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HOUSE FILE No. 790

FIRST COMMITTEE ENGROSSMENT

February 8, 2007

Authored by Moe; Eken; Murphy, M.; Hilstrom; Gunther and others

The bill was read for the first time and referred to the Committee on Environment and Natural Resources

March 1, 2007

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Governmental Operations, Reform, Technology and Elections

March 19, 2007

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Finance

Referred by Chair to Higher Education and Work Force Development Policy and Finance Division.

March 30, 2007

Returned to the Committee on Finance as Amended.

1.1 A bill for an act
1.2 relating to public facilities; modifying provisions of the Minnesota Public
1.3 Facilities Authority Act; making technical and housekeeping changes; modifying
1.4 Pollution Control Agency project priority rule; amending Minnesota Statutes
1.5 2006, sections 116.182, subdivision 5; 446A.02; 446A.03; 446A.04; 446A.051;
1.6 446A.07; 446A.072; 446A.073; 446A.074; 446A.075; 446A.081; 446A.085;
1.7 446A.09; 446A.11, subdivision 13; 446A.17, subdivision 1; repealing Minnesota
1.8 Statutes 2006, sections 446A.05; 446A.06; 446A.15, subdivision 6.

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

1.10 **ARTICLE 1**
1.11 **PUBLIC FACILITIES AUTHORITY TECHNICAL AND**
1.12 **HOUSEKEEPING CHANGES**

1.13 Section 1. Minnesota Statutes 2006, section 446A.02, is amended to read:

1.14 **446A.02 DEFINITIONS.**

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

1.17 ~~Subd. 1a. **Agency.** "Agency" means the Minnesota Pollution Control Agency.~~

1.18 Subd. 2. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

1.19 ~~Subd. 3. **Commissioner.** "Commissioner" means the commissioner of employment
1.20 and economic development.~~

1.21 ~~Subd. 4. **Federal Water Pollution Control Act.** "Federal Water Pollution Control
1.22 Act" means the Federal Water Pollution Control Act, as amended, United States Code,
1.23 title 33, sections 1251 et seq.~~

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

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

2.3 Subd. 6. **Project.** "Project" means any eligible activity authorized in this chapter
2.4 including the acquisition, design, construction, improvement, expansion, repair, or
2.5 rehabilitation of all or part of any structure, facility, or equipment necessary for a
2.6 wastewater treatment system or water supply system.

2.7 Sec. 2. Minnesota Statutes 2006, section 446A.03, is amended to read:

2.8 **446A.03 MINNESOTA PUBLIC FACILITIES AUTHORITY.**

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

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

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

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

2.27 (b) The board may conduct its business by any technological means available,
2.28 including teleconference calls or interactive video, that allows for an interaction between
2.29 members. If a meeting is conducted under this paragraph, a specific location must be
2.30 available for the public to attend the meeting and at least one member must be present at
2.31 that location.

2.32 Subd. 5. **Executive director; staffing.** The ~~commissioner~~ authority shall employ
2.33 and the chair shall appoint, with the concurrence of the authority, an executive director
2.34 in the unclassified service. The executive director shall be responsible for staff of the
2.35 authority. The executive director shall perform duties that the authority may require in

3.1 carrying out its responsibilities to manage and implement the funds and programs in this
3.2 chapter, implementation of debt issuance authorized by the authority, compliance with
3.3 all state and federal program requirements, and state and federal securities and tax laws
3.4 and regulations.

3.5 Subd. 6. **Administrative services.** ~~The commissioner shall provide administrative~~
3.6 ~~services to the authority shall enter into agreements for administrative and professional~~
3.7 services, and technical support.

3.8 ~~Subd. 7. **Personal liability.** Members and officers of the authority are not liable~~
3.9 ~~personally for any debt or obligation of the authority.~~

3.10 Sec. 3. Minnesota Statutes 2006, section 446A.04, is amended to read:

3.11 **446A.04 POWERS; DUTIES; PROGRAM ADMINISTRATION.**

3.12 ~~Subdivision 1. **Bylaws; rules.** The authority shall adopt bylaws for its organization~~
3.13 ~~and internal management. The commissioner may adopt rules covering the authority's~~
3.14 ~~operations, properties, and facilities.~~

