

STATE ALTERNATIVE FINANCING PROGRAMS  
FOR WASTEWATER TREATMENT

Transition Towards Greater  
Self-sufficiency in the 1980's

2nd Edition

Environmental Protection Agency  
Office of Municipal Pollution Control  
Policy and Analysis Division  
Policy and Analysis Branch

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## INTRODUCTION

This report describes alternative financing programs in eighteen States. These programs finance the construction of wastewater treatment facilities, as well as many other infrastructure needs.

There are a variety of innovative approaches being taken to establish these State-sponsored financial intermediaries. States have created independent water and sewer authorities, and established State loan and bond programs to improve local government access to credit. Each approach is creatively tailored to the particular needs and statutes of the State.

The map (page 3) and the status sheet (page 4) highlight the intensity of recent activity in the States to evaluate and establish alternative financing programs. By the end of 1985, twelve States had operational revolving loan programs and eleven more had operational loan or bond bank programs. Ten States have the revolving loan concept under study, and in 1986, as many as twelve more States may propose legislation to create bond banks and revolving loan programs.

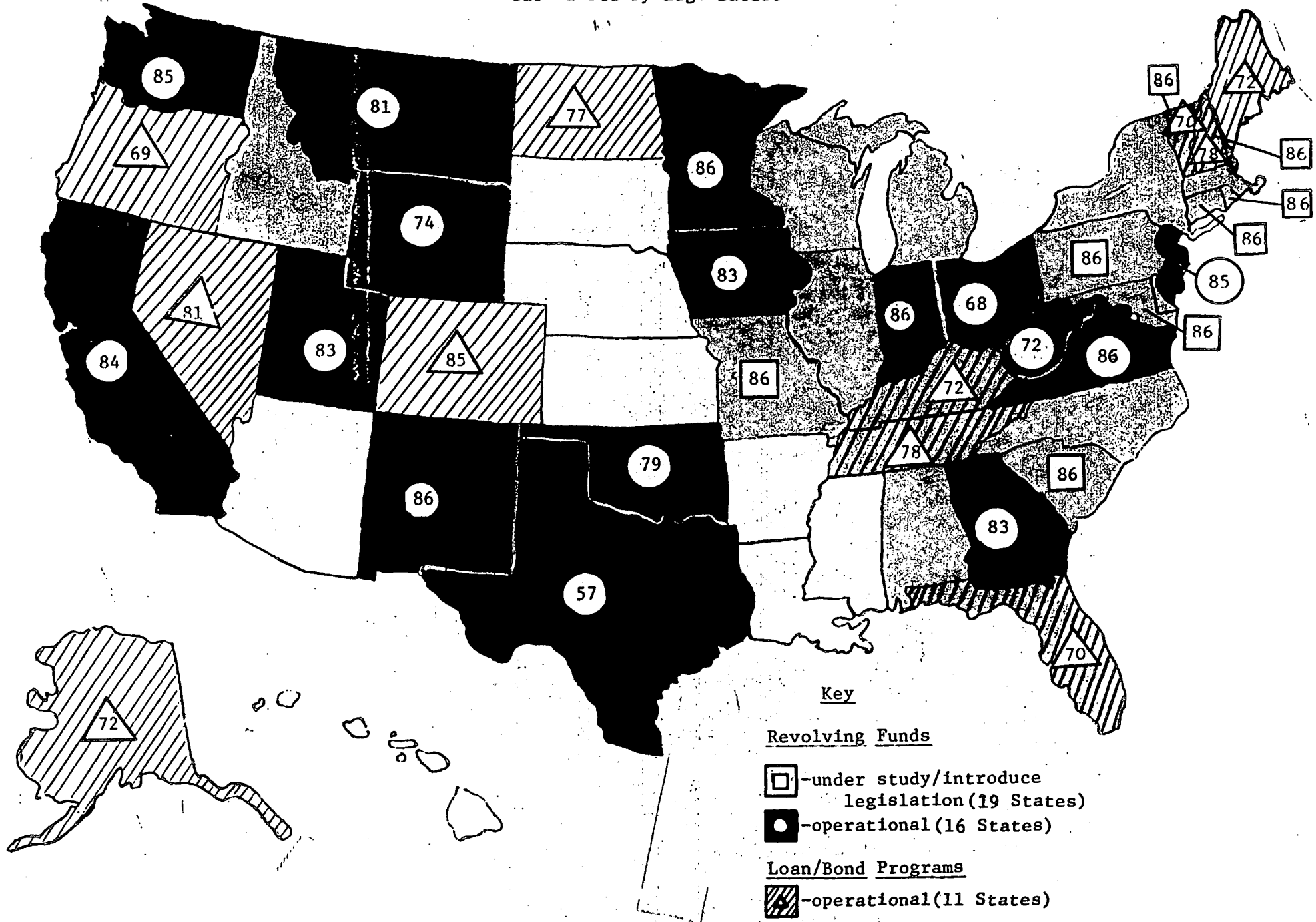
The matrix (page 5) summarizes and compares the principal characteristics of fifteen State programs. Some significant programmatic similarities and differences observed include:

- o The financial and technical operations were typically conducted in separate State organizations, although there was a well-developed working relationship between the organizations (particularly in the older, more experienced programs).
- o Program capitalization varies from State to State. Legislative appropriations are commonly used to initiate programs, and to subsidize a lower interest rate on loans. Bonding authority is often extended to these programs to allow capitalization through the issuance of general obligation and/or revenue bonds. Several types of taxes, including dedicated sewer and water, excise, and mineral severance taxes are also used.
- o Several of the programs are designed to be self-sustaining, whereas others receive periodic infusions of capital from legislative appropriations, new borrowing authority, or taxes.
- o The eligibility requirements for assistance range from programs that only serve communities with poor credit ratings, to programs that serve any community on a first-come, first-served basis.
- o Most programs have considerable flexibility in how they package their financial assistance. Some programs evaluate financial need and provide grants or subsidized loans for hardship cases.
- o Most revolving loan and bond/loan programs emphasize preventative procedures to anticipate potential loan repayment difficulties, and thus avoid loan defaults.

ALTERNATIVE STATE ASSISTANCE PROGRAMS  
FOR FUNDING WASTEWATER TREATMENT FACILITIES

7-1-86

Year Passed by Legislature



Current Status of States with  
Regard to Alternative Financing Programs

<u>State</u>	<u>Type of Program (Year started)</u>
Alabama	Under study--State Revolving Fund (SRF)
Alaska	Bond Bank (1972)
Arizona	
Arkansas	
California	SRF (1984)
Colorado	Loan program (1985)
Connecticut	SRF (1986)
Delaware	Under study--SRF
Florida	Loan/Bond program (1970)/Under study--SRF
Georgia	SRF (1983)
Hawaii	
Idaho	Under study--SRF
Illinois	Under study--SRF
Indiana	SRF (1986)
Iowa	Under Study -- SRF
Kansas	
Kentucky	Loan Authority (1972)/Propose SRF leg. (1986)
Louisiana	
Maine	Bond Bank (1972)
Maryland	Propose SRF legislation (1986)
Massachusetts	Reintroduce Bond Bank legislation (1986)
Michigan	Bond Bank (1986)
Minnesota	SRF (1986)
Mississippi	Propose Bond Bank legislation (1986)
Missouri	Propose SRF legislation (1986)
Montana	SRF (1981)
Nebraska	Under Study -- SRF
Nevada	Bond Bank (1981)
New Hampshire	Bond Bank (1978)/Propose SRF leg. (1986)
New Jersey	SRF (1985)
New Mexico	SRF (1986)
New York	Under study--SRF
North Carolina	Under study--SRF
North Dakota	Bond Bank (1977)
Ohio	SRF (1968)
Oklahoma	SRF (1979)
Oregon	Bond Bank (1969)
Pennsylvania	Propose SRF legislation (1986)
Rhode Island	Propose SRF legislation (1986)
South Carolina	Propose SRF legislation (1986)
South Dakota	
Tennessee	Loan Authority (1978)/Under study--SRF
Texas	SRF (1957)
Utah	SRF (1983)
Vermont	Bond Bank (1970)/Propose SRF leg. (1986)
Virginia	SRF (1986)
Washington	SRF (1985)
West Virginia	SRF (1972)
Wisconsin	Under study--SRF
Wyoming	SRF (1974)

