

## Minnesota Session Laws

Key: (1) ~~language to be deleted~~ (2) new language

This document represents the act as presented to the governor. The version passed by the legislature is the final engrossment. It does not represent the official 2013 session law, which will be available here [summer 2013](#).

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### CHAPTER 105--H.F.No. 819

#### An act

relating to the Public Facilities Authority; reorganizing certain grant programs; providing for small community wastewater treatment grants; amending Minnesota Statutes 2012, sections 446A.073, subdivisions 1, 3, 4; 446A.075, subdivisions 1a, 2, 5, 6; repealing Minnesota Statutes 2012, sections 446A.051, subdivision 2; 446A.074.

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

Section 1. Minnesota Statutes 2012, section 446A.073, subdivision 1, is amended to read:

Subdivision 1. **Program established.** When money is appropriated for grants under this program, the authority ~~must make~~ shall award grants up to a maximum of \$3,000,000 to governmental units to cover up to one-half the cost of wastewater treatment or storm water projects made necessary by:

(1) a wasteload ~~reductions~~ reduction prescribed under a total maximum daily load ~~plans~~ plan required by section 303(d) of the federal Clean Water Act, United States Code, title 33, section 1313(d);

(2) a phosphorus concentration or mass limit which requires ~~discharging one~~ milligram per liter or less at permitted design flow which is incorporated into a permit issued by the Pollution Control Agency;

(3) any other water quality-based effluent limit established under section 115.03, subdivision 1, paragraph (e), clause (8), and incorporated into a permit issued by the Pollution Control Agency that exceeds secondary treatment limits; or

(4) a total nitrogen limit of ten milligrams per liter or less for a land-based treatment system.

Sec. 2. Minnesota Statutes 2012, section 446A.073, subdivision 3, is amended to read:

Subd. 3. **Project priorities.** When money is appropriated for grants under this program, the authority shall accept applications during the month of July and reserve money for projects expected to proceed with construction by the end of the fiscal year in the order listed on the Pollution Control Agency's project priority list, ~~provided the project is included in a total maximum daily load plan that has been approved by the United States Environmental Protection Agency at the time the appropriation became law~~ and in an amount based on the cost estimate submitted to the authority in the grant application or the as-bid costs, whichever is less.

Sec. 3. Minnesota Statutes 2012, section 446A.073, subdivision 4, is amended to read:

Subd. 4. **Grant approval.** The authority must make a grant to a governmental unit, as defined in section 116.182, subdivision 1, for an eligible project only after:

- (1) the commissioner of the Pollution Control Agency has certified to the United States Environmental Protection Agency a total maximum daily load plan for identified waters of this state that includes a point source wasteload allocation;
- (2) the Environmental Protection Agency has approved the plan;
- (3) a governmental unit affected by the plan (1) the applicant has submitted the as-bid cost for the wastewater treatment or storm water projects necessary to comply with the point source wasteload allocation project;
- (4) (2) the Pollution Control Agency has approved the as-bid costs and certified the grant eligible portion of the project; and
- (5) (3) the authority has determined that the additional financing necessary to complete the project has been committed from other sources.

Sec. 4. Minnesota Statutes 2012, section 446A.075, subdivision 1a, is amended to read:

Subd. 1a. **Technical assistance grants.** If requested, and if it is an eligible use of funds, the authority may provide technical assistance grants to governmental units seeking to address noncomplying subsurface sewage treatment systems. A grant under this subdivision must not exceed ~~\$10,000~~ \$20,000 plus ~~\$500~~ \$1,000 per household, for a maximum total of ~~\$40,000~~ \$60,000. Technical assistance grant funds may be used by ~~the~~ a county recipient to pay its qualified staff for services listed in clauses (1) to (3) or by a governmental unit to contract with a licensed subsurface sewage treatment system business, county, the University of Minnesota on-site sewage treatment program, a regional development commission, or other qualified nonprofit organization for one or more of the following services:

- (1) conduct site evaluations and prepare a report by a certified subsurface sewage treatment system designer indicating the feasibility of installing new subsurface sewage treatment systems meeting the requirements of section 115.55;
- (2) provide independent advice on the feasibility of subsurface sewage treatment system alternatives; and
- (3) assist the governmental unit to develop the technical, managerial, and financial capacity necessary to build, operate, and maintain subsurface sewage treatment systems.

