

65-163d

Chapter 65.--PUBLIC HEALTH

Article 1.--SECRETARY OF HEALTH AND ENVIRONMENT, ACTIVITIES

65-163d. Public water supply project loan program; definitions. As used in K.S.A. 2001 Supp. 65-163d through 65-163u and amendments thereto:

(a) "Fund" means the public water supply loan fund established by K.S.A. 2001 Supp. 65-163e and amendments thereto.

(b) "Municipality" means:

(1) Any political or taxing subdivision authorized by law to construct, operate and maintain a public water supply system, including water districts;

(2) two or more such subdivisions jointly constructing, operating or maintaining a public water supply system ;or

(3) the Kansas rural water finance authority.

(c) "Project" means any acquisition, construction, reconstruction, improvement, equipping, rehabilitation or extension of all or any part of a public water supply system. "Project" does not include any project related to the diversion or transportation of water acquired through a water transfer, as defined by K.S.A. 82a-1501 and amendments thereto.

(d) "Project costs" means all costs or expenses which are necessary or incident to a project and which are directly attributable thereto.

(e) "Public water supply system" has the meaning provided by K.S.A. 65-162a and amendments thereto.

(f) "Secretary" means the secretary of health and environment.

History: L. 1994, ch. 349, § 1; L. 1996, ch. 160, § 3; L. 1997, ch. 188, § 1; July 1.

65-163e

Chapter 65.--PUBLIC HEALTH

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65-163e. Same; public water supply loan fund established; sources of revenue; purposes for disbursements therefrom.

(a) There is hereby established in the state treasury the public water supply loan fund.

(b) Moneys from the following sources shall be credited to the fund:

(1) Amounts received by the state from the federal government for the purposes of the fund;

(2) amounts appropriated or otherwise made available by the legislature for the purposes of the fund;

(3) proceeds derived from the sale of bonds issued under K.S.A. 2001 Supp. 65-163l through 65-163t, and amendments thereto;

(4) amounts of repayments of loans made under this act, together with payments of interest thereon, in accordance with agreements entered into by the borrower and the secretary;

(5) interest attributable to investment of moneys in the fund; and

(6) amounts received from any public or private entity for the purposes of the fund.

(c) Subject to the conditions and in accordance with requirements of this act, moneys credited to the fund shall be used only:

(1) To make loans to municipalities for payment of all or part of project costs;

(2) as a source of revenue or security for the payment of principal and interest on bonds issued under K.S.A. 2001 Supp. 65-163l through 65-163t, and amendments thereto, if, and to the extent that, the proceeds of the sale of such bonds are deposited in the fund;

(3) as a source of revenue or security for the payment of principal and interest on bonds issued by the Kansas development finance authority pursuant to the provisions of K.S.A. 65-3321 through 65-3329, and amendments thereto;

(4) to earn interest on moneys in the fund; and

(5) for the reasonable costs, as determined by the secretary, of administering the fund and conducting activities under this act. Such costs shall be identified annually in development of the intended use plan as described in K.S.A. 2001 Supp. 65-163h, and amendments thereto.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the public water supply loan fund interest earnings based on:

(1) The average daily balance of moneys in the public water supply loan fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(e) All payments and disbursements from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary. All payments and disbursements from the fund, and beginning and ending balances thereof, shall be subject each year to post audit in accordance with article 11 of chapter 46 of the Kansas Statutes Annotated.

History: L. 1994, ch. 349, § 2; L. 1996, ch. 253, § 12; L. 2006, ch. 100, § 1; July 1..

65-163f

Chapter 65.--PUBLIC HEALTH

Article 1.--SECRETARY OF HEALTH AND ENVIRONMENT, ACTIVITIES

65-163f. Same; authority and duties of the secretary of health and environment; rules and regulations. The secretary shall administer the provisions of this act and shall

be responsible for administration and management of the fund. The secretary is hereby authorized to:

- (a) Enter into binding commitments for the provision of loans in accordance with the provisions of this act;
- (b) review applications of municipalities for loans and select the projects for which loans will be made available;
- (c) provide the governor and the legislature with an annual report prepared in accordance with K.S.A. 2001 Supp. 65-163k and with copies of the audit required under K.S.A. 2001 Supp. 65-163e; and
- (d) adopt rules and regulations necessary for effectuation of the provisions of this act.