## COMPARATIVE MATRIX OF STATE REVOLVING LOAN FUNDS AND BOND/LOAN PROGRAMS

STATE	PROGRAM STRUCTURE	STATUS	STAFF SIZE & ANNUAL BUDGET	FORMS OF ASSISTANCE	CAPITALIZATION	ELIGIBILITY	DEFAULT/ ACTION
CALIFORNIA (Clean Water Bond Law)	Clean Water Bond Fund for waste-water treatment, small communities, water reclamation, & water conservation.	Established 1984	- 120 persons. - Budget not to exceed 5% of fund balance.	Loans and grants. Interest rate offered is one-half of the bond issue interest rate.	Authorized to issue \$325 million in G.O. debt.	Treatment facilities must be needed as required by the Federal CWA, and priority established.	No experience yet.
COLORADO (Impact Assistance Program)	Provides financing to local govts. for any purpose, including waste-water and water supply.	Established 1982	- 6 persons (part-time basis). - Budget data not available.	Since 1982, grants available for any purpose. Loans are available (since 1985) for wastewater and water supply proj.	Capitalized with proceeds from the mineral severance tax. Annual amount is approximately \$14 million.	Projects are prioritized based on the improvement needs of the participating communities.	No experience yet. No loans given to date.
FLORIDA (Bond Loan Program)	Finances the construction of water supply, air & water pollution control, and solid waste disposal facilities.	Established 1970	- 1.5 persons - Budget is entirely from fee paid by local agencies receiving assistance.	Loans and grants. Interest rates on loans must be at the same rate as the bonds issued. A separate grant program (55%) was initiated in 1985.	Capitalization is solely from the proceeds of State-issued pollution control G.O. bonds. The bonding authority is \$200 million/year.	Projects are financed on a first-come, first-served basis.	No defaults. State may take legal action to enforce loan agreement.
GEORGIA (Development Authority)	Provides loans for construction and expansion of water & sewer facilities.	Created under a 1937 agricultural development authority. Anticipates creation of separate authority in January 1986.	- 5 persons - Budget is approximately \$380,000; paid from legis. appropriation.	The current interest rate on loans is set at 6.8%. The State also administers grants and economic/environmental grants.	Initial capitalization (1984) was \$20 million legislative approp. Under the new authority, the program will have the capability to issue G.O. bonds.	Financing is provided on a first-come, first-served basis. Communities must show the ability to repay loans & maintain adequate user-fee system.	No experience yet. Authority to intercept other State aid & require revisions of user charge system.
KENTUCKY (Pollution Abatement Authority)	Finances the construction of water and sewer facilities.	Established 1972	- 3 persons (part-time) - Annual admin. costs average approximately \$60,000, which is derived from a charge of 0.1% assessment on unpaid loan bal.	Loans are provided at or near the rate obtained on the Authority's revenue bond issuance.	Capitalization is solely from the issuance of revenue bonds.	Projects are funded on a first-come, first-served basis.	No defaults. Have power to force user-fee restructuring and request that State aid be withheld.

STATE	PROGRAM STRUCTURE	STATUS	STAFF SIZE & ANNUAL BUDGET	FORMS OF ASSISTANCE	CAPITALIZATION	ELIGIBILITY	DEFAULT/ ACTION
MASSACHUSETTS (MASSBANK)	MASSBANK would provide debt financing for water, wastewater, highways, bridges, and tunnels.	Proposed	<ul style="list-style-type: none"> <li>- Anticipate small staff</li> <li>- \$250,000 start-up budget; increasing to \$1.0 million annually.</li> </ul>	Will purchase local community debt obligations with proceeds from revenue bonds.	Start-up appropriation of \$2 million. Subsequent capitalization solely from revenue bond proceeds.	Any governmental unit which has authorized the financing of a local project.	No experience yet. Ability to intercept State aid.
NEW JERSEY (Environmental Infrastructure Trust)	Trust authorized to issue debt for wastewater, resource recovery, secured landfills, and landfill closure.	Established 1985	<ul style="list-style-type: none"> <li>- Anticipate small staff</li> <li>- Budget not to exceed \$250,000.</li> </ul>	Loans at or near the interest rate on the most recent bond issue.	Initial capitalization is \$190 million. Sources include: G.O. bond proceeds and State appropriations.	Facility must be on approved priority list (1972 Act).	No experience yet. Local aid may be intercepted and applied toward payment default.
OHIO (Water Development Authority)	Finances water, wastewater, and solid waste facilities for local govt. agencies.	Established 1968; through 1984, more than \$1.5 billion had been allocated for 369 projects.	<ul style="list-style-type: none"> <li>- 7 persons</li> <li>- \$0.59 million budget capitalized from an admin. fee (0.35%) charged to participating govt. agencies.</li> </ul>	Loans at or near market rates. Interest rates may be subsidized as low as 2% for hardship cases.	Initial capitalization from \$100 million State appropriation. Subsequent capitalization has been solely from revenue bond proceeds.	Any legitimate project costs (up to 100%) may be funded on a first-come, first-served basis.	No defaults. Authority to serve a court-ordered rate increase to prevent default.
OKLAHOMA (Water Resources Board)	Water Resources Fund finances wastewater, water conservation and development projects.	Established 1979	<ul style="list-style-type: none"> <li>- 5 persons</li> <li>- Budget is approximately 1.5% of the program.</li> </ul>	Loans and emergency grants. Interest rate charged is close to the State borrowing costs on the most recent issue.	Initial capitalization was a \$25 million appropriation. Subsequent capitalization solely from revenue bond proceeds.	Financing provided first-come, first-served basis. Local communities must provide financial info. to verify their ability to repay loans.	No defaults. Have the power to require a user-fee increase.
TENNESSEE (Local Development Authority)	Provides financial assistance for the construction of wastewater treatment plants, water projects, and solid waste resource recovery facilities.	Established 1970	<ul style="list-style-type: none"> <li>- 6 persons (some part-time).</li> <li>- Budget is approximately \$60,000, derived from interest earnings.</li> </ul>	Loans and grants. Interest rates are subsidized on loans (up to 100% of costs). Grants (5-35%) are given to communities determined to be less able to pay.	Authorized to issue \$339.4 million in revenue bonds.	All communities are eligible; the project must meet dept. stds. and EPA eligibility criteria.	No defaults. Authority has power to: increase user-fees, withhold State-share taxes, and collect ad valorem tax, in the event of a default.

STATE	PROGRAM STRUCTURE	STATUS	STAFF SIZE & ANNUAL BUDGET	FORMS OF ASSISTANCE	CAPITALIZATION	ELIGIBILITY	DEFAULT/ ACTION
TEXAS	Finances waste-water, water supply, and reservoir projects.	Established 1957	- 6 persons - Budget is over \$1.0 million, funded by legislative appropriation.	Loans at or near the rate on the most recent G.O.	Authorized to issue up to \$980 million in State of Texas G.O. bonds and loan guarantees.	Projects are dealt with on a first-come, first-served basis. Communities must show that they have had difficulty entering the bond market.	Have the power to force a user-charge increase, or appoint a trustee to own and operate the project.
UTAH (Loan and Credi. Enhancement Program)	The program finances waste-water, drinking water, and water projects through the purchase of local bonded debt.	Established 1983	- 3 persons - Budget is 1% of bond proceeds. Anticipated to increase to 2%.	Loans, credit enhancement, and interest rate buy-down. Interest rate on loans has been at or near the rate on the State bond issue.	\$50 million initial capitalization from legislative appropriation.	Projects selected must demonstrate repayment ability cost effectiveness, and health benefits.	No defaults. Empowered to force a user-charge increase.
WASHINGTON (Public Works Trust Fund)	Provides infrastructure financing assistance for streets, bridges, water supply, and storm & sanitary sewage systems.	Established 1985	- Small staff - Budget not determined; will most likely correspond (%) to magnitude of activity.	Low interest loans, as low as 0% for for disaster or hardship cases. Loan guarantees are also available.	Capitalized from dedicated tax revenue (water, sewer, refuse, and conveyance taxes). Expect \$20.5 million per year.	Eligible communities must have tax dedicated to capital purposes, a long-term financing plan, & use all local revenue sources reasonably available.	No experience yet.
WEST VIRGINIA (Water Development Authority)	Finances waste-water and drinking water facility construction.	Established 1975	- 5 persons - Budget is approximately \$250,000; paid from earnings from bond and loan program.	Low-interest (10%) supplemental loans are given by blending 12% interest bond proceeds with 0% appropriated funds. Hardship grants are also offered.	Initial capitalization from State appropriation. Subsequent capitalization from revenue bond proceeds and State appropriations.	Prospective pool of applicants served on a first-come, first-served basis.	No monetary defaults. Have resolved technical defaults.
WYOMING (Farm Loan Program)	Finances municipal development including water supply, wastewater systems, streets, public health facilities, and recreational facilities.	Established 1974-75	- 3 persons - Operational costs paid out of State's general fund.	Loans and grants. Interest rate is currently at 8.5%.	Loan program initially capitalized from \$100 million appropriation. Grant monies from coal and mineral royalties are approximately \$15 and \$18 million respectively. Have authority to issue up to \$60 million in revenue bonds--has never been used.	Applicant must be municipality or district, and demonstrate that all local revenue resources are fully utilized.	One default. Emphasize preventative measures (adequate assurances) to avoid problems.

