
**By: Chairman, Appropriations Committee (Departmental - Environment) and Delegate
Hubbard**

Introduced and read first time: January 29, 1997

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 1997

CHAPTER ____

1 AN ACT concerning

2 **Maryland Water Quality Revolving Loan Fund and Maryland Drinking Water Revolving**
3 **Loan Fund**

4 FOR the purpose of conforming the Maryland Water Quality Financing Administration
5 Act to the Federal Safe Drinking Water Act Amendments of 1996; providing for the
6 Maryland Water Quality Financing Administration to make loans to persons other
7 than local governments; requiring adequate security for loans to persons other than
8 local governments; permitting the Governor to transfer certain funds between the
9 Drinking Water Loan Fund and the Water Quality Fund; allowing linked deposit
10 programs; and generally relating to the Water Quality Fund and Drinking Water
11 Loan Fund.

12 BY repealing and reenacting, with amendments,
13 Article - Environment
14 Section 9-1601, 9-1605, 9-1605.1, and 9-1606
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1996 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Environment**

20 9-1601.

21 (a) Unless the context clearly requires otherwise, in this subtitle the following
22 words have the meanings indicated.

2

1 (b) "Administration" means the Maryland Water Quality Financing
2 Administration.

3 (c) "Board" means the Board of Public Works.

4 (d) "Bond" means a bond, note, or other evidence of obligation of the
5 Administration issued under this subtitle, including a bond or revenue anticipation note,
6 notes in the nature of commercial paper, and refunding bonds.

7 (e) "Bond resolution" means the resolution or resolutions of the Director,
8 including the trust agreement, if any, authorizing the issuance of and providing for the
9 terms and conditions applicable to bonds.

10 (f) "Borrower" means a local government [which] OR A PERSON AS DEFINED
11 IN § 1-101(H) OF THIS ARTICLE WHO has received a loan.

12 (g) "Director" means the Director of the Administration.

13 [(h) "Federal Water Pollution Control Act" means the Water Pollution Control
14 Act of 1972, P.L. 92-500, as amended, 33 U.S.C. § 1251 et seq., and rules and regulations
15 promulgated thereunder.]

16 [(i)] (H) "Drinking Water Loan Fund" means the Maryland Drinking Water
17 Revolving Loan Fund.

18 [(j)] (I) "Facility" means a wastewater facility or all or a portion of a water
19 supply system as defined in § 9-201(u) of this article.

20 (J) "FEDERAL SAFE DRINKING WATER ACT" MEANS TITLE XIV OF THE
21 PUBLIC HEALTH SERVICE ACT, P.L. 93-523, AS AMENDED, 42 U.S.C. § 300, ET SEQ., AND
22 THE RULES AND REGULATIONS PROMULGATED THEREUNDER.

23 (K) "FEDERAL WATER POLLUTION CONTROL ACT" MEANS THE WATER
24 POLLUTION CONTROL ACT OF 1972, P.L. 92-500, AS AMENDED, 33 U.S.C. § 1251, ET SEQ.,
25 AND RULES AND REGULATIONS PROMULGATED THEREUNDER.

26 [(k)] (L) "Fund" means a fund established by this subtitle, including the Water
27 Quality Fund and the Drinking Water Loan Fund.

28 (M) "LENDER" MEANS A FINANCIAL INSTITUTION THAT:

29 (1) IS ELIGIBLE TO MAKE COMMERCIAL LOANS;

30 (2) IS A PUBLIC DEPOSITORY OF STATE FUNDS;

31 (3) AGREES TO RECEIVE LINKED DEPOSITS UNDER THE PROVISIONS OF
32 THIS ARTICLE; AND

33 (4) IS INSURED BY:

34 (I) THE FEDERAL DEPOSIT INSURANCE CORPORATION; OR

35 (II) THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION.

3

1 (N) "LINKED DEPOSIT" MEANS A CERTIFICATE OF DEPOSIT PLACED BY THE
 2 ADMINISTRATION WITH A LENDER AT BELOW THE PREVAILING MARKET RATE AT
 3 THE TIME OF THE DEPOSIT.