Sec. 5. Minnesota Statutes 2012, section 446A.075, subdivision 2, is amended to read:

Subd. 2. **Construction loans and grants.** (a) The authority may award loans and grants as provided in this subdivision to governmental units from the small community wastewater treatment account for projects to replace noncomplying subsurface sewage treatment systems with a subsurface sewage treatment system or systems meeting the requirements of section 115.55 or a land-based treatment system with a state disposal system permit. A governmental unit receiving a loan or grant from the account shall own the subsurface sewage treatment systems built under the program and shall be responsible, either directly or through a contract with a private vendor, for all inspections, maintenance, and repairs necessary to ensure proper operation of the systems.

(b) Loans as provided in subdivision 6 may be awarded for up to 100 percent of eligible project costs ~~as described in this section~~ minus any grants awarded under

paragraph (c) or from other sources.

~~(c) When the area to be served by a project has a median household income below the state average median household income, the governmental unit may receive 50 percent of the funding provided under this subdivision in the form of a grant. An applicant may submit income survey data collected by an independent party if it believes the most recent United States census does not accurately reflect the median household income of the area to be served. The authority may award a grant to a project if the estimated average annual residential wastewater system cost after completion of the project would otherwise exceed 1.4 percent of the median household income of the project service area. In determining the estimated average annual residential wastewater system cost, the authority must consider the total costs associated with building, operating, and maintaining the wastewater system including debt service. The amount of the grant shall be 80 percent of the amount needed to reduce the average annual residential wastewater system cost to 1.4 percent of the median household income, but not to exceed 80 percent of the eligible project cost minus any other grants.~~

Sec. 6. Minnesota Statutes 2012, section 446A.075, subdivision 5, is amended to read:

Subd. 5. **Awards.** (a) The authority must award loans and grants as provided in this section to governmental units with approved applications based on their ranking on the Pollution Control Agency's project priority list.

(b) Except as provided in paragraph (c), prior to the award of construction loans or grants under subdivision 2, paragraph (b), the Pollution Control Agency shall certify that the ~~subsurface sewage~~ land-based treatment systems to be built ~~appear to meet~~ are designed according to the criteria set forth in section 115.55 and rules of the Pollution Control Agency.

(c) If a governmental unit receives preliminary approval by the Pollution Control Agency of its feasibility report prepared under subdivision 1a, clause (1), the authority may make a partial construction award for eligible design costs.

(d) The total amount awarded for a construction loans and grants project under subdivision 2, ~~paragraph (b), shall be based on the estimated project costs for the portion of the project expected to be completed within one year, up to an annual maximum of \$500,000. For projects expected to take more than one year to complete, the authority may make a multiyear commitment for a period not to exceed three years, contingent on the future availability of funds. Each year of a multiyear commitment must be funded by a separate loan or loan and grant agreement meeting the terms and conditions in subdivision 6. A governmental unit receiving a loan or loan and grant under a multiyear commitment shall have priority for additional loan and grant funds in subsequent years must not exceed \$2,000,000.~~

Sec. 7. Minnesota Statutes 2012, section 446A.075, subdivision 6, is amended to read:

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

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

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

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

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

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

**Sec. 8. WASTEWATER INFRASTRUCTURE FUNDING; CONVERSION OF CERTAIN LOANS TO GRANTS.**

For supplemental assistance provided under its wastewater infrastructure funding program in the form of a loan, the public facilities authority may convert the loan to a grant to the extent that the authority determines that the governmental unit would have met, at the time the loan was made, the criteria in Minnesota Statutes 2012, section 446A.072, subdivision 5a, paragraph (b). If a loan is converted to a grant only in part, then, notwithstanding section 446A.072, subdivision 7, the authority may determine the manner in which the repayment schedule for the loan is to be adjusted.

**Sec. 9. INSTRUCTIONS TO REVISOR.**

(a) In Minnesota Statutes, the revisor shall remove references to the sections repealed in section 10.

(b) In Minnesota Statutes, the revisor shall change the headnote to section 446A.073 to "Point Source Implementation Grants."

**Sec. 10. REPEALER.**

Minnesota Statutes 2012, sections 446A.051, subdivision 2; and 446A.074, are repealed.

Presented to the governor May 21, 2013

Signed by the governor May 24, 2013, 2:53 p.m.