

HB 7207

2010

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. 403.1835, F.S.; conforming terminology;
10 deleting a requirement for the Department of Environmental
11 Protection to administer programs funded by the
12 corporation; amending s. 403.8532, F.S.; defining the
13 terms "bonds" and "corporation"; authorizing the
14 department to make or request the corporation to make
15 loans, grants, and deposits for planning, designing, and
16 constructing specified public water systems; authorizing
17 the department to adopt rules regarding the procedural and
18 contractual relationship between the department and the
19 corporation; clarifying requirements for rules relating to
20 loan security criteria; clarifying the purpose of the
21 Drinking Water Revolving Loan Trust Fund; amending s.
22 403.8533, F.S.; providing that specified use of funds from
23 the trust fund is subject to annual appropriation;
24 providing that the trust fund is exempt from specified
25 termination provisions; amending s. 11.45, F.S.;
26 conforming terminology; providing an effective date.

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

HB 7207

2010

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

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

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

HB 7207

2010

57 | agreements provided through funds raised by the corporation. The
58 | corporation shall terminate upon fulfillment of the purposes of
59 | this section.

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

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

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

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

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

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

HB 7207

2010

85 | 403.1835 and 403.8532. The department may enter into one or more
86 | service contracts with the corporation and provide for payments
87 | under those contracts pursuant to ss. ~~s.~~ 403.1835(9) and
88 | 403.8533, subject to annual appropriation by the Legislature.
89 | The service contracts may provide for the transfer of all or a
90 | portion of the funds in the Wastewater Treatment and Stormwater
91 | Management Revolving Loan Trust Fund and the Drinking Water
92 | Revolving Loan Trust Fund to the corporation for use by the
93 | corporation for costs incurred by the corporation in its
94 | operations, including, but not limited to, payment of debt
95 | service, reserves, or other costs in relation to bonds issued by
96 | the corporation, for use by the corporation at the request of
97 | the department to directly provide the types of local financial
98 | assistance provided for in ss. ~~s.~~ 403.1835(3) and 403.8532(3),
99 | or for payment of the administrative costs of the corporation.
100 | The department may not transfer funds under any service contract
101 | with the corporation without specific appropriation for such
102 | purpose in the General Appropriations Act, except for
103 | administrative expenses incurred by the State Board of
104 | Administration or other expenses necessary under documents
105 | authorizing or securing previously issued bonds of the
106 | corporation. The service contracts may also provide for the
107 | assignment or transfer to the corporation of any loans made by
108 | the department. The service contracts may establish the
109 | operating relationship between the department and the
110 | corporation and shall require the department to request the
111 | corporation to issue bonds before any issuance of bonds by the
112 | corporation, to take any actions necessary to enforce the

HB 7207

2010

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

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

141 chapter 220 on the interest, income, or profits on debt
 142 obligations owned by corporations.

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

146 Section 2. Paragraphs (b) and (c) of subsection (2) and
 147 subsections (3) and (10) of section 403.1835, Florida Statutes,
 148 are amended to read:

149 403.1835 Water pollution control financial assistance.—

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

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

155 (c) "Corporation" means the Florida Water Pollution
 156 Control and Drinking Water Financing Corporation.

157 (3) The department may provide financial assistance
 158 through any program authorized under s. 603 of the Federal Water
 159 Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as
 160 amended, including, but not limited to, making grants and loans,
 161 providing loan guarantees, purchasing loan insurance or other
 162 credit enhancements, and buying or refinancing local debt. This
 163 financial assistance must be administered in accordance with
 164 this section and applicable federal authorities. ~~The department~~
 165 ~~shall administer all programs operated from funds secured~~
 166 ~~through the activities of the Florida Water Pollution Control~~
 167 ~~Financing Corporation under s. 403.1837, to fulfill the purposes~~
 168 ~~of this section.~~

HB 7207

2010

169 (a) The department may make or request the corporation to
170 make loans to local government agencies, which agencies may
171 pledge any revenue available to them to repay any funds
172 borrowed.