4 (O) "LINKED DEPOSIT PROGRAM" MEANS A PROGRAM ESTABLISHED BY THE
 5 ADMINISTRATION WHEREBY A CERTIFICATE OF DEPOSIT IS PLACED WITH A
 6 QUALIFYING LENDER AT BELOW THE PREVAILING MARKET RATE AT THE TIME OF
 7 THE DEPOSIT BASED UPON THE AGREEMENT OF THE LENDER TO PROVIDE A LOAN
 8 TO A BORROWER AT A RATE BELOW THE PREVAILING MARKET RATE FOR THE
 9 PURPOSES OF THIS SUBTITLE.

10 [(l)] ~~(M)~~ (P) "Local government" means a county, municipal corporation,
 11 sanitary district, or other State or local public entity which has authority to own or
 12 operate a facility, and includes any combination of 2 or more of the foregoing, acting
 13 jointly to construct or operate a facility.

14 [(m)] ~~(N)~~ (Q) "Loan" means a loan from the Administration to a [local
 15 government] BORROWER for the purpose of financing all or a portion of the cost of a
 16 wastewater facility, if the loan is from the Water Quality Fund, or water supply system, if
 17 the loan is from the Drinking Water Loan Fund.

18 [(n)] ~~(O)~~ (R) "Loan agreement" means a written agreement between the
 19 Administration and a [local government] BORROWER with respect to a loan.

20 [(o)] ~~(P)~~ (S) "Loan obligation" means a bond, note, or other evidence of
 21 obligation, INCLUDING A MORTGAGE, DEED OF TRUST, LIEN, OR OTHER SECURITY
 22 INSTRUMENT, issued OR EXECUTED by a [local government] BORROWER to evidence
 23 its indebtedness under a loan agreement with respect to a loan.

24 [(p)] ~~(Q)~~ (T) "Wastewater facility" means any equipment, plant, treatment
 25 works, structure, machinery, apparatus, interest in land, or any combination of these,
 26 which is acquired, used, constructed, or operated for the storage, collection, treatment,
 27 neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal of
 28 wastewater, or for the final disposal of residues resulting from the treatment of
 29 wastewater, including: treatment or disposal plants; outfall sewers, interceptor sewers,
 30 and collector sewers; pumping and ventilating stations, facilities, and works; programs
 31 and projects for controlling nonpoint sources of water pollution and for estuarine
 32 conservation and management; and other real or personal property and appurtenances
 33 incident to their development, use, or operation.

34 [(q)] ~~(R)~~ (U) "Water Quality Fund" means the Maryland Water Quality
 35 Revolving Loan Fund.

36 [(r)] ~~(S)~~ (V) "Water supply system" has the meaning stated in § 9-201(u) of this
 37 title.

38 9-1605.

39 (a) (1) There is a Maryland Water Quality Revolving Loan Fund. The Water
 40 Quality Fund shall be maintained and administered by the Administration in accordance
 41 with the provisions of this subtitle and such rules or program directives as the Secretary or
 42 the Board may from time to time prescribe.

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1 (2) The Water Quality Fund is a special, continuing, nonlapsing fund which
2 is not subject to § 7-302 of the State Finance and Procurement Article and which shall be
3 available in perpetuity for the purpose of providing financial assistance in accordance
4 with the provisions of this subtitle and Title VI of the Federal Water Pollution Control
5 Act.

6 (3) Subject to the provisions of any applicable bond resolution regarding the
7 holding or application of amounts in the Water Quality Fund, the Treasurer shall
8 separately hold, and the Comptroller shall account for, the Water Quality Fund.

9 (4) Subject to the provisions of any applicable bond resolution governing the
10 investment of amounts in the Water Quality Fund, the Water Quality Fund shall be
11 invested and reinvested in the same manner as other State funds, EXCEPT THAT THE
12 ADMINISTRATION MAY, IN COOPERATION WITH THE TREASURER, ESTABLISH A
13 LINKED DEPOSIT PROGRAM TO EFFECT THE PURPOSES OF THIS SUBTITLE AND
14 TITLE VI OF THE FEDERAL WATER POLLUTION CONTROL ACT.