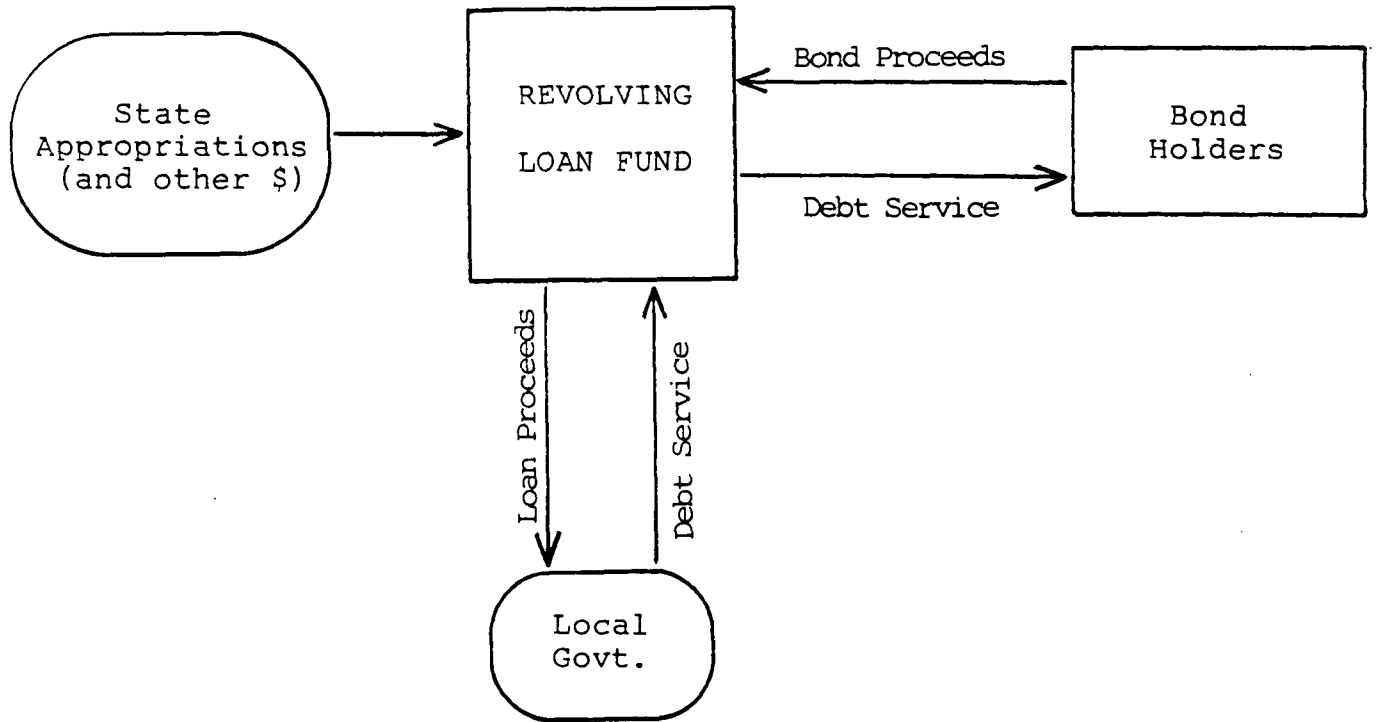
Sources of Funding and the Needs of Each of  
Twelve States With State Revolving Fund Programs\*  
(in millions of dollars)

State	State Appropriation \$	State** Authorization \$	1984 Eligible Needs \$	Future 2000 Unrestricted Needs \$
California	0.0	250--G.O.	4,140	6,674
Georgia	20.0--Initial	0	989	1,652
Montana	0.0	250--Rev. 5--G.O.	61	87
New Jersey	0.0	190--G.O.	4,562	4,934
Ohio	100.0--Initial	0	4,400	5,075
Oklahoma	25.0--Initial	52--Rev.	395	655
Texas	0.0	600--G.O.	2,733	4,770
Utah	22.5--Initial	300--G.O.	377	718
Virginia	0.5--Initial	300--G.O.	1,305	1,670
Washington	20.0--Annual	0	2,888	3,781
West Virginia	8.9--Initial 5.0--Annual	0	1,903	2,084
Wyoming	100.0--Initial 15.0--Annual	60--G.O.	36	66
Subtotals:	276.9--Initial 40.0--Annual	302--Rev. 1,705--G.O.		
TOTALS:	\$ 316.9	\$ 2,007	\$23,789	\$32,166

\*Funds are set up to serve several types of infrastructure needs,  
including wastewater treatment systems.

\*\*Total borrowing authorized since beginning of operation.

STATE REVOLVING LOAN FUND:  
Capitalization and Cash Flow



CALIFORNIA CLEAN WATER BOND LAW  
Summary

The California Clean Water Bond Law of 1984, approved by the voters in November 1984, established the 1984 State Clean Water Bond Fund. The Law authorized the State to create a debt (through the sale of general obligation bonds) in the aggregate amount of \$325,000,000 to capitalize this fund. In the fund are four accounts: the Clean Water Construction Grant Account, the Small Communities Assistance Account, the Water Reclamation Account, and the Water Conservation Account. The Clean Water Construction Grant Account and the Small Communities Assistance Account are the subjects of this outline. The money in these two accounts is used to make grants and loans to municipalities to finance wastewater treatment facilities.

CALIFORNIA CLEAN WATER BOND LAW OF 1984  
Program Annotated Outline

I. Program Description

A. Organization

1. Scope (eligible projects) - wastewater treatment facilities

B. Agencies Involved

1. The Clean Water Finance Committee - consisting of the Governor or his designated representative, the Controller, the Treasurer, the Director of Finance, and the Executive Director of the State Water Resources Control Board - manages the State Clean Water Bond Fund.
2. State Water Resources Control Board - operates the grant/loan program that is funded by the Clean Water Construction Grant Account.

C. Establishment

1. Options initially considered  
Many options were considered.
2. Political and legal considerations  
Voter approval required
3. Statutory and constitutional restrictions  
None discussed
4. Subsequent program modifications  
None, so far
5. Future picture  
In the absence of any new federal program, the State's grant/loan program is expected to operate as described herein.

II. Administration

A. Training Needs

No state staff training needed because have access to people with expertise in other state offices; however, workshops/seminars to explain program to municipalities might be helpful

B. Staff Size/Skill Mix

1. For a State Revolving Loan Program, such as that proposed in H.R. 8, expect sufficient staff size would be approximately one-quarter less than current staff size (current staff = approximately 120)
2. Financial Expertise  
None in-house, but have access to State Finance Dept. staff
3. Accounting Expertise  
Have one accountant on staff; could also contract out to an accounting firm, if needed

C. Administrative Costs/Operating Budget

The legislation provides for not more than 5% of the money deposited in the 1984 Clean Water Bond Fund to be used to cover the costs of administration and any plans, surveys, research, development, and studies conducted.

III. Operations

A. Capitalization of Fund (funding sources)

1. \$250 million (total) from State Clean Water Bond Fund authorized by the Clean Water Bond Law of 1984 to be deposited into the Clean Water Construction Grant Account for grants and loans to municipalities to aid in the

construction of eligible treatment works. From this, the Board expects obligations of:

- a. \$20 million this year, and
  - b. \$20 million next year
2. \$40 million (total) from State Clean Water Bond Fund authorized by the Clean Water Bond Law of 1984 to be deposited into the Small Communities Assistance Account for supplemental state assistance to small communities for construction of eligible treatment works.

B. Leveraging Capability

None, at present. The size of the State's general obligation bond issue (which is the source of money for the Clean Water Bond Fund) is limited by the legislation because retirement of these bonds represents a drain on the State's general fund.

