

IC 14-25-11

Chapter 11. Rural Community Water Supply Systems

IC 14-25-11-1

"Commission" defined

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-2

"Eligible entity" defined

Sec. 2. As used in this chapter, "eligible entity" means a city, town, conservancy district, special taxing district, or special assessment district that meets the following conditions:

- (1) Has authority to own, construct, enlarge, maintain, or operate any type of water system.
- (2) Has a population at the time of the submission of an application of not more than one thousand two hundred fifty (1,250) according to:
 - (A) the most recent federal census; or
 - (B) if that census figure is not available, a census approved by the state board of finance.

A hospital, a school, a church, a factory, a commercial establishment, or an institution of any kind served or to be served by a water supply system is not considered to have a population equivalent for the purpose of determining the entity's eligibility.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-3

"Legislative body" defined

Sec. 3. As used in this chapter, "legislative body" means the following:

- (1) The common council of a city.
- (2) The town council of a town.
- (3) The board created by statute to administer the affairs of any of the following:
 - (A) A conservancy district.
 - (B) A special taxing district.
 - (C) A special assessment district.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-4

Money borrowed from flood control revolving fund

Sec. 4. The legislative body of an eligible entity may borrow from the flood control revolving fund created by IC 14-28-5 up to one hundred fifty thousand dollars (\$150,000) for the construction, modernization, enlargement, or alteration of a water supply system or a part of the system. Money borrowed may be used, among other purposes, to purchase, construct, enlarge, or modernize reservoirs,

wells, mains, meters, storage tanks, pumps, filtering beds, chemical treatment facilities, and anything necessary to collect, store, and deliver adequately treated water to the property line of the user. A loan for an entity for these purposes is in addition to any other loan from the flood control revolving fund for purposes other than water supply.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-5

Uses of loans

Sec. 5. A loan may be used to pay the following:

- (1) Engineering, legal, and administrative costs incidental to the application for the loan and the program for construction for which the money is borrowed.
- (2) Necessary construction and purchases.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-6

Loan applications

Sec. 6. (a) The legislative body of an eligible entity that desires a loan must do the following:

- (1) First pass an ordinance or a resolution to that effect.
- (2) Prepare and submit an application to the department.

(b) An application must state the following:

- (1) The amount of the loan desired.
- (2) A statement of the need for the water supply system.
- (3) A statement of the program for which the money will be used, supported by a preliminary engineering report that includes cost studies.
- (4) Written statements that the eligible entity is unable to borrow the amount of the loan from the commercial money market by the sale of revenue or other bonds that the eligible entity may sell. The statements must be signed by at least two (2) individuals separately engaged in the business of buying and selling municipal bonds.
- (5) A program for the repayment of the loan.
- (6) Any other information that the department requests.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-7

Duties of state department of health regarding loan applications

Sec. 7. (a) Upon receipt of an application, the department shall refer the application to the state department of health.

(b) The state department of health shall do the following:

- (1) Investigate the application.
- (2) Make a report to the department concerning the following:
 - (A) The need for a loan.
 - (B) The acceptability of the works of improvement for which the loan is proposed to be used.

(c) Upon receipt of the report from the state department of health,

the department shall do the following:

- (1) Examine the application to determine if the proposed works of improvement fit into a comprehensive program for the development of the water resources of Indiana.
- (2) Prepare a report upon the application.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-8

Duties of commission regarding loan applications

Sec. 8. (a) The legislative body of an eligible entity desiring a loan shall also submit the application to the commission for authorization to borrow the money.

(b) The commission:

- (1) shall act upon the application; and
- (2) may request from the state department of health and the department a copy of each department's report on the application.

(c) The commission may:

- (1) approve the application; and
- (2) order approval to borrow money;

before the completion of the reports upon the application by the state department of health and the department.

(d) The fee of the commission is payable out of the loan. However, if the eligible entity does not receive the loan, a fee may not be charged.