History: L. 1994, ch. 349, § 3; July 1.

65-163g

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65-163g. Same; project priority system development; priority list preparation, considerations.

(a) The secretary shall develop a priority system for projects, establish ranking criteria therefore, review applications of municipalities for loans and prepare an annual project priority list. The priority list shall include a description of each project; the purpose, cost and schedule therefore; and the municipality applying for the loan. After preparation of the priority list, the secretary shall select from such list the projects for which loans will be made available.

(b) In performing the functions and duties required by subsection (a), the secretary shall:

(1) Exclude from the priority list any project of a municipality which has not adopted and implemented conservation plans and practices that are consistent with the guidelines developed and maintained by the Kansas water office pursuant to K.S.A. 74-2608 and amendments thereto;

(2) in consultation with the Kansas water office, encourage regional cooperative public water supply projects in accordance with the public water supply regionalization strategy of the state water plan; and

(3) ensure that a fair proportion, at least but not limited to 20%, of the total dollar amount of loans to be made available from the fund in each year will be made available for projects of municipalities having populations of 5,000 or less, except that, if such municipalities are unable to utilize the total amount made available under this subsection, the secretary is authorized to make the unused amount available for other projects on the priority list.

History: L. 1994, ch. 349, § 4; July 1.

65-163h

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65-163h. Same; intended use plan for available moneys. After providing for public comment and review each year, the secretary shall prepare a plan identifying the intended uses of the moneys available in the fund. The intended use plan shall include, but not be limited to:

- (a) The project priority list;
- (b) a description of the short- and long-term goals and objectives of the fund;
- (c) information on the projects to be financed, including a description thereof, the terms of loans to be provided and the municipalities receiving the loans; and
- (d) the criteria and method established for the provision of loans to be made from the fund.

History: L. 1994, ch. 349, § 5; July 1.

65-163i

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65-163i. Same; applications for loans; loan agreements, provisions; provision of technical assistance by secretary.

(a) Municipalities which desire the provision of a loan under this act shall submit an application therefor to the secretary. Applications shall be in such form and shall include such information as the secretary shall require and shall be submitted in a manner and at a time to be determined by the secretary.

(b) The secretary may enter into agreements with any municipality for the provision of a loan thereto for payment of all or a part of project costs and any municipality may enter into such an agreement and may accept such loan when so authorized by the municipal governing body. The purposes of the loan to be provided, the amount thereof, the interest rate thereon and the repayment terms and conditions thereof, all of which may vary among municipalities, shall be included in the agreements. Loans shall be provided at or below market interest rates. All such agreements with municipalities shall require that municipalities establish a dedicated source of revenue for repayment of the loans as provided in K.S.A. 2001 Supp. 65-163j. Such agreements shall further provide that repayment of any loan received shall begin not later than one year after completion of the project and that such loan shall be repaid in full no later than 20 years thereafter.

(c) If a municipality to which a loan is made available under this act fails to enter into an agreement with the secretary for the provision of such loan in accordance with the requirements of this act, the secretary may make the amount of the loan available for one or more other projects on the priority list.

(d) The secretary shall provide any municipality, upon request, with technical advice and assistance regarding a project or an application for a loan for the payment of all or part of project costs.

History: L. 1994, ch. 349, § 6; July 1.

65-163j

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65-163j. Same; loan repayment sources of municipalities; imposition of charges by secretary; remedy for failure to repay project loans; maintenance of project accounts.

(a) The dedicated source of revenue for repayment of a loan to a municipality may include service charges, connection fees, special assessments, property taxes, grants or any other source of revenue lawfully available to the municipality for such purpose. In order to ensure repayment by municipalities of the amounts of loans provided under this act, the secretary, after consultation with the governing body of any municipality which receives a loan, may adopt charges to be levied against individuals and entities served by the project. Any such charges shall remain in effect until the total amount of the loan, and any interest thereon, has been repaid. The charges shall, insofar as is practicable, be equitably assessed and may be in the form of a surcharge to the existing charges of the municipality. The governing body of any municipality which receives a loan under this act shall collect any charges established by the secretary and shall pay the moneys collected therefrom to the secretary in accordance with procedures established by the secretary.