C. Forms of Assistance

1. Revolving Loans

- a. New - Clean Water Construction Grant Account
  - i. loans for up to 12 1/2% of eligible costs for projects receiving federal grants
  - ii. for 25% of eligible costs if federal Title II funding ceases
  - iii. payback period - up to 25 years, with payback starting 1 year after completion of construction
  - iv. interest rate - half of that which the state paid on general obligation bonds the previous year
- b. Old - The State Water Quality Control Fund
  - i. old, small program that provides loans for the local share of grant funded projects in severe hardship cases (NOTE: This fund is not part of the 1984 Clean Water Bond Fund)
  - ii. high interest rate (interest rate based on that of the previous 5 years)
  - iii. local voter approval needed on case-by-case basis

2. Grants

- a. Clean Water Construction Grant Account
  - i. grants for at least 12 1/2% of eligible project costs as long as the federal Title II program continues (regardless of whether Title II funds are available or not)
  - ii. no State grants if federal Title II funding ceases
- b. Small Communities Assistance Account
  - i. supplemental grants to small communities such that the combined federal and state grant is an amount up to 97 1/2% of the total estimated cost of pollution studies, planning, design, and construction.
  - ii. no supplemental grants if federal Title II funding ceases

3. Rate Subsidies

None

4. Bond Insurance

Bill currently before the legislature

5. Loan Guarantees
  - Bill currently before the legislature
6. Other Credit Enhancement
  - Loan pooling
    - i. State, acting on behalf of several communities, buys all municipal bonds, and re-issues as State bonds
    - ii. bill currently before the legislature
- D. Evaluation of Applications (eligibility requirements)
  1. Criteria for providing assistance
    - a. Clean Water Construction Grant Account grants & loans
      - i. treatment facilities must be needed to meet the requirements of the federal CWA, and
      - ii. must be eligible for federal grant assistance under the federal CWA, whether or not federal funds are available, and
      - iii. must be certified by the board as entitled to priority over other treatment works.
    - b. Small Communities Assistance Account grants
      - i. population = 5,000 or less
      - ii. total project cost = \$2.5 million or less, unless the Board finds that a higher cost project is the most cost-effective solution to a water quality or public health problem
      - iii. demonstrated financial need, based on a formula developed by the Board
      - iv. community must also receive regular state and federal grants
  2. Conditions placed on forms of assistance
    - a. Clean Water Construction Grant Account grants
      - i. municipality must agree to proceed expeditiously, complete the eligible project, and properly operate and maintain the works
      - ii. municipality must agree to provide for the local share of the project cost, and to make reasonable efforts to apply for federal assistance
    - b. Clean Water Construction Grant Account loans
      - i. municipality must show adequate public participation in the decision to seek the loan
      - ii. any election held regarding the loan must include the entire municipality unless the loan is for a specified portion of the municipality, in which case the election will be held in that portion only
- E. Requirements on Loan Recipient
  1. Local assurances
    - a. Financial
 

The legislation states that no moratorium on repayment of principal and interest shall be allowed in the Water Reclamation Account loan program. This requirement is not currently in the legislation for the Construction Grant loan program; however, the State Water Control Board wants to have such a requirement inserted due to the problems they have encountered with moratoria in the State Water Quality Control Fund program.

b. Environmental

Currently rely on federal requirements; no decisions yet regarding how this would be handled in the absence of federal requirements

2. Application of state procurement rules  
not yet determined
3. Environmental review procedures  
(see E.1.b., above)
4. Report filing requirements  
not yet determined

F. Fund Accounts

1. Several accounts under one fund (see I.A., above)
2. Interactions between accounts
  - a. The first \$30 million in principal and interest repayments from Clean Water Construction Grant (CWCG) Account loans are deposited in the Water Reclamation Account; remaining repayments are returned to the CWCG Account for future loans
  - b. If CWCG Account depleted, Water Reclamation Account funds may be used for CWCG loans; all repayments are returned to the Water Reclamation Account
  - c. With the approval of the Clean Water Finance Committee, the Board may transfer moneys in the CWCG Account to the State Water Quality Control Fund (see C.1.b., above)

G. Evaluation of Program Effectiveness  
State performs audits

H. Default Experience/Non-compliance with Requirements

1. No default experience; no penalties established
2. Re-financing option  
The legislatively mandated formula for determining the interest rate (i.e., half of what state paid the previous year) for CWCG Account loans allows variable interest rates. This is of concern to the Board because it invites requests for refinancing from communities that originally received loans at high rates and want to re-finance each time interest rates decline.

I. Private Sector Participation

1. 1983 study of privatization concluded that its likelihood of success was highly uncertain due to state law requirements, Public Utility Commission rate regulation, and uncertain federal legislation
2. Not much thought given to privatization since 1983 study

J. Program Issues or Problems

General problem - several large communities with ocean discharge waiver requests currently under review. Assuming all waivers granted, estimated statewide needs - \$1 billion; if waivers not all granted, statewide needs will be much greater.

IV. Relation to Federal Programs & Legislative Proposals

- A. If the federal CWA authorizes a federal loan program that requires state matching funds, the Legislature may establish a State Water Pollution Control Revolving Fund, and the Board may transfer funds from the Clean Water Construction Grant Account to this revolving fund, and may make loans in accordance with the

CWA and state law. The Legislature may enact legislation that it deems necessary to implement the state loan program. These provisions were written into the Clean Water Bond Law of 1984.

- B. If the federal CWA authorizes a revolving loan program that allows or requires leveraging of the federal capitalization grant, the Board will not be able to begin leveraging until it obtains the approval of the voters. (State law requires voter approval for any increase in the size of the State's general obligation bond issue). Issues can only be raised for voter approval every two years. Also, the State does not currently have the authority to issue revenue bonds; such authority must be obtained from the legislature.

V. Recommendations to Other States

Seek legislation that gives maximum flexibility so can fine-tune flexibility so can fine-tune program, as experience is gained, without having to make legislative changes.

VI. Materials Available

- A. Assembly Bill No. 1732 (Clean Water Bond Law of 1984)
- B. Implementation Plan and Policy for Clean Water Bond Law of 1984, May 1985
- C. Privatization Report, prepared by the State Water Resources Control Board, November 1983
- D. Information and Instructions Pertaining to Application for Construction Loan from the State Water Quality Control Fund
- E. Application for Construction Loan from State Water Quality Control Fund

VII. State Contact

Eric Torguson  
 State Water Resources Control Board  
 901 P Street  
 P.O. Box 100  
 Sacramento, CA 95801  
 (916) 322-2357

COLORADO LOCAL GOVERNMENT SEVERANCE TAX FUND:  
IMPACT ASSISTANCE GRANT AND LOAN PROGRAM  
Summary

The Impact Assistance Grant Program was established in 1982 to provide grants to local governments impacted by mineral fuel development. The Program is entirely funded from severance tax proceeds. Grants may be used for the planning, construction, and maintenance of any public facilities. More recently, the Program has been modified to service all communities, using eligibility criteria which assess improvement needs. In 1985, the statute was amended to allow loans to be given for wastewater and water projects (no loans have been given to date).

COLORADO LOCAL GOVERNMENT SEVERANCE TAX FUND:  
IMPACT ASSISTANCE GRANT AND LOAN PROGRAM  
Program Annotated Outline

I. Program Description

1. Organization:

a. Scope (eligible projects):

The Impact Assistance Grant and Loan Program may provide a grant to any local government for any purpose. The loans are available only for wastewater treatment and water supply projects.

b. Agencies involved:

- Dept. of Local Affairs (Division of Local Govts.)
- Dept. of Health

2. Establishment: 1982.

a. Options initially considered: Not discussed.

b. Political and legal considerations:

The Colorado legislature exerts a great deal of control over program funding, and even re-authorizes the spending of Federal funds in the State.

c. Statutory and constitutional restrictions: None.

d. Subsequent program modifications:

The Impact Assistance Grants Program was originally created to mitigate the consequences of oil shale development on communities. Current emphasis is now directed towards the quality of improvement needs of local governments.

3. Future picture:

There is a great deal of uncertainty about the level of future funding, due to the reduction in mineral severance tax proceeds and legislative politics.

II. Administrative

1. Training: None specified.

2. Staff size/skill mix:

Six people from the Division of Local Governments are directly involved, on a part time basis, with administering the program.

3. Administrative costs/operating budget: Not available.

III. Operations

1. Capitalization of fund (funding sources):

The fund is capitalized with proceeds from the mineral severance tax (oil, gas, and coal). The annual amount is approximately \$14 million.

2. Leveraging capability: None.

No bonds are issued under this program, however, the Colorado Housing and Finance Authority has revenue bonding authority. Colorado has a balanced budget amendment, which prohibits the State from going into debt.

3. Forms of assistance:

a. Loans (terms):

The Program has the authority to make loans for wastewater treatment and water projects, but has not to date. The loans may be at interest rates as low as 5%, with all repayments dedicated to the Program.

## b. Grants:

The bulk of the Program monies are dispursed as grants given to local governments for any purpose. The State also has a small Grants program (\$500,000/year) for communities under 5000 people, and ineligible for Federal CG grants.