(e) The commission shall, after giving notice as provided by IC 8, consider the following in making a determination:

- (1) Whether the application contains an adequate program, within the limits of the maximum loan amounts available, to meet the needs of the eligible entity.
- (2) Whether the cost estimates for the proposed works of improvement are reasonable.
- (3) Whether the program for the repayment of the loan is reasonable with due consideration for operation and maintenance expenses.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-9

Duties of state board of finance regarding loan applications

Sec. 9. (a) The department shall forward the application and the department's report on the application, together with the report of the state department of health, to the state board of finance.

(b) Before acting on the application, the state board of finance shall also request of and receive from the commission the commission's order on the application for authority to borrow money.

(c) The state board of finance shall do the following:

- (1) Consider the economic need of the eligible entity applying for the loan in addition to the following:
 - (A) The reports of the following:
 - (i) The state department of health.

- (ii) The department.
 - (B) The order of the commission.
 - (2) Approve or disapprove the application accordingly.
 - (d) If the state board of finance approves the application, the auditor of state shall promptly make the money available to the eligible entity applying for the loan.
- As added by P.L.1-1995, SEC.18.*

IC 14-25-11-10

Terms, repayment, and refunding of loans

Sec. 10. (a) A loan made under this chapter or under IC 13-3-7 (before its repeal):

- (1) may be made for a period not to exceed twenty (20) years; and
- (2) must bear interest as follows:
 - (A) At the rate of one and one-half percent (1 1/2%) per year for the first eight (8) years.
 - (B) After that, at the rate of five percent (5%) per year until repaid in full.
- (b) An eligible entity receiving a loan under this chapter must agree to the following:
 - (1) Repay the loan in equal annual installments of principal.
 - (2) Pay interest annually on the unpaid balance of the loan.
- (c) The first installment must be paid not later than December 31 of the year following the year in which the loan is made available. However, if:
 - (1) the loan is made available to the eligible entity after the regular budget making time; and
 - (2) there is not a provision in the budget of the entity for the collection of a tax to repay the principal and interest of the loan in the next following year;the first installment of repayment shall be paid not later than December 31 of the second year following the year in which the loan money is made available.
- (d) The borrower may make a repayment of the loan in full or in part at any time without interest penalty.
- (e) A loan, whether payable from revenues, taxes, or both, may be refunded by the eligible entity by the issuance of bonds, notes, or other evidences of indebtedness, secured by a pledge of revenues or in another manner under other statutes.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-11

Levy of special annual tax to repay loan

Sec. 11. (a) The legislative body of an eligible entity receiving a loan under this chapter or IC 13-3-7 (before its repeal) may levy a special annual tax on all taxable property located within the geographic boundaries of the entity. The tax:

- (1) is in addition to any other tax authorized by statute; and
- (2) must be levied at rates that will produce sufficient revenue

to pay the annual installment of principal and interest.
The tax at the rate authorized may be in addition to the maximum annual rates prescribed by law.

(b) The proceeds of the special tax shall be kept and maintained in a separate and special fund for the payment of principal and interest only.

(c) Other statutes providing for petitions, notices, and remonstrances before incurring debt do not apply to the following:

(1) The loan.

(2) The tax rate necessary to make payments.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-12

Approval of operation and maintenance plans

Sec. 12. When final plans have been prepared after the receipt of the loan, the state department of health must approve the plans and the provisions for operation and maintenance before loan money may be expended for construction or purchase. This section, however, does not delay the payment of the following:

(1) The fee to the commission.

(2) Engineering, legal, or administrative costs due and payable.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-13

Repayment of loan from charges to users

Sec. 13. If the legislative body of an eligible entity proposes to repay the loan in whole or in part from revenues received from a charge to users for services provided, the legislative body shall levy for at least the first year the special tax provided in section 11 of this chapter in an amount that, together with revenues to be received, will be sufficient to assure the repayment of the first installment of principal and interest on the remaining balance.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-14

Revenues from water supply system sufficient to repay loan

Sec. 14. (a) If the receipt of revenue from the water supply system is sufficient to pay the interest due and the annual installment of repayment of the loan, the legislative body of the entity shall do the following:

(1) Pay those amounts from revenue received.

(2) Hold the proceeds from the special tax levy in a special fund that may not be used for any other purpose.

