

## Senate Bill No. 128

### CHAPTER 370

An act to amend Sections 13476, 13478, 13479, 13480, and 13482 of the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 3, 1995. Filed with Secretary of State August 4, 1995.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 128, Kelley. Water quality.

Existing law creates the State Water Pollution Control Revolving Fund, and continuously appropriates the money in that fund to provide loans to applicants to pay for water pollution control facilities and water reclamation facilities in accordance with the federal Clean Water Act. Existing law authorizes the State Water Resources Control Board to undertake specified activities relating to the fund, including providing for the deposit of available and necessary state money into the fund.

This bill would revise those provisions relating to state money, and would, instead, authorize the board to enter into agreements with, and accept matching funds, as defined, from, municipalities. The bill would make related changes regarding the administration of matching funds.

The bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 13476 of the Water Code is amended to read:

13476. Unless the context otherwise requires, the following definitions govern the construction of this chapter:

- (a) "Board" means the State Water Resources Control Board.
- (b) "Federal Clean Water Act" or "federal act" means the federal Water Pollution Control Act (33 U.S.C.A. Sec. 1251 et seq.) and acts amendatory thereof or supplemental thereto.
- (c) "Fund" means the State Water Pollution Control Revolving Fund.
- (d) "Matching funds" means money that equals that percentage of federal contributions required by the federal act to be matched with state funds.
- (e) "Municipality" has the same meaning and construction as in the federal act and also includes all state, interstate, and intermunicipal agencies.

(f) “Publicly owned” means owned by a municipality.

SEC. 2. Section 13478 of the Water Code is amended to read:

13478. The board may undertake any of the following:

(a) Enter into agreements with the federal government for federal contributions to the fund.

(b) Accept federal contributions to the fund.

(c) Enter into an agreement with, and accept matching funds from, a municipality. A municipality that seeks to enter into an agreement with the board and provide matching funds pursuant to this subdivision shall provide to the board evidence of the availability of those funds in the form of a written resolution adopted by the governing body of the municipality before it requests a preliminary loan commitment.

(d) Use moneys in the fund for the purposes permitted by the federal act.

(e) Provide for the deposit of matching funds and any other available and necessary moneys into the fund.

(f) Make requests on behalf of the state for deposit into the fund of available federal moneys under the federal act and determine on behalf of the state appropriate maintenance of progress toward compliance with the enforceable deadlines, goals, and requirements of the federal act.

(g) Determine on behalf of the state that publicly owned treatment works which receive financial assistance from the fund will meet the requirements of, and otherwise be treated as required by, the federal act.

(h) Provide for appropriate audit, accounting, and fiscal management services, plans, and reports relative to the fund.

(i) Take additional incidental action as appropriate for the adequate administration and operation of the fund.

(j) Charge municipalities that elect to provide matching funds a fee to cover the actual cost of obtaining the federal funds pursuant to Section 603 (d)(7) of the federal act (33 U.S.C.A. Sec. 1383 (d)(7)) and processing the loan application. The fee shall be waived by the board if sufficient funds to cover those costs are available from other sources.

(k) Use money returned to the fund under clause (ii) of subparagraph (D) of paragraph (1) of subdivision (b) of Section 13480, and any other source of matching funds, if not prohibited by statute, as matching funds for the federal administrative allowance under Section 603(d)(7) of the federal act (33 U.S.C.A. Sec. 1383(d)(7)).

SEC. 3. Section 13479 of the Water Code is amended to read:

13479. (a) The board may enter into an agreement with the federal government for federal contributions to the fund only if both of the following conditions have been met:

(1) The state has identified any required matching funds.



(2) The board is prepared to commit to the expenditure of any minimum amount in the fund in the manner required by the federal act.

(b) Any agreement between the board and the federal government shall contain those provisions, terms, and conditions required by the federal act, and any implementing federal rules, regulations, guidelines, and policies, including, but not limited to, agreement to the following:

(1) Moneys in the fund shall be expended in an expeditious and timely manner.

(2) All moneys in the fund as a result of federal capitalization grants shall be used to assure maintenance of progress toward compliance with the enforceable deadlines, goals, and requirements of the federal act, including any applicable municipal compliance deadlines.