## 4. Evaluation of applications (eligibility requirements):

## a. Criteria for providing assistance (e.g. financial need):

Although the Program initially funded projects in communities which were impacted by energy product (mineral fuel) development, the primary criteria now is the improvement needs of communities. Only one of approximately every 5-7 requests are funded. The priorities are determined three times a year by the Local Govt. Affairs Committee. The sequence of events leading to an award are detailed below (see III.4.b.).

## b. Conditions placed on forms of assistance:

Prior to receiving an award, the following actions must be taken:

- The Community identifies its need.
- The County selects its funding priorities.
- If selected, the Community applies for funding.
- The Local Govt. Affairs Committee assesses the applications and holds public hearings. Determination of (a) whether to fund, and (b) grant or loan.
- The Committee makes an award recommendation to the Director of the Local Govt. Affairs Program, who makes the final decision on funding level and type.

## 5. Requirements on loan recipient:

## a. Local assurances:

## i. financial (e.g. dedicated repayment source):

The recipient must pledge a dedicated repayment stream in order to get a loan.

## ii. environmental: (see III.5.c. below).

## b. Application of State procurement rules: Not discussed.

## c. Environmental review procedures:

Under State law, the Dept. of Health (CG Staff) conducts the construction review of all wastewater treatment projects.

## d. Report filing requirements:

Not yet established for the loan program.

## 6. Private sector participation:

The Dept. of Health is studying the privatization of wastewater treatment projects, and is currently seeking a pilot project in the State.

## 7. Program issues or problems:

Uncertainty of continued funding from severance tax proceeds is a major concern.

## IV. Relation to Federal programs and legislative proposals:

The Dept. of Health (CG Staff) believes that it has the authority to administer a State Water Quality Revolving Fund, given the proper mechanism.

V. Materials Available:

- Senate Bill No. 35 (establishing the Local Govt. Severance Tax Fund)

VI. State Contact Persons:

Seth Goldstein, Administrative Officer  
Colorado Dept. of Health  
Water Quality Control Division  
4210 E. 11th Ave.  
Denver, CO 80220  
(303) 320-8333

David J. Edwardson, Supervisor  
Division of Local Government  
1313 Sherman St., Room 520  
Denver, CO 80203  
(303) 866-2156

FLORIDA BOND LOAN PROGRAM  
Summary

The Florida Bond Loan Program sells State bonds and makes loans through joint authority of the Department of Environmental Regulation and the Division of Bond Finance. The program sells bonds as needed in response to loan applications from local agencies. The bonds are general obligation but are also secured by pledged revenues from the loan recipients. Loans can be made only for the construction (including planning and design) of water supply and distribution facilities, air and water pollution control and abatement facilities, and solid waste disposal facilities. Any municipality, county, district, authority or State agency may apply.

FLORIDA BOND LOAN PROGRAM  
Program Annotated Outline

I. Program Description:

1. Organization:

a. Scope (eligible projects):

- water supply and distribution facilities
- air and water pollution control and abatement
- solid waste disposal facilities

b. Agencies Involved:

The Department of Environmental Regulation (DER) and the Division of Bond Finance of the Department of General Services jointly have authority to issue State pollution control bonds. The State Board of Administration (SBA) administers the debt service account on bonds.

2. Establishment:

a. Options initially considered:

The program was authorized by Constitutional Amendment in the 1970's to complement the Federal construction grants program by making loans for the local share as well as to make loans independent of the grants program. During the 1970's the State also had a revolving loan program specifically created to make loans for the planning, design and construction of sewage treatment facilities and land acquisition for such facilities.

b. Statutory and constitutional restrictions:

Section 14 of the State Constitution authorizes the use of general obligation bonds to finance eligible infrastructure needs. The bonds must also be secured by pledged revenues collected all or in part from operation of the financial facilities. The Bond Loan Program can issue up to \$200 million of pollution control bonds each year. Under Section 14, the total principal of bonds issued cannot exceed 50 percent of the total tax revenues of the State for the 2 preceding years. No State bonds under this program can be issued if the debt service requirement of the proposed issue and outstanding bonds (of the loan recipient) is greater than 75 percent of the pledged revenues.

c. Subsequent modifications:

Enabling legislation for the revolving loan program provided for its termination in July 1975 with all subsequent loan repayments transferred to the general revenue fund. In 1985, the State Water Pollution Control Trust Fund, as a grants program, was the primary means of State assistance for the construction of publicly owned treatment works. This program was funded at \$100 million for 1985 and was amended in part, to require a 45 percent local share of eligible project costs (reserve capacity is ineligible) and to establish a Small Community Sewer Construction Assistance Trust Fund, providing grant assistance to communities of less than 35,000.

The State requires as a grant condition that the recipient collect sufficient revenue to establish a self-supporting facility including the amortized capital investment of the cost of the grant funded facility.

d. Future picture:

The DER is considering proposed revolving fund legislation. The legislation would have the same revenue requirement as the State grant program and would have a provision to permit use of Federal grants for capitalizing the fund: "Grants awarded by the Federal government to fund revolving loans for local governmental agencies' sewage treatment facilities shall be deposited in the sewage treatment loan fund." This proposed program would not directly affect the Bond Loan Program; the prospects for the Bond Loan Program appear mixed. In FY 1982, the program issued pollution control bonds of approximately \$80 million for loan purposes, but in FY 83 the program sold no bonds (i.e., had no loan demand) and in FY 84 only \$5 million was issued (See program issues).

II. Administrative:

1. Training:

No formalized training program.

2. Staff size:

DER manages the program with 1.5 full time staff, performing application reviews, administration of the project construction trust fund, pay out of monies to local agencies, and receipt of semi-annual repayments. Staff from other agencies involved (SBA and the Division of Bond Finance) are available on an as required basis primarily for review and approval of applications and issuing and administering State bonds.

3. Administrative costs:

Local agencies receiving loans pay a fee calculated to reimburse the State for costs incurred by the State in issuing the bonds. Additionally, the local agency must pay each year a proportionate share of the administrative expenses incurred by the DER and SBA in administering the program and servicing the bond issue. In any fiscal year, this payment cannot exceed .25 percent of the initial loan principal. However, the actual amount required in recent years has been only 0.03 percent. Costs of issuing State bonds are included in the bond amount. The State has the following fee schedule which includes the cost of bond counsel:

\$28,000	\$5 mil. or less issue
\$28,000 plus 0.2% of amount over \$5 mil.	\$5-25 mil. issue
\$28,000 plus 0.1% of amount over \$25 mil.	over \$25 mil. issue

Additionally, any extraordinary expenses incurred by the Division of Bond Finance for a particular bond issue may be charged to the local agency. For example, when bond proceeds will be used to refund prior bonds of the local agency, the cost of an independent financial consultants' analysis and opinion regarding the adequacy of the escrowed funds for the purpose of paying debt service on the funded bonds, would be passed on to the local agency.

### III. Operations:

#### 1. Capitalization:

The program is capitalized through the sale of State full faith and credit pollution control bonds. The DER and Division of Bond Finance may issue up to \$200 million of such bonds each fiscal year.

#### 2. Leveraging capability:

##### a. Bond Rating:

Ratings may vary with each issue. Florida general obligation bonds typically have a AA and Aa rating by Standard & Poor's and Moody's rating agencies respectively.

##### b. Reserve Requirements and amount of coverage:

The State Constitution prohibits the issuance of these bonds unless the debt service requirement of the proposed bonds and all other bonds secured by the pledged revenues from the local agency is less than 75 percent of the pledged revenue. In practice, the 75 percent requirement requires the local agency to collect pledged revenues  $1 \frac{1}{3}$  times the local agency's proportionate share of the bond issue's annual debt service.

The DER must approve bonds or notes issued by the local agency in anticipation of the issuance of State pollution control bonds.

##### c. Investment restrictions:

Bond Loan Program: Upon receipt of bond proceeds, DER creates a project construction account or trust fund. These monies may be invested by the State Treasurer until needed for pay out of construction costs. Likewise, the SBA can make investments from other accounts (e.g. debt service and capitalized interest accounts), typically in U.S. Government obligations.

Local agency: The local agency must establish an escrow account to which monthly payments are made for pledged revenues. Investment of monies in this account must be made in U.S. Government obligations, instruments secured by U.S. Government securities, deposits in Federally insured banks or other deposits permitted by State law.

### 3. Forms of assistance:

#### a. Loans (terms):

The program provides loans to local agencies to finance or refinance construction of several kinds of infrastructure facilities. Loans are typically made for 30 years but terms may vary. The rates charged the loan recipient must be the same as paid by the State on the bonds issued to make the loan(s).

#### b. Grants:

The State had a large grant program in Federal fiscal year 1985 that made 55 percent grants to eligible communities. This program also included a Small Community Sewer Construction Trust Fund.