15 (5) Any investment earnings shall be retained to the credit of the Water
16 Quality Fund.

17 (6) The Water Quality Fund shall be subject to biennial audit by the Office
18 of Legislative Audits as provided for in § 2-1215 of the State Government Article.

19 (b) There shall be deposited in the Water Quality Fund:

20 (1) Federal capitalization grants and awards or other federal assistance
21 received by the State pursuant to Title VI of the Federal Water Pollution Control Act
22 AND ANY FUNDS TRANSFERRED TO THE WATER QUALITY FUND PURSUANT TO § 302
23 OF THE FEDERAL SAFE DRINKING WATER ACT;

24 (2) Funds appropriated by the General Assembly for deposit to the Water
25 Quality Fund;

26 (3) Payments received from any [local government] BORROWER in
27 repayment of a loan, including amounts withheld by the State Comptroller and paid to the
28 Administration pursuant to a pledge made by a borrower under § 9-1606(d) of this article
29 OR § 7-222 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

30 (4) Net proceeds of bonds issued by the Administration;

31 (5) Interest or other income earned on the investment of moneys in the
32 Water Quality Fund; and

33 (6) Any additional moneys made available from any sources, public or
34 private, for the purposes for which the Water Quality Fund has been established.

35 (c) The Administration may from time to time establish accounts and subaccounts
36 within the Water Quality Fund as may be deemed desirable to effectuate the purposes of
37 this subtitle, to comply with the provisions of any bond resolution, or to meet any
38 requirement of the Federal Water Pollution Control Act or rules or program directives
39 established by the Secretary or the Board. Such accounts and subaccounts may include:

40 (1) A federal receipts account;

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1 (2) A State receipts account;

2 (3) A management and administration expense account;

3 (4) A bond proceeds account;

4 (5) An account to segregate a portion or portions of the revenues or corpus
5 of the Water Quality Fund as security for bonds of the Administration;

6 (6) A loan repayment account; and

7 (7) An investment earnings account.

8 (d) Amounts in the Water Quality Fund may be used only:

9 (1) To make loans, on the condition that:

10 (i) The loans are made at or below market interest rates, including
11 interest free loans, at terms not to exceed 20 years;

12 (ii) Annual principal and interest payments will commence not later
13 than 1 year after completion of any wastewater facility and all loans will be fully
14 amortized not later than 20 years after project completion;

15 (iii) The LOCAL GOVERNMENT borrower will establish a dedicated
16 source of revenue for repayment of loans; [and]

17 (iv) IN THE CASE OF A WASTEWATER FACILITY OWNED BY A
18 BORROWER OTHER THAN A LOCAL GOVERNMENT, THE BORROWER WILL
19 ~~DEMONSTRATE THAT THERE IS~~ PROVIDE ADEQUATE SECURITY FOR REPAYMENT
20 OF LOANS; AND

21 (V) The Water Quality Fund will be credited with all payments of
22 principal and interest on all loans;

23 (2) To buy or refinance debt obligations of local governments at or below
24 market rates, if such debt obligations were incurred after March 7, 1985;

25 (3) TO ESTABLISH A LINKED DEPOSIT PROGRAM OR PROGRAMS TO
26 CONTROL NONPOINT SOURCES OF POLLUTION AND FOR ESTUARINE
27 CONSERVATION AND MANAGEMENT;

28 ~~(3)~~ (4) To guarantee, or purchase insurance for, bonds, notes, or other
29 evidences of obligation issued by a local government for the purpose of financing all or a
30 portion of the cost of a wastewater facility, if such action would improve credit market
31 access or reduce interest rates;

32 ~~(4)~~ (5) As a source of revenue or security for the payment of principal and
33 interest on bonds issued by the Administration if the proceeds of the sale of such bonds
34 will be deposited in the Water Quality Fund;

35 ~~(5)~~ (6) To earn interest on Water Quality Fund accounts;

36 ~~(6)~~ (7) For the reasonable costs of administering the Water Quality Fund
37 and conducting activities under Title VI of the Federal Water Pollution Control Act; and

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1 ~~(7)~~ (8) For any other purpose authorized by Title VI of the Federal Water
2 Pollution Control Act OR § 302 OF THE FEDERAL SAFE DRINKING WATER ACT.

