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1 A bill to be entitled
2 An act relating to drinking water; amending s. 403.1837,
3 F.S.; renaming the Florida Water Pollution Control
4 Financing Corporation as the Florida Water Pollution
5 Control and Drinking Water Financing Corporation; revising
6 provisions regarding the purpose, powers, and duties of
7 the corporation; providing that specified drinking water
8 projects and activities are eligible for financing;
9 amending s. 403.8532, F.S.; defining the terms "bonds" and
10 "corporation"; authorizing the Department of Environmental
11 Protection to make or request the corporation to make
12 loans, grants, and deposits for planning, designing, and
13 constructing specified public water systems; requiring the
14 department to administer programs funded by the
15 corporation; authorizing the department to adopt rules
16 regarding the procedural and contractual relationship
17 between the department and the corporation; clarifying
18 requirements for rules relating to loan security criteria;
19 clarifying the purpose of the Drinking Water Revolving
20 Loan Trust Fund; amending s. 403.8533, F.S.; providing
21 that specified use of funds from the trust fund is subject
22 to annual appropriation; providing that the trust fund is
23 exempt from specified termination provisions; amending ss.
24 11.45 and 403.1835, F.S.; conforming terminology;
25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
28

29 Section 1. Subsection (1), paragraphs (f), (g), and (h) of
 30 subsection (3), and subsections (4), (5), (7), and (11) of
 31 section 403.1837, Florida Statutes, are amended to read:

32 403.1837 Florida Water Pollution Control and Drinking
 33 Water Financing Corporation.—

34 (1) The Florida Water Pollution Control and Drinking Water
 35 Financing Corporation is created as a nonprofit public-benefit
 36 corporation for the purpose of financing or refinancing the
 37 costs of water pollution control projects and activities
 38 described in ss. ~~s.~~ 403.1835 and 403.8532. The projects and
 39 activities described in those sections ~~that section~~ are found to
 40 constitute a public governmental purpose; be necessary for the
 41 health, safety, and welfare of all residents; and include
 42 legislatively approved fixed capital outlay projects. The
 43 fulfillment of the purposes of the corporation promotes the
 44 health, safety, and welfare of the people of the state and
 45 serves essential governmental functions and a paramount public
 46 purpose. The activities of the corporation are specifically
 47 limited to assisting the department in implementing financing
 48 activities to provide funding for the programs authorized in ss.
 49 ~~s.~~ 403.1835 and 403.8532. All other activities relating to the
 50 purposes for which the corporation raises funds are the
 51 responsibility of the department, including, but not limited to,
 52 development of program criteria, review of applications for
 53 financial assistance, decisions relating to the number and
 54 amount of loans or other financial assistance to be provided,
 55 and enforcement of the terms of any financial assistance
 56 agreements provided through funds raised by the corporation. The

57 corporation shall terminate upon fulfillment of the purposes of
58 this section.

59 (3) The corporation shall have all the powers of a
60 corporate body under the laws of the state to the extent not
61 inconsistent with or restricted by this section, including, but
62 not limited to, the power to:

63 (f) Borrow money and issue notes, bonds, certificates of
64 indebtedness, or other obligations or evidences of indebtedness
65 described in ss. ~~§~~ 403.1835 and 403.8532.

66 (g) Operate, as specifically directed by the department,
67 any program to provide financial assistance authorized under ss.
68 ~~§~~ 403.1835(3) and 403.8532, which may be funded from any funds
69 received under a service contract with the department, from the
70 proceeds of bonds issued by the corporation, or from any other
71 funding sources obtained by the corporation.

72 (h) Sell all or any portion of the loans issued under ss.
73 ~~§~~ 403.1835 and 403.8532 to accomplish the purposes of this
74 section and ss. ~~§~~ 403.1835 and 403.8532.

75 (4) The corporation shall evaluate all financial and
76 market conditions necessary and prudent for the purpose of
77 making sound, financially responsible, and cost-effective
78 decisions in order to secure additional funds to fulfill the
79 purposes of this section and ss. ~~§~~ 403.1835 and 403.8532.