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

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

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

3.26 Subd. 5. **Fees.** (a) The authority may set and collect fees for costs incurred by the
3.27 authority ~~for audits, arbitrage accounting, and payment of fees charged by the State Board~~
3.28 ~~of Investment. The authority may also set and collect fees for costs incurred by, the~~
3.29 ~~commissioner~~ Department of Employment and Economic Development, the Department
3.30 of Health, the Pollution Control Agency, and the Department of Transportation, including
3.31 costs for personnel, professional, and administrative services, for ~~financings~~ debt issuance
3.32 related costs and the establishment and maintenance of reserve funds. Fees charged
3.33 directly to borrowers or grantees upon executing a loan or grant agreement must not
3.34 exceed one-half of one percent of the loan or grant amount. Servicing fees assessed to loan
3.35 repayments must not exceed two percent of the loan repayment. The disposition of fees

4.1 collected for costs incurred by the authority is governed by section 446A.11, subdivision
4.2 13. The authority shall enter into interagency agreements to transfer funds into appropriate
4.3 administrative accounts established for fees collected under this subdivision for costs
4.4 incurred by the ~~commissioner~~ Department of Employment and Economic Development,
4.5 the Department of Health, or the Pollution Control Agency. Fees collected under this
4.6 subdivision for costs incurred by the ~~commissioner~~ Department of Transportation must be
4.7 credited to the fund or account which is the source of the loan to which the fees are related.

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

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

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

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

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

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

4.20 Subd. 6b. **Debt.** The authority may borrow money to carry out and effectuate its
4.21 programs and may issue bonds or notes as evidence of any such borrowing in accordance
4.22 with sections 446A.12 to 446A.20.

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

4.25 Sec. 4. Minnesota Statutes 2006, section 446A.051, is amended to read:

4.26 **446A.051 PROJECT FINANCIAL ASSISTANCE.**

4.27 Subdivision 1. **Determination of financial assistance.** The authority shall assist
4.28 eligible ~~governmental units~~ recipients in determining what grants or loans under sections
4.29 446A.06, 446A.07, 446A.072, 446A.073, 446A.074, 446A.075, and 446A.081 to apply
4.30 for to finance projects and the manner in which the ~~governmental unit~~ eligible recipient
4.31 will pay for its portion of the project cost.

4.32 Subd. 2. **Grant limitations.** If a project is eligible for a grant under section
4.33 446A.073, 446A.074, or 446A.075, the total grant shall not exceed the greater of the
4.34 maximum amount from a single program or the amount the project could receive under
4.35 section 446A.072.

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

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

5.14 Sec. 5. Minnesota Statutes 2006, section 446A.07, is amended to read:

5.15 **446A.07 CLEAN WATER POLLUTION CONTROL REVOLVING FUND.**

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

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

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

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

5.26 Subd. 2. **State funds.** A state matching fund is established to be used in compliance
5.27 with federal matching requirements specified in the Federal Water Pollution Control Act.
5.28 ~~A state grant and loan fund is established to provide grants and loans to governmental~~
5.29 ~~units for the planning and construction of treatment works as specified in section 116.16,~~
5.30 ~~subdivision 2, paragraphs (6) and (7).~~

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

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

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

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

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

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

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

6.22 Subd. 5. **Applications.** Applications by ~~municipalities and other entities identified~~
6.23 ~~in the annual intended use plan~~ eligible recipients for loans from the clean water ~~pollution~~
6.24 ~~control~~ revolving fund must be made to the authority on forms requiring information
6.25 prescribed by the ~~rules of the agency adopted under this section.~~ ~~The authority shall send~~
6.26 ~~the applications to the agency within ten days of receipt~~ authority. The ~~director~~ Pollution
6.27 Control Agency shall certify to the authority those applications projects that appear to
6.28 meet the criteria set forth in the Federal Water Pollution Control Act, this section, and
6.29 rules of the Pollution Control Agency.

6.30 Subd. 6. **Award and terms of loans.** The authority shall award loans ~~to those~~
6.31 ~~municipalities and other entities~~ for projects certified by the Pollution Control Agency
6.32 or shall provide funding for the appropriate state agency or department to make loans
6.33 for eligible activities ~~certified by the pollution control agency~~ identified in the intended
6.34 use plan, provided the use of funds and the terms and conditions of the loans are in
6.35 conformance with the federal Water Pollution Control Act, this section, and rules of the
6.36 Pollution Control Agency and the authority adopted under this section.

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

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

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

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

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

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

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

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

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

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

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

7.27 (4) to provide loan guarantees, loans, or set-aside for similar revolving funds
7.28 established by a governmental unit other than state agencies, or state agencies under
7.29 sections 17.117, 103F.725, subdivision 1a, ~~116J.403~~, and 116J.617; ~~provided that no more~~
7.30 ~~than \$4,000,000 of the balance in the fund may be used for the small cities block grant~~
7.31 ~~program under section 116J.403 and the tourism loan program under section 116J.617;~~
7.32 ~~taken together;~~

7.33 (5) to earn interest on fund accounts; and

7.34 (6) to pay the reasonable costs incurred by the authority and the Pollution Control
7.35 Agency of administering the fund and conducting activities required under the Federal
7.36 Water Pollution Control Act, including water quality management planning under section

8.1 205(j) of the act and water quality standards continuing planning under section 303(e)
8.2 of the act.