3 (e) The costs of administering the Water Quality Fund shall be paid from federal
4 capitalization grants and awards, from bond sale proceeds, and from amounts received
5 from borrowers pursuant to loan agreements, and not from any State moneys
6 appropriated to the Fund, except general funds of the State used to match federal
7 capitalization grants and awards to the Water Quality Fund.

8 9-1605.1.

9 (a) (1) There is a Maryland Drinking Water Revolving Loan Fund. The
10 Drinking Water Loan Fund shall be maintained and administered by the Administration
11 in accordance with the provisions of this subtitle and such rules or program directives as
12 the Secretary or the Board may from time to time prescribe.

13 (2) The Drinking Water Loan Fund is a special, continuing, nonlapsing fund
14 which is not subject to § 7-302 of the State Finance and Procurement Article and which
15 shall be available in perpetuity for the purpose of providing financial assistance [to local
16 governments for water supply systems and costs related thereto, including studies,
17 surveys, tests, insurance, architectural, engineering and legal services, other special
18 services, administrative costs, and other miscellaneous expenses] IN ACCORDANCE
19 WITH THE PROVISIONS OF THIS SUBTITLE AND THE FEDERAL SAFE DRINKING
20 WATER ACT.

21 (3) Subject to the provisions of any applicable bond resolution regarding the
22 holding or application of amounts in the Drinking Water Loan Fund, the Treasurer shall
23 separately hold, and the Comptroller shall account for, the Drinking Water Loan Fund.

24 (4) Subject to the provisions of any applicable bond resolution governing the
25 investment of amounts in the Drinking Water Loan Fund, the Drinking Water Loan Fund
26 shall be invested and reinvested in the same manner as other State funds, EXCEPT THAT
27 THE ADMINISTRATION MAY, IN COOPERATION WITH THE TREASURER, ESTABLISH A
28 LINKED DEPOSIT PROGRAM TO EFFECT THE PURPOSES OF THIS SUBTITLE AND THE
29 FEDERAL SAFE DRINKING WATER ACT.

30 (5) Any investment earnings shall be retained to the credit of the Drinking
31 Water Loan Fund.

32 (6) The Drinking Water Loan Fund shall be subject to biennial audit by the
33 Office of Legislative Audits as provided for in § 2-1215 of the State Government Article.

34 (7) The Administration shall operate the Drinking Water Loan Fund in
35 accordance with § 9-1616 through § 9-1621, inclusive, of this article.

36 (b) There shall be deposited in the Drinking Water Loan Fund:

37 (1) Federal grants and awards or other federal assistance received by the
38 State for the purpose of making loans to [local governments] BORROWERS for water
39 supply systems AND ANY FUNDS TRANSFERRED FROM THE WATER QUALITY FUND
40 PURSUANT TO § 302 OF THE FEDERAL SAFE DRINKING WATER ACT;

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1 (2) Funds appropriated by the General Assembly for deposit to the
2 Drinking Water Loan Fund;

3 (3) Payments received from [local governments] BORROWERS for deposit
4 to the Drinking Water Loan Fund in repayment of a loan, including amounts withheld by
5 the State Comptroller and paid to the Administration pursuant to a pledge made by a
6 borrower under § 9-1606(d) of this article OR § 7-222 OF THE STATE FINANCE AND
7 PROCUREMENT ARTICLE;

8 (4) Net proceeds of bonds issued by the Administration;

9 (5) Interest or other income earned on the investment of moneys in the
10 Drinking Water Loan Fund; and

11 (6) Any additional moneys made available from any sources, public or
12 private, for the purposes for which the Drinking Water Loan Fund has been established.