80 (5) The corporation may enter into one or more service
81 contracts with the department under which the corporation shall
82 provide services to the department in connection with financing
83 the functions, projects, and activities provided for in ss. ~~§~~
84 403.1835 and 403.8532. The department may enter into one or more

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85 | service contracts with the corporation and provide for payments
86 | under those contracts pursuant to ss. ~~s.~~ 403.1835(9) and
87 | 403.8532, subject to annual appropriation by the Legislature.
88 | The service contracts may provide for the transfer of all or a
89 | portion of the funds in the Wastewater Treatment and Stormwater
90 | Management Revolving Loan Trust Fund and the Drinking Water
91 | Revolving Loan Trust Fund to the corporation for use by the
92 | corporation for costs incurred by the corporation in its
93 | operations, including, but not limited to, payment of debt
94 | service, reserves, or other costs in relation to bonds issued by
95 | the corporation, for use by the corporation at the request of
96 | the department to directly provide the types of local financial
97 | assistance provided for in ss. ~~s.~~ 403.1835(3) and 403.8532(3),
98 | or for payment of the administrative costs of the corporation.
99 | The department may not transfer funds under any service contract
100 | with the corporation without specific appropriation for such
101 | purpose in the General Appropriations Act, except for
102 | administrative expenses incurred by the State Board of
103 | Administration or other expenses necessary under documents
104 | authorizing or securing previously issued bonds of the
105 | corporation. The service contracts may also provide for the
106 | assignment or transfer to the corporation of any loans made by
107 | the department. The service contracts may establish the
108 | operating relationship between the department and the
109 | corporation and shall require the department to request the
110 | corporation to issue bonds before any issuance of bonds by the
111 | corporation, to take any actions necessary to enforce the
112 | agreements entered into between the corporation and other

113 parties, and to take all other actions necessary to assist the
 114 corporation in its operations. In compliance with s. 287.0641
 115 and other applicable provisions of law, the obligations of the
 116 department under the service contracts do not constitute a
 117 general obligation of the state or a pledge of the faith and
 118 credit or taxing power of the state, nor may the obligations be
 119 construed in any manner as an obligation of the State Board of
 120 Administration or entities for which it invests funds, or of the
 121 department except as provided in this section as payable solely
 122 from amounts available under any service contract between the
 123 corporation and the department, subject to appropriation. In
 124 compliance with this subsection and s. 287.0582, service
 125 contracts must expressly include the following statement: "The
 126 State of Florida's performance and obligation to pay under this
 127 contract is contingent upon an annual appropriation by the
 128 Legislature."

129 (7) The corporation is exempt from taxation and
 130 assessments of any nature whatsoever upon its income and any
 131 property, assets, or revenues acquired, received, or used in the
 132 furtherance of the purposes provided in ss. 403.1835, ~~and~~
 133 403.1838, and 403.8532. The obligations of the corporation
 134 incurred under subsection (6) and the interest and income on the
 135 obligations and all security agreements, letters of credit,
 136 liquidity facilities, or other obligations or instruments
 137 arising out of, entered into in connection with, or given to
 138 secure payment of the obligations are exempt from all taxation;
 139 however, the exemption does not apply to any tax imposed by
 140 chapter 220 on the interest, income, or profits on debt

141 obligations owned by corporations.

142 (11) The benefits or earnings of the corporation may not
 143 inure to the benefit of any private person, except persons
 144 receiving grants and loans under ss. ~~ss.~~ 403.1835 and 403.8532.

145 Section 2. Subsections (2), (3), (9), and (14) of section
 146 403.8532, Florida Statutes, are amended to read:

147 403.8532 Drinking water state revolving loan fund; use;
 148 rules.—

149 (2) For purposes of this section, the term:

150 (a) "Bonds" means bonds, certificates, or other
 151 obligations of indebtedness issued by the Florida Water
 152 Pollution Control and Drinking Water Financing Corporation under
 153 this section and s. 403.1837.

154 (b) "Corporation" means the Florida Water Pollution
 155 Control and Drinking Water Financing Corporation.

156 (c) ~~(a)~~ "Financially disadvantaged community" means the
 157 service area of a project to be served by a public water system
 158 that meets criteria established by department rule and in
 159 accordance with federal guidance.

160 (d) ~~(b)~~ "Local governmental agency" means any municipality,
 161 county, district, or authority, or any agency thereof, or a
 162 combination of two or more of the foregoing acting jointly in
 163 connection with a project, having jurisdiction over a public
 164 water system.

165 (e) ~~(c)~~ "Public water system" means all facilities,
 166 including land, necessary for the treatment and distribution of
 167 water for human consumption and includes public water systems as
 168 defined in s. 403.852 and as otherwise defined in the federal

169 Safe Drinking Water Act, as amended. Such systems may be
 170 publicly owned, privately owned, investor-owned, or
 171 cooperatively held.