### 4. Evaluation of loan applications:

#### a. Loan application process:

The processing of applications begins with the filing of a loan application with DER, Bureau of Accounting and Budgeting. When determined to be complete, the application is forwarded to the appropriate technical bureau within DER to assess the technical and environmental aspects of the project. DER may return the application for technical reasons, requesting referral to an independent consultant. From here, the application goes to the Division of Bond Finance and then for approval to the Secretary of DER, Governing Board of the Division of Bond Finance and the Governing Board of the SBA. Following their approvals, the State executes an agreement with the applicant. State bonds are validated and sold based on the loan agreements. The DER loans the bond proceeds from the project construction account to the recipient as they certify that the costs have been incurred and payment is due. Loan repayments are made on a semi-annual basis to DER which transfer them to the SBA for deposit into the bond interest and sinking fund.

### 5. Requirements on loan recipient:

#### a. Local assurances:

##### i. Financial/As part of the loan application, the local agency must provide:

- 1) The local agency's attorney's written opinion that pledged revenues would be legally available. Where the outstanding bonds of the local agency represent liens on the pledged revenues, the attorney must have served as a bond counsel on a prior bond issue.
- 2) Information regarding the basis for revenue and expense projections.
- 3) A recent statement of receipts and expenditures for each pledged revenue source.
- 4) Official statements and bond resolutions for any bond issues or anticipation notes having a prior lien on pledged revenues.

5) Documentation on all other notes and obligations having a prior lien on pledged revenues.

ii. Financial/State agencies involved execute a loan agreement with local authority requiring that:

- 1) The local agency must maintain rates for use of the project that are sufficient to generate net revenues together with any other pledged revenues at least 1 1/3 times the annual loan payment (equal to their proportionate share of the debt service coming due each year on the State bond issue).
- 2) The local agency may not pledge or encumber the pledged revenues without consent of the State.
- 3) The local agency must provide the DER each year an annual budget showing amount of pledged revenues anticipated to be received, project expenses and provisions for "renewal and replacement" of the project. If the anticipated pledged revenues are insufficient to make the annual loan payment, the local agency must show in the budget where the additional funds are coming from.
- 4) The local agency must require contractors to post performance bonds. Once operational, the project must be insured.

c. Environmental review procedures:

No separate environmental assessment is required as part of the loan application. A construction permit is required from DER and the project must be in compliance with all DER rules.

d. Report filing requirements:

The local agency must use a registered professional engineer to oversee construction of the project. The engineer must certify to the DER that the project is being built according to design. These reports must be submitted at least every 3 months. Annual audit by a certified public accountant, as noted in item G. If the pledged revenues were from revenues generated by operation of the project, the local agency must provide an inspection report signed by a licensed professional engineer at least every 3 years certifying that the project is being operated to achieve design requirements.

6. Fund accounts:

Once bonds are sold to provide loans for one or more projects, the following accounts are established in the State Treasury:

- 1) Project Construction Trust Fund (source of loan payments, administered by DER).
- 2) Bond Interest and Sinking Fund (receives loan repayments for interest and principal).
- 3) Capitalized Interest (for the amount of interest the State must pay until loan repayments begin).
- 4) Debt Service Reserve Fund (source of monies in event of default).

a. Dispersal of monies from fund/repayments of monies to fund:

Upon receipt of a written requisition from the local agency and a certification that the payments requested are a valid obligation of the local agency, the DER provides a loan payment to cover the incurred costs. The local agency must establish an escrow account with a bank. The account will receive the pledged revenues as they are earned except when the amount on deposit exceeds or equals the sum of the next two semi-annual installments on the loan. The local agency pays DER one half of the annual loan payment 1 month before the State pays the semi-annual interest on the bonds.

7. Evaluation of program effectiveness (audits):

a. Project: The local agency must have a certified public accountant annually audit the project's operation and the receipt and disbursement of the revenues for the previously submitted annual budget.

b. Program: The program prepares an annual report on loan status and activity and the status of all accounts.

8. Defaults:

Default includes failure to make adequate loan payments, failure to comply with any provisions of the agreement or failure to construct the project.

a. Penalties and legal recourse:

The State may take whatever legal actions necessary to enforce the loan agreement including legal proceedings to:

- 1) Establish rates and make the local agency collect adequate pledged revenues.
- 2) Require the local agency to carry out other provisions of the agreement.
- 3) Require the local agency to account for all monies received from the State agencies and from the use of the project.
- 4) Require the local agency to account for the receipt, use application or disposition of the pledged revenues.
- 5) Appoint a receiver to take charge of and manage the project and to apply income from the project (and other sources of pledged revenues) to the debt obligation.
- 6) Sue for all amounts due the State, plus interest on overdue payments and all legal costs.

10. Program issues or problems:

General issue is under utilization of the Bond Loan Program by local agencies. Loan activity is very low compared with previous years; yet needs remain high, especially in fast growing areas (120 communities are on sewer moratoria).

Potential reasons for under utilization include:

- a) Lack of information/awareness of the program
- b) Existence of Federal/State grant programs
- c) Perception that municipalities can sell their own bonds more efficiently.
- d) Perception that the program has too much red tape.

IV. Materials Available:

- Informational pamphlet on State Bond Loan Program
- Informational booklet on State Bond Loan Program
- Application procedures sheet for State Bond Loan Program
- Application packet for State Bond Loan Program
- Annual Report--Bond Loan Program

V. Contact: David W. York, Ph.D., P.E.

Department of Environmental Regulation  
 Bureau of Wastewater Management and Grants  
 Twin Towers Office Building  
 2600 Blair Stone Road  
 Tallahassee, Florida 32301  
 (904) 488-8163

## GEORGIA DEVELOPMENT AUTHORITY (GDA)

## Summary

The Georgia Development Authority (GDA) provides loans to municipalities, counties and water/sewer authorities for construction and expansion of public water and sewer facilities to encourage economic development. The program is using 1984 and 1985 appropriations totalling \$20 million. The program proposes to seek an amendment to the State Constitution to allow the issuance of GO bonds, the proceeds of which would be used for additional loans. All loan repayments go to capitalize the loan fund. The current interest rate is 6.8% based on the State's five year rate on GO bonds. The Authority administers the loan program with technical assistance from the Environmental Protection Division of the Department of Natural Resources.

GEORGIA DEVELOPMENT AUTHORITY (GDA)  
Program Annotated Outline

I. Program Description

1. Organization:

a. Scope (eligible projects):

Provides loans to municipalities, counties and water/sewer authorities for construction and expansion of public water and sewer facilities to encourage economic development. Estimate of 5 year need for water and sewer improvements is perceived to be approximately \$1.65 billion (1984 dollars) according to our inventory survey report prepared by the staff of the GDA.

b. Agencies involved:

- GDA administers loan program with technical assistance from the Environmental Protection Division of the Department of Natural Resources (EPD).
- Members of Board of the Authority include: Commissioner of the Department of Community Affairs; Commissioner of Agriculture; Commissioner of the Department of Industry and Trade; State Auditor; and six members appointed by the Governor including local government elected officials.

2. Establishment:

a-c: Original Options/Legal/Constitutional Considerations:

- Created under a 1937 agricultural development authority in an attempt to comply with a Constitutional requirement for the utilization of State GO bond proceeds.
- 1984 Legislature approved the sale of 5 year State GO bonds. An appropriation of \$7.5 million was approved to cover the first years debt service on \$30 million in GO bonds, the proceeds of which would be used for low interest program loans.
- 1984 State Superior and 1985 State Supreme Courts ruled it inappropriate for old authority to issue GO bonds to support economic development. Therefore, GDA cannot issue GO bonds for water/sewer construction.
- 1985 Legislature appropriated an additional \$12.5 million, for a total of \$20 million for loans. Insufficient time to get Legislative approval of concept of using State or Authority revenue bonds. Also, possible political concerns involving conflicts with private sector financial businesses.

- d-e Subsequent program/future picture:
  - January 1986--Legislature will propose a bill to create a new authority separate from the agricultural aspects of the current GDA, which will be able to receive grants from the Federal government and additional state appropriations for more loans to capitalize the fund. They also will propose amendment to the Georgia Constitution which would allow the State to issue GO bonds on behalf of the Authority, the proceeds of which would be re-issued as program loans.
  - It is intended that the amendment to the Georgia Constitution also withdraw the requirement to hold fee simple title on the environmental facility improvements financed by the Authority, for the life of the loan.

## II. Administrative

### 1. Training:

Done on the job, use of contractual and other State, agencies technical assistance expertise.