173 (b) The department may make or request the corporation to
174 make loans, grants, and deposits to other entities eligible to
175 participate in the financial assistance programs authorized
176 under the Federal Water Pollution Control Act, or as a result of
177 other federal action, which entities may pledge any revenue
178 available to them to repay any funds borrowed. Notwithstanding
179 s. 17.57, the department may make deposits to financial
180 institutions which earn less than the prevailing rate for United
181 States Treasury securities with corresponding maturities for the
182 purpose of enabling such financial institutions to make below-
183 market interest rate loans to entities qualified to receive
184 loans under this section and the rules of the department.

185 (c) The department shall administer financial assistance
186 so that at least 15 percent of the funding made available each
187 year under this section is reserved for use by small communities
188 during the year it is reserved.

189 (d) The department may make grants to financially
190 disadvantaged small communities, as defined in s. 403.1838,
191 using funds made available from grant allocations on loans
192 authorized under subsection (4). The grants must be administered
193 in accordance with s. 403.1838.

194 (10) The department may adopt rules regarding program
195 administration; project eligibilities and priorities, including
196 the development and management of project priority lists;

HB 7207

2010

197 financial assistance application requirements associated with
 198 planning, design, construction, and implementation activities,
 199 including environmental and engineering requirements; financial
 200 assistance agreement conditions; disbursement and repayment
 201 provisions; auditing provisions; program exceptions; the
 202 procedural and contractual relationship between the department
 203 and the Florida Water Pollution Control and Drinking Water
 204 Financing Corporation under s. 403.1837; and other provisions
 205 consistent with the purposes of this section.

206 Section 3. Subsections (2), (3), (9), and (14) of section
 207 403.8532, Florida Statutes, are amended to read:

208 403.8532 Drinking water state revolving loan fund; use;
 209 rules.—

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

211 (a) "Bonds" means bonds, certificates, or other
 212 obligations of indebtedness issued by the Florida Water
 213 Pollution Control and Drinking Water Financing Corporation under
 214 this section and s. 403.1837.

215 (b) "Corporation" means the Florida Water Pollution
 216 Control and Drinking Water Financing Corporation.

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

221 (d) ~~(b)~~ "Local governmental agency" means any municipality,
 222 county, district, or authority, or any agency thereof, or a
 223 combination of two or more of the foregoing acting jointly in
 224 connection with a project, having jurisdiction over a public

225 water system.

226 (e)~~(e)~~ "Public water system" means all facilities,
 227 including land, necessary for the treatment and distribution of
 228 water for human consumption and includes public water systems as
 229 defined in s. 403.852 and as otherwise defined in the federal
 230 Safe Drinking Water Act, as amended. Such systems may be
 231 publicly owned, privately owned, investor-owned, or
 232 cooperatively held.

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

235 (3) The department is authorized to make or request the
 236 corporation to make loans, grants, and deposits to community
 237 water systems, nonprofit transient noncommunity water systems,
 238 and nonprofit nontransient noncommunity water systems to assist
 239 them in planning, designing, and constructing public water
 240 systems, unless such public water systems are for-profit
 241 privately owned or investor-owned systems that regularly serve
 242 1,500 service connections or more within a single certified or
 243 franchised area. However, a for-profit privately owned or
 244 investor-owned public water system that regularly serves 1,500
 245 service connections or more within a single certified or
 246 franchised area may qualify for a loan only if the proposed
 247 project will result in the consolidation of two or more public
 248 water systems. The department is authorized to provide loan
 249 guarantees, to purchase loan insurance, and to refinance local
 250 debt through the issue of new loans for projects approved by the
 251 department. Public water systems are authorized to borrow funds
 252 made available pursuant to this section and may pledge any

253 revenues or other adequate security available to them to repay
 254 any funds borrowed. The department shall administer loans so
 255 that amounts credited to the Drinking Water Revolving Loan Trust
 256 Fund in any fiscal year are reserved for the following purposes:

257 (a) At least 15 percent to qualifying small public water
 258 systems.

