



Sen. Dan Kotowski

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09800SB2780sam001

LRB098 19511 MGM 57118 a

1 AMENDMENT TO SENATE BILL 2780

2 AMENDMENT NO. _____. Amend Senate Bill 2780 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Sections 19.1, 19.2, 19.3, and 19.4 as follows:

6 (415 ILCS 5/19.1) (from Ch. 111 1/2, par. 1019.1)

7 Sec. 19.1. Legislative findings. The General Assembly
8 finds:

9 (a) that local government units require assistance in
10 financing the construction of water ~~wastewater~~ treatment works
11 and projects in order to comply with the State's program of
12 environmental protection and federally mandated requirements;

13 (b) that the federal Water Quality Act of 1987 provides an
14 important source of grant awards to the State for providing
15 assistance to local government units through the Water
16 Pollution Control Loan Program;

1 (c) that local government units and privately owned
2 community water supplies require assistance in financing the
3 construction of their public water supplies to comply with
4 State and federal drinking water laws and regulations;

5 (d) that the federal Safe Drinking Water Act ("SDWA"), P.L.
6 93-523, as now or hereafter amended, provides an important
7 source of capitalization grant awards to the State to provide
8 assistance to local government units and privately owned
9 community water supplies through the Public Water Supply Loan
10 Program;

11 (e) that violations of State and federal drinking water
12 standards threaten the public interest, safety, and welfare,
13 which demands that the Illinois Environmental Protection
14 Agency expeditiously adopt emergency rules to administer the
15 Public Water Supply Loan Program;

16 (f) that the General Assembly agrees with the conclusions
17 and recommendations of the "Report to the Illinois General
18 Assembly on the Issue of Expanding Public Water Supply Loan
19 Eligibility to Privately Owned Community Water Supplies",
20 dated August 1998, including the stated access to the Public
21 Water Supply Loan Program by the privately owned public water
22 supplies so that the long term integrity and viability of the
23 corpus of the Fund will be assured; ~~and~~

24 (g) that the American Recovery and Reinvestment Act of 2009
25 provides a source of capitalization grant awards to the State
26 to provide loans and additional subsidization, including, but

1 not limited to, forgiveness of principal, negative interest
2 loans, and grants, to local government units through the Water
3 Pollution Control Loan Program and to local government units
4 and privately owned community water supplies through the Public
5 Water Supply Loan Program; -

6 (h) that expanding eligibility to include publicly owned
7 municipal storm water projects eligible for financing as
8 treatment works, as defined under Section 212 of the Federal
9 Water Pollution Control Act, will provide the Agency with the
10 statutory authority to use moneys in the Water Pollution
11 Control Loan Program to provide financial assistance for
12 eligible projects, including those that encourage green
13 infrastructure, that manage and treat storm water, and that
14 maintain and restore natural hydrology by infiltrating,
15 evapotranspiring, and capturing and using storm water;

16 (i) that in planning projects for which financing will be
17 sought from the Water Pollution Control Loan Program,
18 municipalities may benefit from efforts to consider a project's
19 lifetime costs; the availability of long-term funding for the
20 construction, operation, maintenance, and replacement of the
21 project; the resilience of the project to the effects of
22 climate change; the project's ability to increase water
23 efficiency; the capacity of the project to restore natural
24 hydrology or to preserve or restore landscape features; the
25 cost-effectiveness of the project; and the overall
26 environmental innovativeness of the project; and

1 (j) that projects implementing a management program
2 established under Section 319 of the Federal Water Pollution
3 Control Act may benefit from the creation of a linked deposit
4 program that would make loans available at or below market
5 interest rates through private lenders.

6 (Source: P.A. 96-8, eff. 4-28-09.)

7 (415 ILCS 5/19.2) (from Ch. 111 1/2, par. 1019.2)

8 Sec. 19.2. As used in this Title, unless the context
9 clearly requires otherwise:

10 (a) "Agency" means the Illinois Environmental Protection
11 Agency.

12 (b) "Fund" means the Water Revolving Fund created pursuant
13 to this Title, consisting of the Water Pollution Control Loan
14 Program, the Public Water Supply Loan Program, and the Loan
15 Support Program.

16 (c) "Loan" means a loan made from the Water Pollution
17 Control Loan Program or the Public Water Supply Loan Program to
18 an eligible applicant as a result of a contractual agreement
19 between the Agency and such applicant.

20 (d) "Construction" means any one or more of the following
21 which is undertaken for a public purpose: preliminary planning
22 to determine the feasibility of the treatment works or public
23 water supply, engineering, architectural, legal, fiscal or
24 economic investigations or studies, surveys, designs, plans,
25 working drawings, specifications, procedures or other

1 necessary actions, erection, building, acquisition,
2 alteration, remodeling, improvement or extension of treatment
3 works or public water supplies, or the inspection or
4 supervision of any of the foregoing items. "Construction" also
5 includes implementation of source water quality protection
6 measures and establishment and implementation of wellhead
7 protection programs in accordance with Section 1452(k)(1) of
8 the federal Safe Drinking Water Act.