(b) Upon the failure of a municipality to meet the repayment terms and conditions of the agreement, the secretary may order the treasurer of the county in which the municipality is located to pay to the secretary such portion of the municipality's share of the local ad valorem tax reduction fund as may be necessary to meet the terms of the agreement, notwithstanding the provisions of K.S.A. 79-2960 and 79-2961, and amendments thereto. Upon the issuance of such an order, the municipality shall not be required to make the tax levy reductions otherwise required by K.S.A. 79-2960 and 79-2961, and amendments thereto.

(c) Municipalities which are provided with loans under this act shall maintain project accounts in accordance with generally accepted government accounting standards.

(d) Any loans received by a municipality under the provisions of this act shall be construed to be bonds for the purposes of K.S.A. 10-1116 and 79-5028, and amendments thereto, and the amount of such loans shall not be included within any limitation on the bonded indebtedness of the municipality.

History: L. 1994, ch. 349, § 7; July 1.

65-163k

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65-163k. Same; annual reports. The secretary shall prepare an annual report describing how the state has met the goals

and objectives for the previous year as identified in the intended use plan prepared pursuant to K.S.A. 2001 Supp. 65-163h.

History: L. 1994, ch. 349, § 8; July 1.

65-163l

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65-163l. Same; authority to issue bonds.

(a) For the purpose of making loans under this act, the secretary may either:

(1) Issue revenue bonds; or

(2) enter into agreements with the Kansas development finance authority to issue revenue bonds. Such bonds may be sold at public sale or by a negotiated underwriting.

(b) The activities of the secretary in administering and performing the powers, duties and functions prescribed by the provisions of this act from the proceeds of bonds issued for such purpose by the Kansas development finance authority are hereby approved for the purposes of subsection (b) of K.S.A. 74-8905 and amendments thereto and the authorization of the issuance of such bonds by the Kansas development finance authority in accordance with that statute. The provisions of subsection (a) of K.S.A. 74-8905 and amendments thereto shall not prohibit the issuance of bonds for such purposes when so authorized and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905 and amendments thereto.

History: L. 1994, ch. 349, § 9; July 1.

65-163m

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65-163m. Same; bond resolutions, contents; authorities of secretary relating to issuance of bonds.

(a) Prior to the issuance of the revenue bonds under this act, a resolution or resolutions shall be adopted which, unless otherwise provided therein, shall take effect immediately and:

(1) Determine an interest rate or rates to be paid on the principal of the revenue bonds not in excess of the maximum rate of interest prescribed by K.S.A. 10-1009 and amendments thereto;

(2) determine that the revenue bonds will be term or serial bonds or any combination thereof maturing not later than 40 years from the date of issuance;

(3) make provision for prompt payment of the principal of and interest on the revenue bonds as they become due, to maintain any required reserves and to provide for any deficits

resulting from failure to receive sums payable for the principle of or interest on loans made under this act or resulting from any other cause;

(4) sell the revenue bonds in the manner provided by K.S.A. 10-106 and amendments thereto, at a price of not less than 90% of the par value thereof; and

(5) register the revenue bonds with the state treasurer.

(b) Prior to the issuance of the revenue bonds, the secretary may:

(1) Pledge to the payment of the principal of and interest on the revenue bonds amounts received for payment of the principal of and interest on loans made under this act and any other amounts received for the purpose of payment of the principal of and interest on the revenue bonds;

(2) create and maintain (A) revenue bond funds adequate to promptly pay both the principal of and interest on the revenue bonds when they become due and (B) a reasonable reserve fund; and

(3) covenant or contract with respect to any and all matters consistent with the authority granted herein necessary and convenient in the determination of the secretary to sell the revenue bonds and obtain the most favorable interest rate thereon, including, but not limited to, maturities, priority of liens, number of issuances, special funds for security, redemption privileges, investments of the proceeds of the revenue bonds and any other funds pledged to the payment thereof or held as security therefor, security agreements, trust indentures, paying agencies, registration provisions and conversion privileges.

History: L. 1994, ch. 349, § 10; July 1.

65-163n

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65-163n. Same; bonds issued not state indebtedness; enforceability of contracts, agreements and covenants.

