All meetings of the task force shall be open to the public in accordance with and subject to IC 5-14-1.5. All records of the task force shall be subject to the requirements of IC 5-14-3.

Sec. 6. The task force shall do the following:

(1) Examine recommended standards and best practices for the maintenance and life cycle management of wastewater management systems.

(2) Analyze whether individual wastewater management systems in Indiana are achieving the recommended standards referred to in subdivision (1).

(3) Assess the adequacy of present sources of funding for the maintenance and life cycle management of wastewater



management systems and, if necessary, identify additional sources of funding or investment opportunities, including the benefit to customers of wastewater management system:

(A) consolidation; or

(B) regionalization;

that creates an increased customer base and economies of scale to enable increased infrastructure investment.

(4) Evaluate existing policies concerning the regulation of wastewater management systems, and consider whether certain regulation of unregulated wastewater management systems could:

(A) improve system management and performance; and

(B) create a more sustained level of infrastructure investment.

(5) Assess the value that an improved system of wastewater infrastructure would add to economic development in Indiana.

(6) Assess the difficulties in connecting unserved properties to sanitary sewer systems owned or operated by any of the following:

(A) A public utility (as defined in IC 8-1-2-1(a)).

(B) A municipality under IC 36-9-23 or IC 36-9-25.

(C) A not-for-profit utility (as defined in IC 8-1-2-125(a)).

(D) A cooperatively owned corporation.

(E) A conservancy district established under IC 14-33.

(F) A regional sewer district established under IC 13-26.

(7) Evaluate available financing options:

(A) to fund the extension of wastewater service to rural or developed underserved areas in Indiana; and

(B) that make the service extension affordable for property owners without placing undue burden on:

(i) the wastewater system operator; or

(ii) other customers of the wastewater system operator.

(8) Evaluate available financing options in connection with wastewater utility acquisitions and related system improvements, including the authorization for an acquiring utility company that provides both water and wastewater service to allocate a portion of the costs of the utility company's wastewater utility property to the utility company's water customers.

(9) Examine:

(A) the roles and responsibilities of state agencies related



to wastewater regulation; and

(B) opportunities for coordination and data sharing among those agencies.

(10) Consider the appropriateness of and circumstances for allowing municipalities or municipally owned utilities to sell water or wastewater services outside their corporate boundaries.

(11) Evaluate the priority ranking system used by the Indiana finance authority under IC 5-1.2-10-14.

Sec. 7. The task force shall develop a long term plan for addressing wastewater needs in Indiana. The long term plan must include recommendations to the general assembly and the governor concerning the following:

(1) Outcomes that must be achieved in order to overcome challenges facing Indiana's local wastewater infrastructure, and the benchmarks and timelines that must be met in order to achieve these outcomes.

(2) Metrics to be used in assessing the current status of wastewater management systems and in tracking the progress made toward accomplishing all goals, benchmarks, and recommended standards.

(3) Funding and financing mechanisms that should be used to achieve necessary improvements in wastewater management systems, including the appropriate level of regulatory oversight to ensure that proper investment in wastewater infrastructure assets occurs on a regular and sustained life cycle.

(4) A determination of who should bear the financial burden of:

(A) improving wastewater management systems; and

(B) providing wastewater service to underserved areas in Indiana;

and how the financial burden should be apportioned among those bearing the financial burden, taking into consideration the impact on affordability of wastewater rates. The task force shall include recommendations, if any, concerning the topic set forth in section 6(8) of this chapter.

(5) The connection of unserved properties to sanitary sewer systems in rural or developed underserved areas in Indiana.

(6) Appropriate legislation for the 2022 legislative session based on the recommendations of the long term plan set forth in subdivisions (1) through (5).



Sec. 8. The task force shall:

- (1) issue a report setting forth the recommendations required by section 7 of this chapter; and**
- (2) not later than December 1, 2021, submit the report:**
 - (A) in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly; and**
 - (B) to the governor.**

Sec. 9. The legislative services agency shall provide staff support to the task force.

Sec. 10. This chapter expires January 1, 2022.