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

8.5 Subd. 9. **Payments.** Payments from the fund must be made in accordance with the
8.6 applicable state and federal law governing the payments, except that for projects other
8.7 than those funded under section 17.117, 103F.725, subdivision 1a, ~~116J.403~~, 116J.617,
8.8 or 462A.05, no payment for a project may be made to ~~a governmental unit~~ an eligible
8.9 recipient until and unless the authority has determined the total estimated cost of the
8.10 project and ascertained that financing of the project is assured by:

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

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

8.18 ~~Subd. 10. **Rules of authority.** The commissioner shall adopt rules containing~~
8.19 ~~procedures for the administration of the authority's duties as provided in this section,~~
8.20 ~~including loan interest rates, the amounts of loans, and municipal financial need.~~

8.21 Subd. 11. **Rules of Pollution Control Agency.** The Pollution Control Agency
8.22 shall adopt rules relating to the ~~procedure for preparation of the annual intended use plan~~
8.23 ~~certification of projects to the authority for funding,~~ and other matters that the Pollution
8.24 Control Agency considers necessary for proper ~~loan~~ administration of its duties under this
8.25 section. Eligible activities are those required under the Federal Water Pollution Control
8.26 Act of 1987, as amended.

8.27 Sec. 6. Minnesota Statutes 2006, section 446A.072, is amended to read:

8.28 **446A.072 WASTEWATER INFRASTRUCTURE FUNDING PROGRAM.**

8.29 Subdivision 1. **Establishment of program.** The authority will establish a
8.30 wastewater infrastructure funding program to provide supplemental assistance to
8.31 ~~municipalities~~ governmental units receiving funding through the clean water ~~pollution~~
8.32 ~~control~~ revolving loan fund program or the United States Department of Agriculture
8.33 Rural Economic and Community Development's (USDA/RECD) Water and Waste
8.34 Disposal Loans and Grants program for the design and planning, improvements to, and
8.35 construction of municipal wastewater treatment systems. The purpose of the program

9.1 is to assist ~~municipalities~~ governmental units demonstrating financial need in building
9.2 cost-efficient projects to address existing environmental or public health problems. To
9.3 implement the program, the authority shall establish a wastewater infrastructure fund to
9.4 provide grants and loans for the purposes authorized under title VI of the Federal Water
9.5 Pollution Control Act. The fund shall be credited with all investment income from the
9.6 fund and all repayments of loans, grants, and penalties.

9.7 Subd. 3. **Program administration.** (a) The authority shall provide supplemental
9.8 assistance, as provided in subdivision 5a to ~~municipalities~~ governmental units:

9.9 (1) whose projects are listed on the Pollution Control Agency's project priority list;

9.10 (2) that demonstrate their projects are a cost-effective solution to an existing
9.11 environmental or public health problem; and

9.12 (3) whose projects are approved by the USDA/RECD or certified by the
9.13 commissioner of the Pollution Control Agency.

9.14 (b) For a ~~municipality~~ governmental unit receiving grant funding from the
9.15 USDA/RECD, applications must be made to the USDA/RECD with additional
9.16 information submitted to the authority as required by the authority. Eligible project costs
9.17 and affordability criteria shall be determined by the USDA/RECD.

9.18 (c) For a ~~municipality~~ governmental unit not receiving grant funding from the
9.19 USDA/RECD, application must be made to the authority on forms prescribed by the
9.20 authority for the clean water ~~pollution control~~ revolving fund program with additional
9.21 information as required by the authority. In accordance with section 116.182, the Pollution
9.22 Control Agency shall:

9.23 (1) calculate the essential project component percentage which must be multiplied
9.24 by the total project cost to determine the eligible project cost; and

9.25 (2) review and certify approved projects to the authority.

9.26 (d) At the time funds are appropriated under this section, the authority shall reserve
9.27 supplemental assistance for projects in order of their rankings on the Pollution Control
9.28 Agency's project priority list and in an amount based on their most recent cost estimates
9.29 submitted to the authority or the as-bid costs, whichever is less.