172 (f)~~(d)~~ "Small public water system" means a public water
 173 system which regularly serves fewer than 10,000 people.

174 (3) The department is authorized to make or request the
 175 corporation to make loans, grants, and deposits to community
 176 water systems, nonprofit transient noncommunity water systems,
 177 and nonprofit nontransient noncommunity water systems to assist
 178 them in planning, designing, and constructing public water
 179 systems, unless such public water systems are for-profit
 180 privately owned or investor-owned systems that regularly serve
 181 1,500 service connections or more within a single certified or
 182 franchised area. However, a for-profit privately owned or
 183 investor-owned public water system that regularly serves 1,500
 184 service connections or more within a single certified or
 185 franchised area may qualify for a loan only if the proposed
 186 project will result in the consolidation of two or more public
 187 water systems. The department is authorized to provide loan
 188 guarantees, to purchase loan insurance, and to refinance local
 189 debt through the issue of new loans for projects approved by the
 190 department. Public water systems are authorized to borrow funds
 191 made available pursuant to this section and may pledge any
 192 revenues or other adequate security available to them to repay
 193 any funds borrowed. The department shall administer all programs
 194 operated from funds secured through the activities of the
 195 corporation under s. 403.1837 to carry out the purposes of this
 196 section. The department shall administer loans so that amounts

197 credited to the Drinking Water Revolving Loan Trust Fund in any
 198 fiscal year are reserved for the following purposes:

199 (a) At least 15 percent to qualifying small public water
 200 systems.

201 (b) Up to 15 percent to qualifying financially
 202 disadvantaged communities.

203 (c) However, if an insufficient number of the projects for
 204 which funds are reserved under this subsection ~~paragraph~~ have
 205 been submitted to the department at the time the funding
 206 priority list authorized under this section is adopted, the
 207 reservation of these funds shall no longer apply. The department
 208 may award the unreserved funds as otherwise provided in this
 209 section.

210 (9) The department may adopt rules regarding the
 211 procedural and contractual relationship between the department
 212 and the corporation under s. 403.1837 and ~~is authorized to make~~
 213 rules necessary to carry out the purposes of this section and
 214 the federal Safe Drinking Water Act, as amended. Such rules
 215 shall:

216 (a) Set forth a priority system for loans based on public
 217 health considerations, compliance with state and federal
 218 requirements relating to public drinking water systems, and
 219 affordability. The priority system shall give special
 220 consideration to the following:

221 1. Projects that provide for the development of
 222 alternative drinking water supply projects and management
 223 techniques in areas where existing source waters are limited or
 224 threatened by saltwater intrusion, excessive drawdowns,

225 | contamination, or other problems;

226 | 2. Projects that provide for a dependable, sustainable
227 | supply of drinking water and that are not otherwise financially
228 | feasible; and

229 | 3. Projects that contribute to the sustainability of
230 | regional water sources.

231 | (b) Establish the requirements for the award and repayment
232 | of financial assistance.

233 | (c) Require evidence of credit worthiness and adequate
234 | security, including identification of revenues to be pledged and
235 | documentation of their sufficiency for loan repayment and
236 | pledged revenue coverage, to ensure that each loan recipient can
237 | meet its loan repayment requirements.

238 | (d) Require each project receiving financial assistance to
239 | be cost-effective, environmentally sound, implementable, and
240 | self-supporting.

241 | (e) Implement other provisions of the federal Safe
242 | Drinking Water Act, as amended.

243 | (14) ~~All moneys available for financial assistance under~~
244 | ~~this section shall be deposited in~~ The Drinking Water Revolving
245 | Loan Trust Fund established under s. 403.8533 shall be used
246 | exclusively to carry out the purposes of this section. Any funds
247 | therein which are not needed on an immediate basis for financial
248 | assistance shall be invested pursuant to s. 215.49. State
249 | revolving fund capitalization grants awarded by the Federal
250 | Government, state matching funds, and investment earnings
251 | thereon shall be deposited into the fund. The principal and
252 | interest of all loans repaid and investment earnings thereon

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253 shall be deposited into the fund.

254 Section 3. Section 403.8533, Florida Statutes, is amended
255 to read:

256 403.8533 Drinking Water Revolving Loan Trust Fund.—

257 (1) There is created the Drinking Water Revolving Loan
258 Trust Fund to be administered by the Department of Environmental
259 Protection for the purposes of:

260 (a) Funding for low-interest loans for planning,
261 engineering design, and construction of public drinking water
262 systems and improvements to such systems;

263 (b) Funding for compliance activities, operator
264 certification programs, and source water protection programs;
265 ~~and~~

266 (c) Funding for administering loans by the department; and

267 (d) Payment of amounts payable under any service contract
268 entered into by the department under s. 403.1837, subject to
269 annual appropriation by the Legislature.