SECTION 2. IC 5-1.2-2-23, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. "Eligible activity", for purposes of the flood control program established under IC 5-1.2-13 **and the water infrastructure grant program established by IC 5-1.2-14.5**, includes the following:

- (1) The removal of obstructions and accumulated debris from channels of streams.
- (2) The clearing and straightening of channels of streams.
- (3) The creating of new and enlarged channels of streams, wherever required.
- (4) The building or repairing of dikes, levees, or other flood protective works.
- (5) The construction of bank protection works for streams.
- (6) The establishment of floodways.
- (7) The conducting of all other activities that are allowed by the federal Flood Control Act and federal Clean Water Act.

SECTION 3. IC 5-1.2-2-26, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) "Financial assistance agreement", for purposes of the wastewater program and drinking water program established under IC 5-1.2-10, the supplemental program established under IC 5-1.2-11, the Indiana brownfields program established under IC 5-1.2-12, the flood control program established under IC 5-1.2-13, the water infrastructure assistance program established under IC 5-1.2-14, **the water infrastructure grant program established by IC 5-1.2-14.5**, and the local transportation infrastructure program established under IC 5-1.2-15, refers to a financial assistance agreement, financial aid agreement, **grant agreement**, or any other obligation between the authority and a participant under those chapters establishing the terms and conditions of a grant, loan, or other financial



assistance, including forgiveness of principal if allowed under federal law, by the authority to the participant under those chapters.

(b) Nothing in this section restricts the authority from denominating any financial assistance agreement by any other name the authority determines to be administratively convenient.

SECTION 4. IC 5-1.2-2-54, AS AMENDED BY P.L.282-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. "Participant" means the following:

(1) For purposes of the wastewater program established under IC 5-1.2-10:

- (A) a political subdivision; or
- (B) any person, entity, association, trust, or other manner of participant allowed by law to enter contractual arrangements for a purpose eligible for assistance under the federal Clean Water Act.

(2) For purposes of the drinking water program established under IC 5-1.2-10:

- (A) a political subdivision; or
- (B) any person, entity, association, trust, or other manner of participant allowed by law to enter contractual arrangements for a purpose eligible for assistance under the federal Safe Drinking Water Act.

(3) For purposes of the supplemental program established under IC 5-1.2-11, the Indiana brownfields program established under IC 5-1.2-12, the flood control program established under IC 5-1.2-13, **and** the water infrastructure assistance program established under IC 5-1.2-14, **and the water infrastructure grant program established by IC 5-1.2-14.5:**

- (A) a political subdivision;
- (B) the Kankakee River basin and Yellow River basin development commission established by IC 14-13-9-6; or
- (C) any person, entity, association, trust, or other manner of participant allowed by law to enter contractual arrangements for a purpose eligible for assistance under those chapters.

(4) For purposes of the local transportation infrastructure program established under IC 5-1.2-15:

- (A) a political subdivision;
- (B) an agency, authority, department, instrumentality, or body corporate and politic acting on behalf of a political subdivision; or
- (C) a regional authority, instrumentality, or body corporate and politic acting on behalf of one (1) or more entities described in



clause (A) or (B).

SECTION 5. IC 5-1.2-2-59, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 59. "Program" or "programs" means:

- (1) the drinking water program established under IC 5-1.2-10;
- (2) the Indiana brownfields program established under IC 5-1.2-12;
- (3) the flood control program established under IC 5-1.2-13;
- (4) the water infrastructure assistance program established under IC 5-1.2-14;
- (5) the local transportation infrastructure program established under IC 5-1.2-15;
- (6) the storm water management program;
- (7) the supplemental program established under IC 5-1.2-11; ~~and~~
- (8) the wastewater program established under IC 5-1.2-10; **and**
- (9) the water infrastructure grant program established by IC 5-1.2-14.5.**

SECTION 6. IC 5-1.2-2-84 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 84. "Water infrastructure grant program" refers to the water infrastructure grant program established by IC 5-1.2-14.5.**

SECTION 7. IC 5-1.2-4-1, AS AMENDED BY P.L.10-2019, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under the referenced statutes, including the following:

- (1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.
- (2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, guidelines, and policies not inconsistent with the referenced statutes, and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business under the referenced statutes. These bylaws, rules, guidelines, and policies must be made by a resolution of the authority introduced at one (1) meeting and approved at a subsequent meeting of the authority.
- (3) Sue and be sued in its own name.
- (4) Have an official seal and alter it at will.
- (5) Maintain an office or offices at a place or places within the



state as it may designate.