13 (c) The Administration may from time to time establish accounts and subaccounts
14 within the Drinking Water Loan Fund as may be deemed desirable to effectuate the
15 purposes of this subtitle, to comply with the provisions of any bond resolution, to meet the
16 requirements of any federal law, or of any federal grant or award to the Drinking Water
17 Loan Fund, or to meet any rules or program directives established by the Secretary or the
18 Board.

19 (d) Amounts in the Drinking Water Loan Fund may be used only:

20 (1) To make loans at or below market rates ON THE CONDITION THAT:

21 (I) THE LOCAL GOVERNMENT BORROWER WILL ESTABLISH A
22 DEDICATED SOURCE OF REVENUE; ~~OR~~

23 (II) IN THE CASE OF A WATER SUPPLY SYSTEM OWNED BY A
24 BORROWER OTHER THAN A LOCAL GOVERNMENT, THE BORROWER SHALL
25 ~~DEMONSTRATE THAT THERE IS~~ PROVIDE ADEQUATE SECURITY FOR THE
26 REPAYMENT OF THE LOAN;

27 (III) THE DRINKING WATER LOAN FUND WILL BE CREDITED WITH
28 ALL PAYMENTS OF PRINCIPAL AND INTEREST ON ALL LOANS; AND

29 (IV) ANNUAL PRINCIPAL AND INTEREST PAYMENTS WILL
30 COMMENCE NOT LATER THAN 1 YEAR AFTER COMPLETION OF ANY DRINKING
31 WATER FACILITY AND, EXCEPT AS PROVIDED IN § 130 OF THE FEDERAL SAFE
32 DRINKING WATER ACT, ALL LOANS WILL BE FULLY AMORTIZED NOT LATER THAN 20
33 YEARS AFTER PROJECT COMPLETION;

34 (2) To buy or refinance debt obligations of local governments issued by a
35 local government for the purposes of financing all or a portion of the cost of a water
36 supply system at or below market rates, IF SUCH DEBT OBLIGATIONS WERE INCURRED
37 AFTER JULY 1, 1993;

38 (3) TO ESTABLISH A LINKED DEPOSIT PROGRAM OR PROGRAMS FOR
39 LOANS IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE AND THE
40 FEDERAL SAFE DRINKING WATER ACT;

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1 ~~(3)~~ (4) To guarantee or purchase insurance for bonds, notes, or other
 2 evidences of indebtedness issued by a local government for the purposes of financing all
 3 or a portion of the cost of a water supply system, if such action would improve credit
 4 market access or reduce interest rates;

5 ~~(4)~~ (5) As a source of revenue or security for the payment of principal and
 6 interest on bonds issued by the Administration if the proceeds of the sale of such bonds
 7 will be deposited in the Drinking Water Loan Fund;

8 ~~(5)~~ (6) To earn interest on Drinking Water Loan Fund accounts;

9 ~~(6)~~ (7) For the reasonable costs of administering the Drinking Water
 10 Loan Fund and conducting activities under any federal law that may apply to federal
 11 deposits to the Drinking Water Loan Fund; ~~and~~

12 (8) FOR LOAN SUBSIDIES FOR DISADVANTAGED COMMUNITIES AS
 13 PROVIDED BY THE FEDERAL SAFE DRINKING WATER ACT, INCLUDING BUT NOT
 14 LIMITED TO LOAN FORGIVENESS, PROVIDED THAT SUCH LOAN SUBSIDIES SHALL
 15 NOT EXCEED 30% OF THE ANNUAL FEDERAL CAPITALIZATION GRANT RECEIVED BY
 16 THE ADMINISTRATION; AND

17 ~~(7)~~ (9) For any other purpose authorized for any federal funds deposited
 18 in the Drinking Water Loan Fund INCLUDING, WITHOUT LIMITATION, ANY PURPOSE
 19 AUTHORIZED BY THE FEDERAL SAFE DRINKING WATER ACT, INCLUDING SOURCE
 20 WATER PROTECTION EXPENDITURES ELIGIBLE FOR ASSISTANCE FROM THE
 21 DRINKING WATER LOAN FUND.