### 2. Staff:

Executive director	State and Local government expertise
Assistant director	Local government expertise
Special assistant	Local government expertise
Accounts clerk	
Clerical	

(Temporary Special Projects Coordinator the Environmental Facilities Project)

### 3. Budget:

\$380,000 (FY 1985) currently from operating budget. EPD staff under their own budget.

- No longterm net change in staff of GDA and EPD seen.

## III. Operations

### 1. Capitalization of fund:

Currently using \$20 million appropriation; intend to issue bonds retired by appropriations with repayments going to capitalize fund.

### 2. Leveraging capability: Not specified.

#### a. Marketing:

Build local leadership/capability to develop strategy for economic development. Identify role of sewer needs, then contact authority directly or through EPD.

#### b. Bond Rating: Aaa

#### c. Reserve requirements: No State reserve required for appropriations or GO bonds

- d. Investment restrictions:  
Federal arbitrage limitations, investment in Federally guaranteed instruments or as specified in Legislation.

### 3. Forms of Assistance:

#### a. Loans:

Current Board policies limit loan to \$1.0 million per jurisdiction at 6.8%\* for 20 years; may be mixed with other loans or grants or for 100% of project costs.

\*Governor would have approved 0% rate for loans but a GDA Advisory Committee composed of members of the Georgia Municipal Association, County Commissioner of Georgia, and other special interest groups wanted the GDA to establish a rate which would aid in the development of the program fund. For program year one, the State's five year rate on GO bonds was identified and the GDA interest rate tracked that rate, and was set at 6.8%.

#### b. Grants (two separate State programs):

Environmental Protection Division's Emergency Grants have a 1:1 match requirement. Funding has been stable since 1974 at about \$1 million per year. Funds are only awarded for emergency improvements. Second, Economic / Environmental Grants are made to local government by the EPD. Typically, funds have only been awarded to communities which have firm commitments from industry or business. Funding has been stable since 1979 at about \$5 million per year. Also requires 1:1 match, adequate user fee system, and 20 year recovery of grant from benefitted industry for use OM&R.

#### c. Others:

No other forms of financial assistance offered at this time, but may be considered for future. GDA works to provide full range of technical (financial) advice. Will work with communities and develop their financial capabilities to support economic development.

### 4. Evaluation of applications (First year Program):

- a.- Show ability to repay the loan (will work with all applicants to have them move towards requiring that the user charge system be appropriate to pay for system improvements and O&M).
- Project certified by EPD as able to meet environmental standards, and in a limited number of instances, removes the local government from a moratorium or ban on tap.

- Applicant able to initiate design in sixty days, and schedule for initiation of construction in loan contract.
  - Document any creation or retention of jobs.
  - First come/First served.
  - h. Conditions placed on forms of assistance (see 3.a. above).
5. Requirements on loans recipients:
- a. Local Assurances
    - Must have user charge system to cover OM&R, and debt service.
    - Must have certification from EPD that project is able to meet environmental standards. (If not also construction grants funded, review limited to engineering feasibility not cost-effectiveness or other EPA requirements.)
  - b. No additional State procurement regulations.
  - c. Environmental procedures: (see 5.a. above).
  - d. Report filing requirements:
    - State law requires that all local governments file annual audits with the Auditor's Office.
    - All program participants were required to complete the GDA Environmental Facilities Inventory Questionnaire which provided the Authority with data on water and sewer system needs as well as financial management capability. In addition, rate structure information was requested. Approximately 66% of the State's local governments responded to the survey. This survey data may be updated periodically by Authority staff for review by the legislature.
6. Fund accounts:
- a. Dispersal of monies from fund/repayments of money to fund.
    - Fund monies are deposited in an account for the project and paid out on a reimbursible basis. EPD reviews construction.
  - b. Payments to fund due quarterly.
7. Evaluation of program effectiveness:  
Annual reports anticipated.
8. Default experience: none.
- a. Penalties - can intercept other State payments, and can require revision of user charge system.
  - b. Refinancing: No. Only offer permanent financing.
9. Private sector participation:  
Not eligible for grants or loans. Did not discuss privatization.

## 10. Program issues or problems:

- Need new legislation and constitutional amendment to create program with authority to issue debt (GO or Authority Revenue Bonds).
- Want to be able to offer a program interest rate at less than 9%.
- Want all communities eventually to operate their environmental system only with enterprise fund revenue.
- Need to get public to understand that clean water is currently underpriced.

## IV. Relation to Federal Legislative proposals:

- Like to see the flexibility shown in the House bill without the state match requirement.
- Proposed State bill will enable use of SRF grant if created by Congress.

## V. Suggestions for other States:

- Carefully resolve constitutional and statutory issues.
- Line up capitalization funds early.

## VI. Materials Available:

- First Year Funding Criteria
- Official Board Policies
- Environmental Facility Inventory Report
- Environmental Facility Inventory Questionnaire
- Year Two Preapplication

## VII. Contact:

Ross King  
 Special Assistant  
 40 Marietta Street, N.W.  
 Suite 1616  
 Atlanta, Georgia 30303  
 (404)656-0938

THE KENTUCKY POLLUTION ABATEMENT AUTHORITY  
Summary

The Kentucky Pollution Abatement Authority (KPAA) was created in 1972 to issue project revenue bonds on behalf of local communities. The KPAA pools loan demand, issues tax-exempt municipal bonds, and then loans the money to local entities at a reduced rate from what each could get individually. In order to be eligible to receive financing through the KPAA, the local entity must adopt a user rate charge that will cover the costs of debt service on the loan and operation and maintenance expenses. The State of Kentucky does not provide grants for the construction of wastewater treatment facilities.

KENTUCKY POLLUTION ABATEMENT AND  
WATER RESOURCE FINANCE AUTHORITY  
Program Annotated Outline

I. Program Description:

The Kentucky Pollution Abatement Authority (KPAA) is an independent public corporation and agency of the Commonwealth of Kentucky. Funds loaned to communities are derived from tax-exempt revenue bonds issued by the Authority.

1. Organization:

a. Scope (eligible projects):

- water pollution control
- solid waste pollution control
- water distribution systems

b. Agencies involved:

- Department of Environmental Protection
- Department of Finance

2. Establishment: 1972.

a. Options initially considered:

Loans originally available only to projects that had already been approved for EPA or FmHA grants. Program has since been expanded to include other projects.

b. Political and legal considerations:

Kentucky does not have a grant program to assist in funding construction of wastewater treatment facilities.

c. Statutory and constitutional restrictions:

State assembly meets biennially. Preparation now for Jan. 1986. Next assembly does not meet until 1988.

d. Future picture:

The State is considering legislation to provide additional funding for the Authority.

II. Administrative:

1. Training:

No organized training. Personnel receive on the job experience as they work with the program.

2. Staff size/skill mix:

Small professional staff--one person part-time (25-30% of time). Support staff includes accounting and secretarial staff (20%) and bookkeeping and clerical staff.

3. Administrative costs/operating budget:

A charge of 1/10 of 1% is annually assessed to unpaid loan balances to cover administrative costs. Annual administrative costs for the KPAA averages approximately \$60,000.

III. Operations:

1. Capitalization of fund (funding sources):

Funds are derived from the authority's issuance of tax-exempt municipal revenue bonds. There are no appropriations from the general assembly.

2. Leveraging capability:

a. Marketing:

The Authority issues bonds on behalf of the borrower. With a higher bond rating, the KPAA is able to obtain a lower rate of interest than a single community could receive.

b. Bond rating:

Bonds issued by the KPAA carry an "A" rating by Standard and Poor's. While they do not carry the State's "full faith and credit" guarantee, the KPAA does have the authority to do the following:

- 1) Force a restructuring of user fees.
- 2) Request that another agency withhold State aid money if community goes into default.
- 3) Impose a two percent tax on all water services in the State.

c. Reserve requirements and amount of coverage:

The equivalent of one-year's debt service for each loan is required. In the case that the reserve fund becomes monetarily deficient, the KPAA shall submit a formal request to the Secretary of Finance, the Administration Cabinet, and the Governor, asking that they ask the legislature to replenish the fund.

d. Investment restrictions (e.g. limits on interest earned):

There are no restrictions on investment. Interest earned from the reserve fund is the KPAA's only source of working capital. Money is loaned out prior to the issuance of bonds, and refunded at time of bond issue.

3. Forms of assistance:

a. Loans (terms):

Primary function of the KPAA is to pool loans, providing the localities with lower interest loans. Larger, better rated bonds yield lower costs to the borrower through lower interest costs.

b. Grants:

The State does not give grants for the construction of wastewater treatment facilities.

c. Rate subsidies:

Only form of subsidy is through the reduction of interest rates through an improved bond rating.

d. Bond insurance:

Insurance has been used twice, but it was found to be ineffective in reducing the rates greatly. Insurance not worth the costs of obtaining it.

f. Other credit enhancement:

Interim loans given from cash fund formed from the interest off of debt reserve funds. Loans can be used to finance the study of a proposed plants eligibility.