9.30 Subd. 5a. **Type and amount of assistance.** (a) For a ~~municipality~~ governmental
9.31 unit receiving grant funding from the USDA/RECD, the authority shall provide assistance
9.32 in the form of a grant of up to one-half of the eligible grant amount determined by
9.33 USDA/RECD. A ~~municipality~~ governmental unit may not receive a grant under this
9.34 paragraph for more than \$4,000,000 or \$15,000 per existing connection, whichever
9.35 is less, unless specifically approved by law. In the case of a sanitary district or other
9.36 multijurisdictional project for which the USDA/RECD is unable to fully fund up to

10.1 one-half of the eligible grant amount, the authority may provide up to an additional
10.2 \$1,000,000 for each additional municipality governmental unit participating up to a
10.3 maximum of \$8,000,000 or \$15,000 per existing connection, whichever is less, but not to
10.4 exceed the maximum grant level determined by the USDA/RECD as needed to keep the
10.5 project affordable.

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

10.19 (c) Notwithstanding the limits in paragraphs (a) and (b), for a municipality
10.20 governmental unit receiving supplemental assistance under this section after January 1,
10.21 2002, if the authority determines that the municipality's governmental unit's construction
10.22 and installation costs are significantly increased due to geological conditions of crystalline
10.23 bedrock or karst areas and discharge limits that are more stringent than secondary
10.24 treatment, the authority shall provide assistance in the form of half grant and half loan.
10.25 Assistance from the authority may not be more than \$25,000 per existing connection. Any
10.26 additional grant amount received for the same project must be used to reduce the amount
10.27 of the municipality's governmental unit's loan from the water pollution control revolving
10.28 fund that exceeds five percent of the market value of properties in the project service area.

10.29 Subd. 5b. **Special assessment deferral.** A municipality governmental unit
10.30 receiving a loan under subdivision 5a that levies special assessments to repay the loan
10.31 under subdivision 5a or section 446A.07 may defer payment of such assessments under
10.32 the provisions of sections 435.193 to 435.195.

10.33 Subd. 6. **Disbursements.** Disbursements of grants or loans awarded under this
10.34 section by the authority to recipients must be made for eligible project costs as incurred by
10.35 the recipients, and must be made by the authority in accordance with the project financing
10.36 agreement and applicable state and federal laws and rules governing the payments.

11.1 Subd. 7. **Loan repayments.** Notwithstanding the limitations set forth in section
11.2 475.54, subdivision 1, this subdivision shall govern the maturities and mandatory sinking
11.3 fund redemptions of the loans under this section. A municipality governmental unit
11.4 receiving a loan under this section shall repay the loan in semiannual payment amounts
11.5 determined by the authority. The payment amount must be based on the average payments
11.6 on the municipality's governmental unit's clean water ~~pollution control~~ revolving fund
11.7 loan or, if greater, the minimum amount required to fully repay the loan by the maturity
11.8 date. Payments must begin within one year of the date of the municipality's governmental
11.9 unit's final payment on the clean water ~~pollution control~~ revolving fund loan. The final
11.10 maturity date of the loan under this section must be no later than 20 years from the date of
11.11 the first payment on the loan under this section and no later than 40 years from the date of
11.12 the first payment on the clean water ~~pollution control~~ revolving fund loan.

11.13 Subd. 8. **Eligibility.** A municipality governmental unit is eligible for assistance
11.14 under this section only after applying for grant funding from other sources and funding
11.15 has been applied for, obtained, rejected, or the authority has determined that the potential
11.16 funding is unlikely.

11.17 Subd. 9. **Loan limitation.** Supplemental assistance may not be used to reduce
11.18 the sewer service charges of a significant wastewater contributor, or a single user that
11.19 has caused the need for the project or whose current or projected flow and load exceed
11.20 one-half of the current wastewater treatment plant's capacity.

11.21 Subd. 11. **Report on needs.** By February 1 of each even-numbered year, the
11.22 authority, in conjunction with the Pollution Control Agency, shall prepare a report to the
11.23 Finance Division of the senate Environment and Natural Resources Committee and the
11.24 house Environment and Natural Resources Finance Committee on wastewater funding
11.25 assistance needs of municipalities governmental units under this section.

11.26 Subd. 12. **System replacement fund.** Each municipality governmental unit
11.27 receiving a loan or grant under this section shall establish a system replacement fund
11.28 and shall annually deposit a minimum of \$.50 per 1,000 gallons of flow for major
11.29 rehabilitation; or expansion of the treatment system, or replacement of the treatment
11.30 system at the end of its useful life. Money must remain in the account; for the life of the
11.31 loan from the authority or USDA/RECD, unless use of the fund is approved in writing by
11.32 the authority for major rehabilitation, expansion, or replacement of the treatment system.
11.33 By March 1 each year during the life of the loan, each municipality recipient shall submit
11.34 a report to the authority regarding the amount deposited and the fund balance for the
11.35 prior calendar year. Failure to comply with the requirements of this subdivision shall
11.36 result in the authority assessing a penalty fee to the municipality recipient equal to one

12.1 percent of the ~~outstanding loan balance~~ supplemental assistance amount for each year of
12.2 noncompliance. Failure to make the required deposit or pay the penalty fee as required
12.3 constitutes a default on the loan.