(a) Revenue bonds issued under this act, including refunding revenue bonds authorized hereunder, shall be special obligations in accordance with their terms and shall not constitute an indebtedness of the state of Kansas or the department, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

(b) All contracts, agreements and covenants contained in the resolution authorizing the issuance of revenue bonds shall be binding in all respects upon the department of health and environment and its officials, agents, employees and successors. Such agreements, contracts and covenants shall be enforceable by appropriate legal action brought pursuant to the terms of the resolution authorizing the issuance of revenue bonds.

History: L. 1994, ch. 349, § 11; July 1.

65-163o

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65-163o. Same; issuance of refunding bonds. Revenue bonds may be issued for the purpose of refunding revenue bonds issued under this act.

History: L. 1994, ch. 349, § 12; July 1.

65-163p

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65-163p. Same; disposition of revenue derived from bond sales. The proceeds derived from the sale of all revenue bonds issued under this act shall be deposited in the state treasury and credited to the fund.

History: L. 1994, ch. 349, § 13; July 1.

65-163q

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65-163q. Same; income from bonds exempt from taxation. The revenue bonds issued under this act and any refunding revenue bonds authorized to be issued under this act, and the income derived therefrom, are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas inheritance taxes.

History: L. 1994, ch. 349, § 14; July 1.

65-163r

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65-163r. Same; bonds deemed legal and proper securities for investment by governmental entities. Revenue bonds issued under this act shall be proper and legal investment securities for any investment funds of the state of Kansas or any department, agency or institution thereof, or any county, municipal or other public corporation or political subdivision created pursuant to the laws of the state of Kansas. Revenue bonds issued under this act are hereby deemed and approved as collateral security for the deposit of any and all funds and for the investment of all trust funds under the jurisdiction of the laws of the state of Kansas.

History: L. 1994, ch. 349, § 15; July 1.

65-163s

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65-163s. Same; powers supplemental to other powers of the secretary; severability.

(a) This act constitutes full and complete authority for the purposes set out in this act, and no procedure or proceedings other than those required by this act shall be necessary for the performance of the provisions thereof. The powers conferred by this act shall be in addition and supplemental to and not in substitution for, and the limitations imposed by this act shall not affect, the powers conferred on the secretary by any other law.

(b) The provisions of this act are severable, and if any provision, section, subsection, sentence, clause or phrase of this act, including, but not limited to, the provisions relating to any of the sources of revenues for payment of bonds authorized pursuant to this act are for any reason held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each provision, section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more of the same are declared invalid.

History: L. 1994, ch. 349, § 16; July 1.

65-163t

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65-163t. Same; publication of notice of bond issuance, contents; actions to contest, timing. Prior to the issuance of any revenue bonds under this act and after the adoption of a resolution authorizing any revenue bonds under this act, the secretary shall cause to be published once in the Kansas register a notice to all persons interested that the revenue bonds will be issued under this act. The notice shall state the amount or maximum amount of revenue bonds to be issued pursuant to such resolution, together with a brief statement of the purposes for which the proceeds are to be used, and further, that unless an action to contest the legality of the proposed revenue bonds is filed in a court of law within 30 days from the date of such publication, the right to contest the legality of any revenue bonds issued in compliance with the proceedings taken by the secretary prior to the date of such publication and the right to contest the validity of the provisions of such proceedings shall cease to exist and no court shall thereafter have authority to inquire into such matters. After the expiration of the 30 days, no one shall have any right to commence an action contesting the validity of

such revenue bonds or the provisions of such proceedings and all revenue bonds shall be conclusively presumed to be legal, and no court shall thereafter have authority to inquire into such matters.

History: L. 1994, ch. 349, § 17; July 1.

65-163u

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65-163u. Same; general obligation bond issuance authority for municipalities; election not required and not subject to bonded debt limitations.

(a) A municipality may issue general obligation bonds for the purpose of paying all or part of any project costs of a public water supply system operated by such municipality. Such bonds shall be issued, registered, sold, delivered and retired in accordance with the general bond law.

(b) Notwithstanding any other provision of law to the contrary, no election shall be required for the issuance of general obligation bonds or revenue bonds by a municipality for the purpose of paying all or part of any project costs of a public water supply system operated by such municipality. Such general obligation bonds shall not be subject to or within any bonded debt limitation provided by law.

History: L. 1994, ch. 349, § 18; L. 1996, ch. 160, § 4; July 1.