(6) Make, execute, and enforce contracts and all other instruments necessary, convenient, or desirable for the purposes of the authority or pertaining to:

(A) a purchase, acquisition, or sale of securities or other investments; or

(B) the performance of the authority's duties and execution of any of the authority's powers under the referenced statutes.

(7) Employ architects, engineers, attorneys, space planners, construction managers, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, health care experts, and financial experts, and any other advisers, consultants, and agents as may be necessary in its judgment and to fix their compensation and contract for the creation of plans and specifications for a facility.

(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidence of indebtedness, whether secured or unsecured, to any person, as provided by the referenced statutes. Notwithstanding any other law, the:

(A) issuance by the authority of any indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to required levels; or

(B) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the authority;

is subject to review by the budget committee and approval by the budget director.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure payment:

(A) on a loan, lease, or purchase payment owed by a participating provider to the authority; and

(B) of any bonds issued by the authority, including the power



to pay premiums on any insurance, reinsurance, or guarantee.
 (11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the referenced statutes, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease (as lessee or lessor) or otherwise acquire, own, hold, improve, employ, use, or otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with the referenced statutes.

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, financial assistance agreements, and leases with contracting parties, including participants for any purpose allowed under IC 5-1.2-10, IC 5-1.2-11, ~~or IC 5-1.2-14~~, **or IC 5-1.2-14.5**, borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any economic development project, for any purpose allowed under IC 5-1.2-10, IC 5-1.2-11, ~~or IC 5-1.2-14~~, **or IC 5-1.2-14.5**, or intrastate and interstate sales, transactions and business activities or international exports, and distribute data and information concerning the encouragement and improvement of economic development projects, intrastate and interstate sales, transactions and business activities, international exports, and other types of employment in the state undertaken with the assistance of the authority under this article.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to the referenced statutes.

(14) Provide technical assistance to local public bodies and to for profit and nonprofit entities in the development or operation of economic development projects.

(15) To the extent allowed under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.



(16) To the extent allowed under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States or of this state, the reduction can be made without jeopardizing the economic stability of the economic development project being financed.

(17) Notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, invest:

- (A) the authority's money, funds, and accounts;
- (B) any money, funds, and accounts in the authority's custody; and
- (C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

(18) Fix and revise periodically, and charge and collect, fees and charges as the authority determines to be reasonable in connection with:

- (A) the authority's loans, guarantees, advances, insurance, commitments, and servicing; and
- (B) the use of the authority's services or facilities.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose of by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of the referenced statutes.

(22) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve economic development projects, including land, machinery, equipment, or any combination of these.

(23) Lease economic development projects to users or developers, with or without an option to purchase.

(24) Sell economic development projects to users or developers, for consideration to be paid in installments or otherwise.

(25) Make direct loans from the proceeds of the bonds to users or developers for:



- (A) the cost of acquisition, construction, or installation of economic development projects, including land, machinery, equipment, or any combination of these; or
- (B) eligible expenditures for an educational facility project; with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.
- (26) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to the lender to be used for making a loan to a developer or user for the financing of economic development projects under this article.
- (27) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct economic development projects to be leased from or to be acquired by the authority.
- (28) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal of and interest on the bonds.
- (29) Adopt rules and guidelines governing its activities authorized under the referenced statutes.
- (30) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidence of indebtedness.
- (31) Sell and guarantee securities.
- (32) Procure letters of credit or other credit facilities or agreements from any national or state banking association or other entity authorized to issue a letter of credit or other credit facilities or agreements to secure the payment of any bonds issued by the authority or to secure the payment of any loan, lease, or purchase payment owed by a participating provider to the authority, including the power to pay the cost of obtaining such letter of credit or other credit facilities or agreements.
- (33) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.
- (34) Sell, convey, mortgage, pledge, assign, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.
- (35) Reimburse from bond proceeds expenditures for economic development projects under this article.
- (36) Acquire, hold, use, and dispose of the authority's income, revenues, funds, and money.