12.4 Subd. 14. **Consistency with land use plans.** A ~~municipality~~ governmental unit
12.5 applying for a project in an unsewered area shall include in its application to the authority
12.6 a certification from the county in which the project is located that:

12.7 (1) the project is consistent with the county comprehensive land use plan, if the
12.8 county has adopted one;

12.9 (2) the project is consistent with the county water plan, if the county has adopted
12.10 one; and

12.11 (3) the county has adopted specific land use ordinances or controls so as to meet or
12.12 exceed the requirements of Minnesota Rules, part 7080.0305.

12.13 Sec. 7. Minnesota Statutes 2006, section 446A.073, is amended to read:

12.14 **446A.073 TOTAL MAXIMUM DAILY LOAD GRANTS.**

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

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

12.26 (1) in accordance with section 116.182, calculate the essential project component
12.27 percentage, which must be multiplied by the total project cost to determine the eligible
12.28 project cost; and

12.29 (2) review and certify to the authority those projects that have plans and
12.30 specifications approved under section 115.03, subdivision 1, paragraph (f).

12.31 Subd. 3. **Project priorities.** When money is appropriated for grants under this
12.32 program, the authority shall accept applications during the month of July and reserve
12.33 money for projects expected to proceed with construction by the end of the fiscal year in
12.34 the order ~~that their~~ listed on the Pollution Control Agency's project priority list, provided
12.35 the project is included in a total maximum daily load plan ~~was~~ that has been approved by

13.1 the United States Environmental Protection Agency at the time the appropriation became
 13.2 law and in an amount based on ~~their most recent~~ the cost estimates estimate submitted to
 13.3 the authority in the grant application or the as-bid costs, whichever is less.

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

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

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

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

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

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

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

13.21 Sec. 8. Minnesota Statutes 2006, section 446A.074, is amended to read:

13.22 **446A.074 CLEAN WATER LEGACY PHOSPHORUS REDUCTION**
 13.23 **GRANTS.**

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

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

13.34 (1) the applicable phosphorus discharge limit is incorporated in a permit issued by
 13.35 the Pollution Control Agency for the wastewater treatment facility on or after March 28,

14.1 2000, the grantee agrees to comply with the applicable limit as a condition of receiving the
14.2 grant, or the grantee made improvements to a wastewater treatment facility on or after
14.3 March 28, 2000, that include infrastructure to reduce the discharge of total phosphorus to
14.4 one milligram per liter or less;

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

14.8 (3) the Pollution Control Agency has approved the ~~facilities plan~~ plans and
14.9 specifications, and certified the project and the as-bid or final eligible costs for the project
14.10 to the authority.

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

14.16 Subd. 4. **Grant amounts and priorities.** (a) Priority must be given to projects that
14.17 start construction on or after July 1, 2006, and rank on the Pollution Control Agency's
14.18 project priority list. If a ~~facility's plan for a project~~ is approved and certified by the
14.19 Pollution Control Agency before July 1, 2010, the amount of the grant is 75 percent of
14.20 the eligible capital cost of the project up to a maximum of \$500,000. If a ~~facility's plan~~
14.21 ~~for a project~~ is approved and certified by the Pollution Control Agency on or after July
14.22 1, 2010, the amount of the grant is 50 percent of the eligible capital cost of the project
14.23 up to a maximum of \$500,000. ~~Priority in awarding grants under this paragraph must be~~
14.24 ~~based on the date of approval of the facility's plan for the project.~~

14.25 (b) Projects that meet the eligibility requirements in subdivision 2 and have started
14.26 construction before July 1, 2006, may be eligible for grants to reimburse up to 75 percent
14.27 of the eligible capital cost of the project, less any amounts previously received in grants
14.28 from other sources, provided that reimbursement is an eligible use of funds. Application
14.29 for a grant under this paragraph must be submitted to the authority no later than June 30,
14.30 2008. Priority for award of grants under this paragraph must be based on the date of
14.31 Pollution Control Agency approval of the ~~facility plan~~ project plans and specifications.