259 (b) Up to 15 percent to qualifying financially
 260 disadvantaged communities.

261 (c) However, if an insufficient number of the projects for
 262 which funds are reserved under this subsection ~~paragraph~~ have
 263 been submitted to the department at the time the funding
 264 priority list authorized under this section is adopted, the
 265 reservation of these funds shall no longer apply. The department
 266 may award the unreserved funds as otherwise provided in this
 267 section.

268 (9) The department may adopt rules regarding the
 269 procedural and contractual relationship between the department
 270 and the corporation under s. 403.1837 and ~~is authorized to make~~
 271 rules necessary to carry out the purposes of this section and
 272 the federal Safe Drinking Water Act, as amended. Such rules
 273 shall:

274 (a) Set forth a priority system for loans based on public
 275 health considerations, compliance with state and federal
 276 requirements relating to public drinking water systems, and
 277 affordability. The priority system shall give special
 278 consideration to the following:

279 1. Projects that provide for the development of
 280 alternative drinking water supply projects and management

HB 7207

2010

281 techniques in areas where existing source waters are limited or
282 threatened by saltwater intrusion, excessive drawdowns,
283 contamination, or other problems;

284 2. Projects that provide for a dependable, sustainable
285 supply of drinking water and that are not otherwise financially
286 feasible; and

287 3. Projects that contribute to the sustainability of
288 regional water sources.

289 (b) Establish the requirements for the award and repayment
290 of financial assistance.

291 (c) Require evidence of credit worthiness and adequate
292 security, including identification of revenues to be pledged and
293 documentation of their sufficiency for loan repayment and
294 pledged revenue coverage, to ensure that each loan recipient can
295 meet its loan repayment requirements.

296 (d) Require each project receiving financial assistance to
297 be cost-effective, environmentally sound, implementable, and
298 self-supporting.

299 (e) Implement other provisions of the federal Safe
300 Drinking Water Act, as amended.

301 (14) ~~All moneys available for financial assistance under~~
302 ~~this section shall be deposited in~~ The Drinking Water Revolving
303 Loan Trust Fund established under s. 403.8533 shall be used
304 exclusively to carry out the purposes of this section. Any funds
305 therein which are not needed on an immediate basis for financial
306 assistance shall be invested pursuant to s. 215.49. State
307 revolving fund capitalization grants awarded by the Federal
308 Government, state matching funds, and investment earnings

HB 7207

2010

309 thereon shall be deposited into the fund. The principal and
 310 interest of all loans repaid and investment earnings thereon
 311 shall be deposited into the fund.

312 Section 4. Section 403.8533, Florida Statutes, is amended
 313 to read:

314 403.8533 Drinking Water Revolving Loan Trust Fund.—

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

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

321 (b) Funding for compliance activities, operator
 322 certification programs, and source water protection programs;
 323 ~~and~~

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

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

328 (2) The trust fund shall be used for the deposit of all
 329 moneys awarded by the Federal Government to fund revolving loan
 330 programs. All moneys in the fund that are not needed on an
 331 immediate basis for loans shall be invested pursuant to s.
 332 215.49. The principal and interest of all loans repaid and
 333 investment earnings shall be deposited into this fund.

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

HB 7207

2010

337 | of the State Constitution.

338 | Section 5. Paragraph (o) of subsection (3) of section
339 | 11.45, Florida Statutes, is amended to read:

340 | 11.45 Definitions; duties; authorities; reports; rules.—

341 | (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The
342 | Auditor General may, pursuant to his or her own authority, or at
343 | the direction of the Legislative Auditing Committee, conduct
344 | audits or other engagements as determined appropriate by the
345 | Auditor General of:

346 | (o) The Florida Water Pollution Control and Drinking Water
347 | Financing Corporation created pursuant to s. 403.1837.

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