9 (e) "Intended use plan" means a plan which includes a
10 description of the short and long term goals and objectives of
11 the Water Pollution Control Loan Program and the Public Water
12 Supply Loan Program, project categories, discharge
13 requirements, terms of financial assistance and the loan
14 applicants to be served.

15 (f) "Treatment works" means treatment works, as defined in
16 Section 212 of the Federal Water Pollution Control Act,
17 including, but not limited to, the following: any devices and
18 systems owned by a local government unit and used in the
19 storage, treatment, recycling, and reclamation of sewerage or
20 industrial wastes of a liquid nature, including intercepting
21 sewers, outfall sewers, sewage collection systems, pumping
22 power and other equipment, and appurtenances; extensions,
23 improvements, remodeling, additions, and alterations thereof;
24 elements essential to provide a reliable recycled supply, such
25 as standby treatment units and clear well facilities; ~~and~~ any
26 works, including site acquisition of the land that will be an

1 integral part of the treatment process for wastewater
2 facilities; and any other method or system for preventing,
3 abating, reducing, storing, treating, separating, or disposing
4 of municipal waste, including storm water runoff, or industrial
5 waste, including waste in combined storm water and sanitary
6 sewer systems as those terms are defined in the Federal Water
7 Pollution Control Act.

8 (g) "Local government unit" means a county, municipality,
9 township, municipal or county sewerage or utility authority,
10 sanitary district, public water district, improvement
11 authority or any other political subdivision whose primary
12 purpose is to construct, operate and maintain wastewater
13 treatment facilities, including storm water treatment systems,
14 or public water supply facilities or both.

15 (h) "Privately owned community water supply" means:

16 (1) an investor-owned water utility, if under Illinois
17 Commerce Commission regulation and operating as a separate
18 and distinct water utility;

19 (2) a not-for-profit water corporation, if operating
20 specifically as a water utility; and

21 (3) a mutually owned or cooperatively owned community
22 water system, if operating as a separate water utility.

23 (Source: P.A. 91-36, eff. 6-15-99; 91-52, eff. 6-30-99; 91-501,
24 eff. 8-13-99; 92-16, eff. 6-28-01.)

25 (415 ILCS 5/19.3) (from Ch. 111 1/2, par. 1019.3)

1 Sec. 19.3. Water Revolving Fund.

2 (a) There is hereby created within the State Treasury a
3 Water Revolving Fund, consisting of 3 interest-bearing special
4 programs to be known as the Water Pollution Control Loan
5 Program, the Public Water Supply Loan Program, and the Loan
6 Support Program, which shall be used and administered by the
7 Agency.

8 (b) The Water Pollution Control Loan Program shall be used
9 and administered by the Agency to provide assistance for the
10 following purposes:

11 (1) to accept and retain funds from grant awards,
12 appropriations, transfers, and payments of interest and
13 principal;

14 (2) to make direct loans at or below market interest
15 rates and to provide additional subsidization, including,
16 but not limited to, forgiveness of principal, negative
17 interest rates, and grants, to any eligible local
18 government unit to finance the construction of ~~wastewater~~
19 treatments works, including storm water treatment systems
20 that are treatment works, and projects that fulfill federal
21 State Revolving Fund grant requirements for a green project
22 reserve;

23 (2.5) with respect to funds provided under the American
24 Recovery and Reinvestment Act of 2009:

25 (A) to make direct loans at or below market
26 interest rates to any eligible local government unit

1 and to provide additional subsidization to any
2 eligible local government unit, including, but not
3 limited to, forgiveness of principal, negative
4 interest rates, and grants;

5 (B) to make direct loans at or below market
6 interest rates to any eligible local government unit to
7 buy or refinance debt obligations for treatment works
8 incurred on or after October 1, 2008; and

9 (C) to provide additional subsidization,
10 including, but not limited to, forgiveness of
11 principal, negative interest rates, and grants for
12 treatment works incurred on or after October 1, 2008;

13 (3) to make direct loans at or below market interest
14 rates and to provide additional subsidization, including,
15 but not limited to, forgiveness of principal, negative
16 interest rates, and grants, to any eligible local
17 government unit to buy or refinance debt obligations for
18 costs incurred after March 7, 1985, for the construction of
19 ~~wastewater~~ treatment works, including storm water
20 treatment systems that are treatment works, and projects
21 that fulfill federal State Revolving Fund grant
22 requirements for a green project reserve;