14.32 (c) In each fiscal year that money is available for grants, the authority shall accept
14.33 applications during the month of July. Money shall first award grants be reserved until
14.34 May 1 of that fiscal year for projects under paragraph (a) to projects that met the eligibility
14.35 requirements of subdivision 2 in the order listed on the Pollution Control Agency's
14.36 project priority list and in an amount based on the cost estimate submitted to the authority

15.1 in the grant application or the as-bid costs, whichever is less. Any money reserved for
15.2 projects that are not approved and certified by the Pollution Control Agency by May 1 of
15.3 that year. The authority shall use any remaining money be available that year to award
15.4 grants under paragraph (b). Grants that have been approved but not awarded in a previous
15.5 fiscal year carry over and must be awarded in subsequent fiscal years in accordance with
15.6 the priorities in this paragraph.

15.7 (d) Disbursements of grants under this section by the authority to recipients must
15.8 be made for eligible project costs as incurred by the recipients, and must be made by the
15.9 authority in accordance with the project financing agreement and applicable state law.

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

15.13 Sec. 9. Minnesota Statutes 2006, section 446A.075, is amended to read:

15.14 **446A.075 SMALL COMMUNITY WASTEWATER TREATMENT**
15.15 **PROGRAM.**

15.16 Subdivision 1. **Creation of account.** A small community wastewater treatment
15.17 account is created in the special revenue fund. The authority shall make loans and grants
15.18 from the account as provided in this section. Money in the fund is annually appropriated
15.19 to the authority and does not lapse. The account shall be credited with all loan repayments
15.20 and investment income from the account and servicing fees assessed under section
15.21 446A.04, subdivision 5. The authority shall manage and administer the small community
15.22 wastewater treatment account and for these purposes, may exercise all powers provided
15.23 in this chapter.

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

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

15.33 (2) to contract for services from the University of Minnesota Extension Service
15.34 to advise the governmental unit on the feasibility of possible wastewater treatment
15.35 alternatives and help the governmental unit develop the technical, managerial, and

16.1 financial capacity necessary to build, operate, and maintain individual wastewater
 16.2 treatment systems.

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

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

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

16.21 ~~(d) If requested, and if it is an eligible use of funds, a governmental unit receiving~~
 16.22 ~~funding under this section may receive a grant equal to ten percent of its first year's~~
 16.23 ~~award, up to a maximum of \$30,000, to contract for technical assistance services from~~
 16.24 ~~the University of Minnesota Extension Service to develop the technical, managerial, and~~
 16.25 ~~financial capacity necessary to build, operate, and maintain the systems.~~

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

16.33 Subd. 4. **Applications.** Governmental units with projects on the project priority list
 16.34 shall submit applications for loans or grants under this program to the authority on forms
 16.35 prescribed by the authority. An application for technical assistance funds shall include the

17.1 number of households served by individual sewage treatment systems in the community
17.2 and the proposed use of funds. The An application for construction funds shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.15 (b) Eligible costs for ~~small community wastewater treatment construction~~ loans
 18.16 and grants shall include the costs ~~of technical assistance as provided in subdivision 2,~~
 18.17 paragraph (d); for design, construction, related legal fees, and land acquisition.

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

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

18.26 Sec. 10. Minnesota Statutes 2006, section 446A.081, is amended to read:

18.27 **446A.081 DRINKING WATER REVOLVING FUND.**

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

18.30 ~~(b) "Act" means the Safe Drinking Water Act Amendments of 1996, Public Law~~
 18.31 ~~104-182.~~

18.32 ~~(c) "Department" means the Department of Health.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21.1 (5) to earn interest on fund accounts;

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

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

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

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

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

21.19 ~~Subd. 11. **Rules of the authority.** The commissioner of employment and economic~~
21.20 ~~development shall adopt rules containing the procedures for the administration of the~~
21.21 ~~authority's duties as provided by this section that include: setting of interest rates, which~~
21.22 ~~shall take into account the financial need of the applicant; the amount of project financing~~
21.23 ~~to be provided; the collateral required for public drinking water systems and for privately~~
21.24 ~~owned public water systems; dedicated sources of revenue or income streams to ensure~~
21.25 ~~repayment of loans; and the requirements to ensure proper operation, maintenance, and~~
21.26 ~~repair of the water systems financed by the authority.~~

21.27 Subd. 12. **Rules of the department.** The Department of Health shall adopt rules
21.28 relating to the procedures for administration of the ~~department's~~ Department of Health's
21.29 duties under the act and this section. ~~The department and the commissioner of the~~
21.30 ~~Department of Employment and Economic Development may adopt a single set of rules~~
21.31 ~~for the program.~~

21.32 Sec. 11. Minnesota Statutes 2006, section 446A.085, is amended to read:

21.33 **446A.085 TRANSPORTATION REVOLVING LOAN FUND.**

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

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

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

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

22.10 ~~(e) "Transportation Committee" means a committee of the Minnesota Public~~
22.11 ~~Facilities Authority, acting on behalf of the Minnesota Public Facilities Authority,~~
22.12 ~~consisting of the commissioner of the Department of Employment and Economic~~
22.13 ~~Development, the commissioner of finance, and the commissioner of transportation.~~