(37) Purchase, acquire, or hold debt securities or other investments for the authority's own account at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable.

(38) Fix and establish terms and provisions with respect to:

(A) a purchase of securities by the authority, including dates and maturities of the securities;

(B) redemption or payment before maturity; and

(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority.

(39) To the extent allowed under the authority's contracts with the holders of bonds or notes, amend, modify, and supplement any provision or term of:

(A) a bond, a note, or any other obligation of the authority; or

(B) any agreement or contract of any kind to which the authority is a party.

(40) Subject to the authority's investment policy, do any act and enter into any agreement pertaining to a swap agreement (as defined in IC 8-9.5-9-4) related to the purposes of the referenced statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7, whether the action is incidental to the issuance, carrying, or securing of bonds or otherwise.

(41) Do any act necessary or convenient to the exercise of the powers granted by the referenced statutes, or reasonably implied from those statutes, including compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this article shall be interpreted broadly to effectuate the purposes of this article and may not be construed as a limitation of powers. The omission of a power from the list in subsection (a) does not imply that the authority lacks that power. The authority may exercise any power that is not listed in subsection (a) but is consistent with the powers listed in subsection (a) to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(c) This chapter does not authorize the financing of economic development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

(d) The authority shall work with and assist the Indiana housing and community development authority created by IC 5-20-1-3, the ports of



Indiana created under IC 8-10-1-3, and the state fair commission established by IC 15-13-2-1 in the issuance of bonds, notes, or other indebtedness. The Indiana housing and community development authority, the ports of Indiana, and the state fair commission shall work with and cooperate with the authority in connection with the issuance of bonds, notes, or other indebtedness.

SECTION 8. IC 5-1.2-14.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 14.5. Water Infrastructure Grant Program

Sec. 1. As used in this chapter, "non-revenue water" means the difference between the amount of water that enters a water distribution system and the amount of water provided to users of the water distribution system.

Sec. 2. The water infrastructure grant program is established.

Sec. 3. (a) The water infrastructure grant fund is established as a source of money for grants, loans, and other financial assistance to, or for the benefit of, participants in the program.

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

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

(d) The fund consists of the following:

- (1) Fees and other amounts received by the state, paid by the treasurer of state to the authority upon warrants issued by the auditor of state, and deposited in the fund.**
- (2) Appropriations to the fund from the general assembly.**
- (3) Grants and gifts of money to the fund.**
- (4) Proceeds of the sale of gifts to the fund.**
- (5) Repayments of loans and other financial assistance from the fund.**

(e) Fees and other amounts received by the state pursuant to law concerning the funding of the water infrastructure grant fund shall be paid by the treasurer of state to the authority upon the



authority's request with warrants issued by the auditor of state and deposited in the fund.

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

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

(h) All:

(1) money accruing to the fund; and

(2) money allotted to the state under federal law for the purposes of the fund;

is continuously appropriated for the purposes specified in this chapter.

Sec. 4. Money in the water infrastructure grant fund may be used to do the following:

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

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

(B) other activities necessary or convenient to complete the tasks referred to in clause (A), regardless of whether the other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

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

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

(B) other activities necessary or convenient to complete the tasks referred to in clause (A), regardless of whether the other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(3) Provide grants, loans, or other financial assistance to or for the benefit of participants for any eligible activity (as defined in IC 5-1.2-2-23).

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

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(5) Undertake tasks associated with the development and preparation of water, wastewater, and storm water



infrastructure and resource analyses.

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

Sec. 5. (a) The authority shall adopt guidelines to establish criteria for the making of grants, loans (including parameters for establishing interest rates, if any, on such loans), and other financial assistance from the water infrastructure grant fund.