270 (2) The trust fund shall be used for the deposit of all
271 moneys awarded by the Federal Government to fund revolving loan
272 programs. All moneys in the fund that are not needed on an
273 immediate basis for loans shall be invested pursuant to s.
274 215.49. The principal and interest of all loans repaid and
275 investment earnings shall be deposited into this fund.

276 (3) Pursuant to s. 19(f)(3), Art. III of the State
277 Constitution, the Drinking Water Revolving Loan Trust Fund is
278 exempt from the termination provisions of s. 19(f)(2), Art. III
279 of the State Constitution.

280 Section 4. Paragraph (o) of subsection (3) of section
 281 11.45, Florida Statutes, is amended to read:

282 11.45 Definitions; duties; authorities; reports; rules.—

283 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The
 284 Auditor General may, pursuant to his or her own authority, or at
 285 the direction of the Legislative Auditing Committee, conduct
 286 audits or other engagements as determined appropriate by the
 287 Auditor General of:

288 (o) The Florida Water Pollution Control and Drinking Water
 289 Financing Corporation created pursuant to s. 403.1837.

290 Section 5. Paragraphs (b) and (c) of subsection (2) and
 291 subsections (3) and (10) of section 403.1835, Florida Statutes,
 292 are amended to read:

293 403.1835 Water pollution control financial assistance.—

294 (2) For the purposes of this section, the term:

295 (b) "Bonds" means bonds, certificates, or other
 296 obligations of indebtedness issued by the Florida Water
 297 Pollution Control and Drinking Water Financing Corporation under
 298 this section and s. 403.1837.

299 (c) "Corporation" means the Florida Water Pollution
 300 Control and Drinking Water Financing Corporation.

301 (3) The department may provide financial assistance
 302 through any program authorized under s. 603 of the Federal Water
 303 Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as
 304 amended, including, but not limited to, making grants and loans,
 305 providing loan guarantees, purchasing loan insurance or other
 306 credit enhancements, and buying or refinancing local debt. This
 307 financial assistance must be administered in accordance with

308 | this section and applicable federal authorities. The department
 309 | shall administer all programs operated from funds secured
 310 | through the activities of the Florida Water Pollution Control
 311 | and Drinking Water Financing Corporation under s. 403.1837, to
 312 | fulfill the purposes of this section.

313 | (a) The department may make or request the corporation to
 314 | make loans to local government agencies, which agencies may
 315 | pledge any revenue available to them to repay any funds
 316 | borrowed.

317 | (b) The department may make or request the corporation to
 318 | make loans, grants, and deposits to other entities eligible to
 319 | participate in the financial assistance programs authorized
 320 | under the Federal Water Pollution Control Act, or as a result of
 321 | other federal action, which entities may pledge any revenue
 322 | available to them to repay any funds borrowed. Notwithstanding
 323 | s. 17.57, the department may make deposits to financial
 324 | institutions which earn less than the prevailing rate for United
 325 | States Treasury securities with corresponding maturities for the
 326 | purpose of enabling such financial institutions to make below-
 327 | market interest rate loans to entities qualified to receive
 328 | loans under this section and the rules of the department.

329 | (c) The department shall administer financial assistance
 330 | so that at least 15 percent of the funding made available each
 331 | year under this section is reserved for use by small communities
 332 | during the year it is reserved.

333 | (d) The department may make grants to financially
 334 | disadvantaged small communities, as defined in s. 403.1838,
 335 | using funds made available from grant allocations on loans

336 | authorized under subsection (4). The grants must be administered
 337 | in accordance with s. 403.1838.

338 | (10) The department may adopt rules regarding program
 339 | administration; project eligibilities and priorities, including
 340 | the development and management of project priority lists;
 341 | financial assistance application requirements associated with
 342 | planning, design, construction, and implementation activities,
 343 | including environmental and engineering requirements; financial
 344 | assistance agreement conditions; disbursement and repayment
 345 | provisions; auditing provisions; program exceptions; the
 346 | procedural and contractual relationship between the department
 347 | and the Florida Water Pollution Control and Drinking Water
 348 | Financing Corporation under s. 403.1837; and other provisions
 349 | consistent with the purposes of this section.

350 | Section 6. This act shall take effect upon becoming a law.