22 (e) The costs of administering the Drinking Water Loan Fund shall be paid from
 23 federal grants and awards, from bond sale proceeds, and from amounts received from
 24 borrowers pursuant to loan agreements, and may not be paid from any State moneys
 25 appropriated to the Drinking Water Loan Fund, except general funds of the State used to
 26 match federal grants and awards to the Drinking Water Loan Fund.

27 9-1606.

28 (a) A loan made by the Administration shall be evidenced by a loan agreement.
 29 Loans made from the Water Quality Fund shall be subject to the provisions of §
 30 9-1605(d)(1) of this article. LOANS MADE FROM THE DRINKING WATER LOAN FUND
 31 SHALL BE SUBJECT TO THE PROVISIONS OF § 9-1605.1(D)(1) OF THIS SUBTITLE. Subject
 32 to the provisions of any applicable bond resolution, the Administration may consent to
 33 the modification, with respect to rate of interest, time of payment of any installment of
 34 principal or interest, security, or any other term of any loan agreement or loan obligation.
 35 In connection with any security received by or owned by the Administration, including any
 36 loan obligations, the Administration may commence any action to protect or enforce the
 37 rights conferred upon it by any law or loan agreement or loan obligation.

38 (b) Notwithstanding any other provision of public general or public local law,
 39 charter, or ordinance, a borrower may issue and sell loan obligations to the
 40 Administration:

41 (1) At private sale, without public bidding;

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1 (2) Without regard to any limitations on the denomination of such
2 obligations; and

3 (3) At any interest rate or cost or at any price that the borrower considers
4 necessary or desirable.

5 (c) A borrower may pay any fees or charges necessary to enable the
6 Administration to sell its bonds, including any fees for the insurance of its loan
7 obligations or bonds of the Administration, or to provide any other guarantee, credit
8 enhancement, or additional security for any such loan obligations or bonds.

9 (d) Notwithstanding any other provision of public general or public local law,
10 charter, or ordinance, a borrower may agree with the Administration to pledge any
11 moneys that the borrower is entitled to receive from the State, including the borrower's
12 share of the State income tax, to secure its obligations under a loan agreement. The State
13 Comptroller and the State Treasurer shall cause any moneys withheld under such a
14 pledge to be paid to, or applied at the direction of, the Administration.

15 (e) Each loan agreement shall contain a provision whereby the borrower
16 acknowledges and agrees that the borrower's loan obligation is cancelable only upon
17 repayment in full and that neither the Administration, the Secretary, nor the Board is
18 authorized to forgive the repayment of all or any portion of the loan, EXCEPT FOR
19 LOANS TO DISADVANTAGED COMMUNITIES, PURSUANT TO THE FEDERAL SAFE
20 DRINKING WATER ACT.

21 (F) IN THE EVENT OF A DEFAULT ON A LOAN OBLIGATION BY A BORROWER
22 OTHER THAN A LOCAL GOVERNMENT, THE ADMINISTRATION MAY PLACE A LIEN
23 AGAINST ~~ALL~~ PROPERTY OF THE BORROWER SECURING THE LOAN WHICH, SUBJECT
24 TO THE TAX LIENS OF THE FEDERAL, STATE, AND LOCAL GOVERNMENTS, SHALL
25 HAVE THE SAME PRIORITY AND STATUS AS A LIEN OF THE STATE FOR UNPAID
26 TAXES UNDER §§ 14-804 AND 14-805 OF THE TAX - PROPERTY ARTICLE. THE
27 ADMINISTRATION MAY EXERCISE THE SAME RIGHTS AND POWERS IN ENFORCING
28 SUCH LIEN AND COLLECTING FUNDS FOR THE PAYMENT OF AMOUNTS IN DEFAULT
29 UNDER THE LOAN OBLIGATION AS THE STATE MAY EXERCISE IN COLLECTING
30 UNPAID TAXES UNDER SUBTITLE 8 OF THE TAX - PROPERTY ARTICLE.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 June 1, 1997.