(b) The making of grants, the making of loans, and the providing of other financial assistance from the water infrastructure grant fund to or for the benefit of participants under this chapter are subject to the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for:

- (i) the planning, designing, acquiring, constructing, renovating, improving, or expanding of water systems; and
- (ii) other activities necessary or convenient to the completion of the tasks referred to in item (i); or

(B) to pay the following:

- (i) Consultant, advisory, and legal fees.
- (ii) Other costs or expenses necessary or incident to the making of grants, loans, or other financial assistance or the administration of the fund or the program.

(2) A grant may be used for tasks associated with the development and preparation of water infrastructure and resource analyses.

(3) The authority must establish the terms and conditions that the authority considers necessary or convenient to the making of grants or loans or the providing of other financial assistance under this chapter.

(c) In addition to exercising the authority's powers under subsection (b), the authority may also make grants, make loans, or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

- (A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or storm water collection and treatment systems or for any eligible activity (as defined in IC 5-1.2-2-23), and for other activities necessary or convenient to the completion of these tasks; or



(B) to pay:

- (i) consultant, advisory, and legal fees; and**
- (ii) other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the water infrastructure grant fund or the infrastructure program.**

(2) A grant may be used for tasks associated with the development and preparation of:

- (A) long term control plans;**
- (B) use attainability analyses;**
- (C) storm water management programs; or**
- (D) other wastewater or storm water infrastructure and resource analyses.**

(3) The authority must establish the terms and conditions that the authority considers necessary or convenient to the making of grants, the making of loans, or the providing of other financial assistance under this chapter.

Sec. 6. (a) An application for a grant, loan, or other financial assistance from the water infrastructure grant fund must be accompanied by all papers and opinions required by the authority.

(b) The authority may require that an application for a grant, a loan, or other financial assistance from the water infrastructure grant fund be accompanied by the following:

- (1) A certification and guarantee of signatures.**
- (2) A certification that, as of the date of the grant, loan, or other financial assistance, no litigation is pending challenging the validity of or entry into the grant, loan, or other financial assistance.**
- (3) Any other certifications, agreements, security, or requirements that the authority requests.**
- (4) An approving opinion of nationally recognized bond counsel.**

Sec. 7. (a) To receive a loan, grant, or other financial assistance from the water infrastructure grant fund, a participant:

- (1) must have an asset management program that meets standards established by the authority; and**
- (2) must demonstrate to the authority that it has a plan to participate with one (1) or more other participants in cooperative activities, which may include using the proceeds of the loan or grant to pay a part of the costs associated with a cooperative activity.**

(b) To receive a loan or grant from the water infrastructure



grant fund for purposes of cybersecurity, a participant must satisfy the same requirements that are established under this chapter for loans or grants for projects for other purposes.

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

(d) After receiving a loan or grant from the water infrastructure grant fund, a participant must maintain its asset management program during the useful life of the asset financed with the loan or grant.

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

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

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

Sec. 8. (a) The authority shall establish a project prioritization system for the purposes of awarding loans and grants from the water infrastructure grant fund. The project prioritization system must be based on a model that includes at least the following variables:

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

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



chapter. The authority may adjust the project priority list established under this section:

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

Sec. 9. The authority may provide services to a participant in connection with a grant, a loan, or other financial assistance from the water infrastructure grant fund, including advisory services and other services.

Sec. 10. Not later than August 1 of each odd-numbered year through 2023, the public finance director shall prepare for the budget committee established by IC 4-12-1-3 and the legislative council a report that includes the following:

- (1) Information concerning grants, loans, or other financial assistance made available to participants from the water infrastructure grant fund during the two (2) most recent fiscal years.
- (2) Any other information requested by the budget committee and the legislative council.

The report must be submitted in an electronic format under IC 5-14-6.

Sec. 11. The authority shall, if appropriate, require a participant receiving a loan or other financial assistance from the water infrastructure grant fund to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

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

SECTION 9. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 348 — CC 1