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

22.27 Subd. 3. **Establishment of fund.** A transportation revolving loan fund is established
22.28 to make loans for the purposes described in subdivision 2. A highway account is
22.29 established in the fund for highway projects eligible under United States Code, title 23. A
22.30 transit account is established in the fund for transit capital projects eligible under United
22.31 States Code, title 49. A state funds general loan account is established in the fund for
22.32 transportation projects eligible under state law. Other accounts may be established in the
22.33 fund as necessary for its management and administration. The transportation revolving
22.34 loan fund receives federal money under the act and money from any source. Money
22.35 received under this section must be paid to the commissioner of finance and credited to
22.36 the transportation revolving loan fund. Money in the fund is annually appropriated to the

23.1 authority and does not lapse. The fund must be credited with investment income, and with
 23.2 repayments of principal and interest, except for servicing fees assessed under sections
 23.3 446A.04, subdivision 5, and 446A.11, subdivision 8.

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

23.7 ~~Subd. 6. **Transportation Committee.** The Transportation Committee may~~
 23.8 ~~authorize the making of loans to borrowers by the authority for transportation purposes~~
 23.9 ~~authorized by the act or this section, without further action by the authority. The authority~~
 23.10 ~~may not make loans for transportation purposes without the approval of the Transportation~~
 23.11 ~~Committee. Each project must be certified by the commissioner of transportation before~~
 23.12 ~~its consideration by the Transportation Committee.~~

23.13 Subd. 7. **Applications.** (a) Applicants for loans must submit an application to the
 23.14 ~~Transportation Committee~~ authority on forms prescribed by the ~~Transportation Committee~~
 23.15 authority. The applicant must provide the following information:

- 23.16 (1) the estimated cost of the project and the amount of the loan sought;
- 23.17 (2) other possible sources of funding in addition to loans sought from the
 23.18 transportation revolving loan fund;
- 23.19 (3) the proposed methods and sources of funds to be used for repayment of loans
 23.20 received; and
- 23.21 (4) information showing the financial status and ability of the borrower to repay
 23.22 loans.

23.23 (b) Each project must be certified by the commissioner of transportation under
 23.24 subdivision 8 before its consideration by the authority.

23.25 Subd. 8. **Certification of projects.** The commissioner of transportation shall
 23.26 consider the following information when evaluating projects to certify ~~for funding to~~
 23.27 the ~~Transportation Committee~~ authority:

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

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

24.5 Subd. 9. **Loan conditions.** ~~When making loans from the transportation revolving~~

24.6 ~~loan fund, the Transportation Committee shall comply with the applicable provisions of~~

24.7 ~~the act and state law. In addition,~~ A loan made under this section must:

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

24.16 Subd. 10. **Loans in anticipation of future apportionments.** A loan may be made

24.17 to a county, or to a statutory or home rule charter city having a population of 5,000 or

24.18 more, in anticipation of repayment of the loan from sums that will be apportioned to a

24.19 county from the county state-aid highway fund under section 162.07 or to a city from the

24.20 municipal state-aid street fund under section 162.14.

24.21 Subd. 11. **Payment by county or city.** Notwithstanding the allocation provisions of

24.22 section 162.08 for counties, and the apportionment provisions of section 162.14 for cities,

24.23 sums apportioned under section 162.13 to a statutory or home rule charter city, or under

24.24 section 162.07 to a county, that has loan repayments due to the transportation revolving

24.25 loan fund, shall be paid by the commissioner of transportation to the appropriate loan fund

24.26 to offset the loan repayments that are due.

24.27 ~~Subd. 12. **Rules of Transportation Committee and authority.** The commissioner~~

24.28 ~~of the Department of Employment and Economic Development shall adopt administrative~~

24.29 ~~rules specifying the procedures that will be used for the administration of the duties of the~~

24.30 ~~Transportation Committee and authority. The rules must include criteria, standards, and~~

24.31 ~~procedures that will be used for making loans, determining interest rates to be charged on~~

24.32 ~~loans, the amount of project financing to be provided, the collateral that will be required,~~

24.33 ~~the requirements for dedicated sources of revenue or income streams to ensure repayment~~

24.34 ~~of loans, and the length of repayment terms.~~

24.35 Subd. 13. **Authority Duties and Rules of Department of Transportation.**

24.36 The commissioner of transportation shall establish, ~~adopt rules for,~~ and adopt rules to

25.1 implement a program to identify, assist with ~~the~~ development ~~of~~, and certify projects
 25.2 eligible for loans under ~~the act~~ this section to the ~~Transportation Committee~~. ~~Until rules~~
 25.3 ~~are adopted by the commissioner of transportation, the commissioner of transportation~~
 25.4 ~~may certify to the Transportation Committee any project that has been reviewed through~~
 25.5 ~~an approved planning process that qualifies the project to be included in the statewide~~
 25.6 ~~transportation program or amended into the statewide transportation improvement~~
 25.7 ~~program~~ authority.