23 (3.5) to make ~~direct~~ loans, including, but not limited
24 to, loans through a linked deposit program, at or below
25 market interest rates for the implementation of a
26 management program established under Section 319 of the

1 Federal Water Pollution Control Act, as amended;

2 (4) to guarantee or purchase insurance for local
3 obligations where such action would improve credit market
4 access or reduce interest rates;

5 (5) as a source of revenue or security for the payment
6 of principal and interest on revenue or general obligation
7 bonds issued by the State or any political subdivision or
8 instrumentality thereof, if the proceeds of such bonds will
9 be deposited in the Fund;

10 (6) to finance the reasonable costs incurred by the
11 Agency in the administration of the Fund; ~~and~~

12 (7) to transfer funds to the Public Water Supply Loan
13 Program; and -

14 (8) notwithstanding any other provision of this
15 subsection (b), to provide, in accordance with rules
16 adopted under this Title, any financial assistance that may
17 be provided under Section 603 of the Federal Water
18 Pollution Control Act for any projects eligible for
19 assistance under subsections (c)(1) or (c)(2) of that
20 Section or federal rules adopted under those subsections.

21 (c) The Loan Support Program shall be used and administered
22 by the Agency for the following purposes:

23 (1) to accept and retain funds from grant awards and
24 appropriations;

25 (2) to finance the reasonable costs incurred by the
26 Agency in the administration of the Fund, including

1 activities under Title III of this Act, including the
2 administration of the State construction grant program;

3 (3) to transfer funds to the Water Pollution Control
4 Loan Program and the Public Water Supply Loan Program;

5 (4) to accept and retain a portion of the loan
6 repayments;

7 (5) to finance the development of the low interest loan
8 programs for water pollution control and public water
9 supply projects;

10 (6) to finance the reasonable costs incurred by the
11 Agency to provide technical assistance for public water
12 supplies; and

13 (7) to finance the reasonable costs incurred by the
14 Agency for public water system supervision programs, to
15 administer or provide for technical assistance through
16 source water protection programs, to develop and implement
17 a capacity development strategy, to delineate and assess
18 source water protection areas, and for an operator
19 certification program in accordance with Section 1452 of
20 the federal Safe Drinking Water Act.

21 (d) The Public Water Supply Loan Program shall be used and
22 administered by the Agency to provide assistance to local
23 government units and privately owned community water supplies
24 for public water supplies for the following public purposes:

25 (1) to accept and retain funds from grant awards,
26 appropriations, transfers, and payments of interest and

1 principal;

2 (2) to make direct loans at or below market interest
3 rates and to provide additional subsidization, including,
4 but not limited to, forgiveness of principal, negative
5 interest rates, and grants, to any eligible local
6 government unit or to any eligible privately owned
7 community water supply to finance the construction of water
8 supplies and projects that fulfill federal State Revolving
9 Fund grant requirements for a green project reserve;

10 (2.5) with respect to funds provided under the American
11 Recovery and Reinvestment Act of 2009:

12 (A) to make direct loans at or below market
13 interest rates to any eligible local government unit or
14 to any eligible privately owned community water
15 supply, and to provide additional subsidization to any
16 eligible local government unit or to any eligible
17 privately owned community water supply, including, but
18 not limited to, forgiveness of principal, negative
19 interest rates, and grants;

20 (B) to buy or refinance the debt obligation of a
21 local government unit for costs incurred on or after
22 October 1, 2008; and

23 (C) to provide additional subsidization,
24 including, but not limited to, forgiveness of
25 principal, negative interest rates, and grants for a
26 local government unit for costs incurred on or after

1 October 1, 2008;

2 (3) to make direct loans at or below market interest
3 rates and to provide additional subsidization, including,
4 but not limited to, forgiveness of principal, negative
5 interest rates, and grants, to any eligible local
6 government unit or to any eligible privately owned
7 community water supply to buy or refinance debt obligations
8 for costs incurred on or after July 17, 1997, for the
9 construction of water supplies and projects that fulfill
10 federal State Revolving Fund requirements for a green
11 project reserve;

12 (4) to guarantee local obligations where such action
13 would improve credit market access or reduce interest
14 rates;

15 (5) as a source of revenue or security for the payment
16 of principal and interest on revenue or general obligation
17 bonds issued by the State or any political subdivision or
18 instrumentality thereof, if the proceeds of such bonds will
19 be deposited into the Fund; and

20 (6) to transfer funds to the Water Pollution Control
21 Loan Program.

22 (e) The Agency is designated as the administering agency of
23 the Fund. The Agency shall submit to the Regional Administrator
24 of the United States Environmental Protection Agency an
25 intended use plan which outlines the proposed use of funds
26 available to the State. The Agency shall take all actions

1 necessary to secure to the State the benefits of the federal
2 Water Pollution Control Act and the federal Safe Drinking Water
3 Act, as now or hereafter amended.