(b) The legislative body of the entity may invest the money in the special fund in obligations having maturities not exceeding one (1) year in accordance with IC 5-13-9.

(c) When the loan has been repaid in full to the state, the legislative body of the entity shall transfer the amount in the special fund to the general fund.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-15

Revenues from water supply system insufficient to repay loan

Sec. 15. If the receipt of revenue from the water supply system is insufficient in any year to pay the interest due and the annual installment of repayment of the loan, the legislative body of the entity shall do the following:

- (1) Pay the amounts from the special fund.
- (2) At the next budget making time levy the special tax in a sufficient amount to provide in the special fund sufficient money to pay the next installment of principal due and the interest on the remaining balance.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-16

Effect of loans from other sources

Sec. 16. The legislative body of an eligible entity may borrow money as provided in this chapter before, simultaneously with, or after borrowing money from other sources for the purposes authorized in this chapter. The legislative body of the entity may continue to levy the special tax provided in section 11 of this chapter for the payment of principal and interest on the loan authorized by this chapter or IC 13-3-7 (before its repeal) irrespective of whether the principal and interest on the loans from other sources are to be paid by revenues, tax proceeds, or other methods.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-17

Order of repayment of loans; impairment of duty to levy tax

Sec. 17. (a) If:

- (1) the principal and interest on the loans from other sources are to be paid from revenues; and
- (2) the legislative body of the eligible entity also proposes to pay the principal and interest on the loan authorized by this chapter or IC 13-3-7 (before its repeal) from revenues;

the obligation of the legislative body of the entity to repay the principal and interest of the loan from revenues is subordinate to the other loans from other sources.

(b) The legislative body of the entity proposing to pay the loan from revenues may not make any covenants in connection with loans from other sources that would impair the duty of the legislative body to:

- (1) levy for at least the first year the special tax provided in section 11 of this chapter; or
- (2) levy the special tax in any year thereafter when the receipt of revenues from the water supply system is insufficient to pay the next installment of principal due and the interest on the remaining balance of the loan after deducting from the revenue the following:

- (A) The full amount to pay the next installment of principal due.

(B) The interest on the remaining balance of the loans from other sources that are to be paid by revenues.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-18

Loan in excess of constitutional limits not to be repaid with tax revenues

Sec. 18. This chapter does not authorize a loan to be repaid from tax collections in an amount that exceeds any constitutional limitations. If the amount borrowed exceeds those limitations, the excess amount is payable only from revenues to be derived from charges to users for services provided.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-19

Recovery of amounts owed to flood control revolving fund

Sec. 19. (a) This section applies if an eligible entity:

- (1) fails to make any payments to the flood control revolving fund or any other payments required by this chapter; or
- (2) is in any way indebted to the fund for any amounts incurred or accrued.

(b) As used in this section, "fund" refers to the flood control revolving fund.

(c) The state may recover the amounts the eligible entity owes to the fund by either of the following methods:

- (1) The state may institute an appropriate action in the circuit or superior court with jurisdiction in the county in which the eligible entity is located on the instigation of the state board of finance and the department. The attorney general shall prosecute the action.
- (2) The auditor of state may withhold the payment and distribution of any state money that the defaulting eligible entity is entitled to receive under any statute.

As added by P.L.1-1995, SEC.18.

IC 14-25-11-20

Effect on loan of sale of water supply system

Sec. 20. (a) This section applies if the water supply system constructed, modernized, enlarged, or altered from a loan provided under this chapter is sold to another eligible entity regardless of whether the entity may borrow money under this chapter.

(b) The purchasing entity shall either:

- (1) repay the loan provided under this chapter in full; or
- (2) agree with the state board of finance to assume all the obligations for repayment of the loan of the selling entity.

(c) Upon acceptance of this agreement by the purchasing entity, the state board of finance shall release the selling entity from further liability in connection with the loan.

(d) If the water supply system constructed, modernized, enlarged, or altered from a loan provided under this chapter is sold to a water

supply utility without taxing power, the loan shall be repaid in full before the consummation of the sale.

As added by P.L.1-1995, SEC.18.