25.8 ~~Subd. 14. **Joint rules.** The commissioner of the Department of Employment and~~
 25.9 ~~Economic Development and the commissioner of transportation may adopt a single set~~
 25.10 ~~of rules.~~

25.11 Sec. 12. Minnesota Statutes 2006, section 446A.09, is amended to read:

25.12 **446A.09 REPORT; AUDIT.**

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

25.19 Sec. 13. Minnesota Statutes 2006, section 446A.11, subdivision 13, is amended to read:

25.20 Subd. 13. **Proceeds appropriated to authority.** Proceeds of the authority's bonds,
 25.21 notes, and other obligations; amounts granted or appropriated to the authority for the
 25.22 making or purchase or the insurance or guaranty of loans or for bond reserves; income
 25.23 from investment; money in the funds; and all revenues from loans, fees, and charges
 25.24 of the authority including rentals, royalties, dividends, or other proceeds ~~in connection~~
 25.25 ~~with technology-related products, energy conservation products, or other equipment~~
 25.26 are annually appropriated to the authority for the accomplishment of its corporate
 25.27 purposes and must be spent, administered, and accounted for in accordance with the
 25.28 applicable provisions of all bond and note resolutions, indentures, and other instruments,
 25.29 contracts, and agreements of the agency authority. Notwithstanding section 16A.28, these
 25.30 appropriations are available until expended.

25.31 Sec. 14. Minnesota Statutes 2006, section 446A.17, subdivision 1, is amended to read:

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

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

26.4 Sec. 15. **REVISOR'S INSTRUCTION.**

26.5 (a) The revisor of statutes shall renumber Minnesota Statutes, section 373.45,
26.6 as Minnesota Statutes, section 446A.086. The revisor shall also make necessary
26.7 cross-reference changes in Minnesota Statutes and Minnesota Rules consistent with the
26.8 renumbering.

26.9 (b) The revisor of statutes shall renumber Minnesota Statutes, section 446A.11,
26.10 subdivisions 1 to 14, as Minnesota Statutes, section 446A.04, subdivisions 8 to 21. The
26.11 revisor shall also make necessary cross-reference changes in Minnesota Statutes and
26.12 Minnesota Rules consistent with the renumbering.

26.13 Sec. 16. **REPEALER.**

26.14 Minnesota Statutes 2006, sections 446A.05; 446A.06; and 446A.15, subdivision
26.15 6, are repealed.

26.16 **ARTICLE 2**

26.17 **POLLUTION CONTROL AGENCY PROJECT PRIORITY**
26.18 **RULE MODIFICATION**

26.19 Section 1. Minnesota Statutes 2006, section 116.182, subdivision 5, is amended to read:

26.20 Subd. 5. **Rules.** (a) The agency shall adopt rules for the administration of the
26.21 financial assistance program. For wastewater treatment projects, the rules must include:

26.22 (1) application requirements;

26.23 (2) criteria for the ranking of projects in order of priority based on factors including
26.24 the type of project and the degree of environmental impact, and scenic and wild river
26.25 standards; and

26.26 (3) criteria for determining essential project components.

26.27 (b) Notwithstanding Minnesota Rules, chapter 7077, the agency shall apply the
26.28 following criteria to Minnesota Rules, part 7077.0119:

26.29 (1) ten points shall be assigned if the municipality proposing the project holds a
26.30 NPDES permit for a municipal separate storm sewer system and is implementing a storm
26.31 water pollution prevention plan pursuant to Code of Federal Regulations, title 40, section
26.32 122.34, that addresses requirements resulting from an USEPA-approved TMDL for an

- 27.1 impaired water listed under United States Code, title 33, section 303(d), of the Clean
27.2 Water Act; and
27.3 (2) up to ten points shall be assigned to a municipal storm water project by
27.4 multiplying 20 times the ratio of the project area's impervious surface area to the total
27.5 project area to be served by the proposed best management practices. A maximum of ten
27.6 points shall be awarded and any fraction of a point shall be rounded up to the nearest
27.7 whole number.
27.8 (c) Paragraph (b) expires on June 30, 2012.