4 (f) The Agency shall have the power to enter into
5 intergovernmental agreements with the federal government or
6 the State, or any instrumentality thereof, for purposes of
7 capitalizing the Water Revolving Fund. Moneys on deposit in the
8 Water Revolving Fund may be used for the creation of reserve
9 funds or pledged funds that secure the obligations of repayment
10 of loans made pursuant to this Section. For the purpose of
11 obtaining capital for deposit into the Water Revolving Fund,
12 the Agency may also enter into agreements with financial
13 institutions and other persons for the purpose of selling loans
14 and developing a secondary market for such loans. The Agency
15 shall have the power to create and establish such reserve funds
16 and accounts as may be necessary or desirable to accomplish its
17 purposes under this subsection and to allocate its available
18 moneys into such funds and accounts. Investment earnings on
19 moneys held in the Water Revolving Fund, including any reserve
20 fund or pledged fund, shall be deposited into the Water
21 Revolving Fund.

22 (Source: P.A. 96-8, eff. 4-28-09; 96-917, eff. 6-9-10.)

23 (415 ILCS 5/19.4) (from Ch. 111 1/2, par. 1019.4)

24 Sec. 19.4. Regulations; priorities.

25 (a) The Agency shall have the authority to promulgate

1 regulations for the administration of this Title, including,
2 but not limited to, rules setting ~~to set~~ forth procedures and
3 criteria concerning loan applications and the issuance of
4 loans. For loans to units of local government, the regulations
5 shall include, but need not be limited to, the following
6 elements:

7 (1) loan application requirements;

8 (2) determination of credit worthiness of the loan
9 applicant;

10 (3) special loan terms, as necessary, for securing the
11 repayment of the loan;

12 (4) assurance of payment;

13 (5) interest rates;

14 (6) loan support rates;

15 (7) impact on user charges;

16 (8) eligibility of proposed construction;

17 (9) priority of needs;

18 (10) special loan terms for disadvantaged communities;

19 (11) maximum limits on annual distributions of funds to
20 applicants or groups of applicants;

21 (12) penalties for noncompliance with loan
22 requirements and conditions, including stop-work orders,
23 termination, and recovery of loan funds; and

24 (13) indemnification of the State of Illinois and the
25 Agency by the loan recipient.

26 (b) The Agency shall have the authority to promulgate

1 regulations to set forth procedures and criteria concerning
2 loan applications for loan recipients other than units of local
3 government. In addition to all of the elements required for
4 units of local government under subsection (a), the regulations
5 shall include, but need not be limited to, the following
6 elements:

7 (1) types of security required for the loan;

8 (2) types of collateral, as necessary, that can be
9 pledged for the loan; and

10 (3) staged access to fund privately owned community
11 water supplies.

12 (c) Rules adopted under this Title shall also include, but
13 shall not be limited to, criteria for prioritizing the issuance
14 of loans under this Title according to applicant need. The
15 ~~Agency shall develop and maintain a priority list of loan~~
16 ~~applicants as categorized by need.~~ Priority in making loans
17 from the Public Water Supply Loan Program must first be given
18 to local government units and privately owned community water
19 supplies that need to make capital improvements to protect
20 human health and to achieve compliance with the State and
21 federal primary drinking water standards adopted pursuant to
22 this Act and the federal Safe Drinking Water Act, as now and
23 hereafter amended. Rules for prioritizing loans from the Water
24 Pollution Control Loan Program may include, but shall not be
25 limited to, criteria designed to encourage green
26 infrastructure, water efficiency, environmentally innovative

1 projects, and nutrient pollution removal.

2 (d) The Agency shall have the authority to promulgate
3 regulations to set forth procedures and criteria concerning
4 loan applications for funds provided under the American
5 Recovery and Reinvestment Act of 2009. In addition, due to time
6 constraints in the American Recovery and Reinvestment Act of
7 2009, the Agency shall adopt emergency rules as necessary to
8 allow the timely administration of funds provided under the
9 American Recovery and Reinvestment Act of 2009. Emergency rules
10 adopted under this subsection (d) shall be adopted in
11 accordance with Section 5-45 of the Illinois Administrative
12 Procedure Act.

13 (e) The Agency may adopt rules to create a linked deposit
14 loan program through which loans made pursuant to paragraph
15 (3.5) of subsection (b) of Section 19.3 may be made through
16 private lenders. Rules adopted under this subsection (e) shall
17 include, but shall not be limited to, provisions requiring
18 private lenders, prior to disbursing loan proceeds through the
19 linked deposit loan program, to verify that the loan recipients
20 have been approved by the Agency for financing under paragraph
21 (3.5) of subsection (b) of Section 19.3.

22 (Source: P.A. 96-8, eff. 4-28-09.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."