SEC. 4. Section 13480 of the Water Code is amended to read:

13480. (a) Moneys in the fund shall be used only for the permissible purposes allowed by the federal act, including providing financial assistance for the following purposes:

(1) The construction of publicly owned treatment works, as defined by Section 212 of the federal act (33 U.S.C.A. Sec. 1292), by any municipality.

(2) Implementation of a management program pursuant to Section 319 of the federal act (33 U.S.C.A. Sec. 1329).

(3) Development and implementation of a conservation and management plan under Section 320 of the federal act (33 U.S.C.A. Sec. 1330).

(4) Financial assistance, other than a loan, toward the nonfederal share of costs of any grant-funded treatment works project, but only if that assistance is necessary to permit the project to proceed.

(b) Consistent with expenditure for authorized purposes, moneys in the fund may be used for the following purposes:

(1) Loans that meet all of the following requirements:

(A) Are made at or below market interest rates.

(B) Require annual payments of principal and any interest, with repayment commencing not later than one year after completion of the project for which the loan is made and full amortization not later than 20 years after project completion.

(C) Require the loan recipient to establish an acceptable dedicated source of revenue for repayment of any loan.

(D) (i) Contain other terms and conditions required by the board or the federal act or applicable rules, regulations, guidelines, and policies. To the extent permitted by federal law, the interest rate shall be set at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds and the interest rate shall be computed according to the true interest cost method. If the interest rate so determined is not a multiple of



one-tenth of 1 percent, the interest rate shall be set at the multiple of one-tenth of 1 percent next above the interest rate so determined. Any loan from the fund used to finance costs of facilities planning, or the preparation of plans, specifications, or estimates for construction of publicly owned treatment works shall comply with Section 603(e) of the federal act (33 U.S.C.A. Sec. 1383(e)).

(ii) Notwithstanding clause (i), if the loan applicant is a municipality that provides matching funds, the interest rate on the loan shall be zero percent. A loan recipient that returns to the fund an amount of money equal to 20 percent of the remaining unpaid federal balance of an existing loan shall have the remaining unpaid loan balance refinanced at a rate of zero percent over the time remaining in the original loan contract.

(2) To buy or refinance the debt obligations of municipalities within the state at or below market rates if those debt obligations were incurred after March 7, 1985.

(3) To guarantee, or purchase insurance for, local obligations where that action would improve credit market access or reduce interest rates.

(4) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state, if the proceeds of the sale of those bonds will be deposited in the fund.

(5) To establish loan guarantees for similar revolving funds established by municipalities.

(6) To earn interest.

(7) For payment of the reasonable costs of administering the fund and conducting activities under Subchapter VI (commencing with Section 601) of the federal act (33 U.S.C.A. Sec. 1381 et seq.). Those costs shall not exceed 4 percent of all federal contributions to the fund, except that if permitted by federal and state law, interest repayments into the fund and other moneys in the fund may be used to defray additional administrative and activity costs to the extent permitted by the federal government and approved by the Legislature in the Budget Act.

(8) For financial assistance toward the nonfederal share of the costs of grant-funded treatment works projects to the extent permitted by the federal act.

SEC. 5. Section 13482 of the Water Code is amended to read:

13482. (a) In accordance with the Clean Water Bond Law of 1984 (Chapter 13 (commencing with Section 13999)), the board, with the approval of the Clean Water Finance Committee, may transfer funds from the Clean Water Construction Grant Account to the fund for the purpose of meeting federal requirements for matching moneys in the fund.

(b) Any repayment of fund moneys, including interest payments, and all interest earned on, or accruing to, any moneys in the fund,



shall be deposited in the fund and shall be available, in perpetuity, for expenditure for the purposes and uses authorized by the federal act.

(c) A municipality that elects to provide matching funds shall do all of the following:

(1) Establish an account or other funding mechanism permitted by law for the deposit and use of those funds.

(2) Pay the state's share of the amount of money owed to any contractor for services rendered to that municipality and transmit evidence of payment to that contractor to the board before the federal matching funds become available pursuant to the federal act.

(3) Grant to the state access to the financial records of the account or other funding mechanism established pursuant to paragraph (1).

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act allows local agencies to make available to the state matching funds for federal grants pursuant to the federal Clean Water Act (33 U.S.C.A. Sec. 1251 et seq.). In order to initiate this new method of securing matching funds and allow local agencies to act in time to qualify for federal grant funds for the 1996 federal fiscal year, it is necessary that this act take effect immediately.