4. Evaluation of applications (eligibility requirements):

a. Criteria for providing assistance (e.g. financial need):

No specific criteria or needs list to determine which projects get funded. Demand for loans not great enough to warrant such activities. Borrower must be able to repay loan.

b. Conditions placed on forms of assistance:

Borrower must adopt user rate structure that will cover debt service requirements on the loan, and operation and maintenance costs before the KPAA will approve the loan.

5. Requirements on loan recipient:

a. Local assurances:

i. financial (e.g. dedicated repayment source)

Must have dedicated repayment source (user fee).

ii. environmental:

No environmental assurances other than those already in place to meet permit requirements.

b. Application of State procurement rules:

No State regulations.

c. Report filing requirements:

Loan recipients are required to submit a copy of their annual audit report to the KPAA.

6. Fund accounts:

a. Dispersal of monies from fund/repayments of monies to fund:

Financing arrangements similar to FmHA regulations. Payment of interest due semi-annually while principal is due annually.

7. Evaluation of program effectiveness (e.g. audits):
  - a. Program/project:
 

Audit reports must be filed annually by cities and sanitation departments. No State auditing procedures on annual basis. State review at time of loan application.
8. Default experience/non-compliance with requirements:
  - a. Penalties and legal recourse:
 

KPAA has not had a default and they are not sure what actions they would take if a default did occur. In the event of default, the Authority has the power to do the following:

    - 1) Force a restructuring of user fees.
    - 2) Request that another agency withhold State aid money if community goes into default.
  - b. Refinancing option:
 

No specific process to refinance. KPAA will loan money from their interest cash reserve to help community over crisis.
9. Private sector participation:
 

None
10. Program issues or problems:
 

The KPAA has a minimal on-site inspection capability. EPA funded projects have their own inspection personnel. Projects funded by the KPAA require certification of the construction process by the borrower's consultant engineer.

#### IV. Relation to Federal programs and legislative proposals:

State statutes allow the authority to receive funds from other government sources, such as the Federal government. Modification to allow revolving fund concept may be necessary. State could have a problem meeting the State match requirement, as is required in both Congressional bills.

#### V. Materials Available:

- overview of KPAA financing program
- summary of KPAA water and sewer construction loan program
- Pollution Abatement Authority legislation
- KPAA loan application
- overview of KPAA multiple projects and interim construction financing program

#### VI. State Contact:

Mr. N. Donald Morse II, Secretary  
 Kentucky Pollution Abatement and Water Resources Finance  
 Authority.  
 Room 318  
 New Capital Annex  
 Frankfort, KY 40601  
 (502) 564-2924

MASSACHUSETTS: MASSBANK  
Summary

MassBank is a proposed revenue bond authority supported with a dedicated tax, to be an independent State agency in, but not under supervision of, the Executive Office for Administration and Finance. It would assist those communities which have difficulty borrowing funds from any other source by purchasing their debt obligations. MassBank legislation would allow communities to issue revenue bonds for local revenue-producing infrastructure projects.

MASSACHUSETTS: MASSBANK  
Program Annotated Outline

- I. Program Description:
  1. Organization:
    - a. MassBank will be authorized to provide the debt financing for the following categories of infrastructure programs:
      - water supply systems
      - sewerage systems
      - state highways
      - bridges and tunnels
    - b. Agencies involved:
      - Dept. of Environmental Quality Engineering (DEQE)
      - Dept. of Administration and Finance
      - Dept. of Public Works
      - Dept. of Communities and Development
      - Dept. of Environmental Management
      - State Treasurer
      - Others agencies empowered to carry out infrastructure projects
  2. Establishment: FY 1986, pending legislative approval
    - a. Options initially considered:
      - N/A
    - b. Political and legal considerations:
 

Proposition 2 1/2 created the need for an alternative revenue source for infrastructure projects by prohibiting property tax increases of greater than 2.5% over the previous year's level.
    - c. Statutory and constitutional restrictions:
 

MassBank proposal was court tested and received approval. It's debts would not constitute obligations of the Commonwealth.
- II. Administrative:
  1. Training: None specified
  2. Staff size/skill mix:
 

Small staff anticipated, to include a special assistant for affirmative action. MassBank may engage the services of consultants and independent contractors as needed. Support services provided by other agencies are to be reimbursed.

The chairman of the 5 member board of directors is to serve as chief executive officer of MassBank.
  3. Administrative costs/operating budget:
 

Immediate appropriation of \$250,000 for program start-up and 1% (i.e., \$1 million) of dedicated funds annually, thereafter.

MassBank has the authority to issue debt obligations to cover the cost of operation, including payment of consulting, advisory and legal fees, as necessary, to carry out its purposes.

### III. Operations:

1. Capitalization of fund (funding sources):  
Start-up appropriation of \$2 million, after which MassBank is to operate from proceeds of its bond issues and an Infrastructure Development Assessment. The assessment will be paid by business corporations subject to the corporate excise. It is to be capped at \$100 million per year with any excess transferred to the local aid fund (40%) and the general fund (60%).
2. Leveraging capability: Anticipate \$100 million/year to support \$1 billion in new borrowing.
  - a. Marketing:
    - MassBank enhances the marketability of its participating governmental units by pooling a mixture of small debts and then issuing special obligation bonds backed by a dedicated revenue stream (corporate excise pledged by the Commonwealth).
    - Municipalities may form service districts and MassBank will provide technical assistance in structuring revenue sources so they can successfully participate in the market. MassBank will also underwrite local bond issues.
  - b. Bond rating:  
MassBank must obtain its own rating, independent of the State's rating.
  - c. Reserve requirements and amount of coverage:  
Separate debt service reserve fund, to be not less than 1/2 the maximum amount of principle and interest maturing and becoming due in any succeeding calendar year on outstanding debt obligations.
  - d. Investment restrictions (e.g. limits on interest earned):  
After meeting refunding terms, any balance may be used by MassBank in any lawful manner.
3. Forms of assistance: MassBank shall provide assistance by purchasing debt obligations issued by local governments (to be a lender of last resort).
  - a. Loans:  
MassBank has the capacity to make loans, however this is not a significant element of the program.
  - b. Grants:  
No grant program proposed, though legislative authority exists.
  - c. Rate subsidies:  
Not available.
  - d. Bond insurance:  
Available.
  - e. Local guarantees:  
MassBank will underwrite debt issuances of municipalities and service districts.
  - f. Other credit enhancement:
    - letters of credit
    - credit insurance

4. Evaluation of applications (eligibility requirements):
  - a. Criteria for providing assistance (e.g. financial need):  
 Any governmental unit which has authorized the financing of a local project may request assistance. Certification factors include the following:
    - project is consistent with needs of a town and will meet a substantial state interest.
    - project will have significant economic impact, including long term employment (priority to low income neighborhoods).
    - lack of alternative financing (i.e., poor credit rating; certification will include a recommendation of the level of financing assistance to be provided).
  - b. Conditions placed on forms of assistance:  
 No change in current capital project selection process for state projects. Other conditions include:
    - DEQE priority list subject to legislative approval.
    - Necessary government approvals must be in place to the extent possible so that project can be completed in a timely fashion.
    - repayments of debt obligations to MassBank will not adversely effect a governmental unit's ability to provide all other essential public services.
5. Requirements on loan recipient:
  - a. Local assurances:
    - i. Financial (e.g. dedicated repayment source):  
 MassBank has the authority and responsibility to obtain satisfactory assurances from municipalities before purchasing their debt. MassBank will provide technical assistance to municipalities in evaluating financing alternatives. A local assurance of final resort is the State aid intercept provision whereby a community would be allowed to pledge its local aid payments as additional security on its bond issues.
    - ii. Environmental:  
 MassBank does not require environmental assurances; instead, existing State programs, including the construction grants program, would continue to manage priority setting and apply environmental controls on what gets funded and when.
  - b. Application of State procurement rules:  
 None specified.
  - c. Environmental review procedures:  
 The same review procedures as now exist with construction grants program would remain in effect, except as may be modified by Federal legislation. MassBank has no role in the execution of these procedures.
  - d. Report filing requirements:  
 MassBank is to file annual reports with Governor and Legislature, to include municipalities' project statements, MassBank's evaluation of State infrastructure programs or projects, and recommendations regarding their condition and maintenance.

## 6. Fund accounts:

MassBank is given broad authority to establish fund accounts consistent with its purposes and to include the following:

- a. State Infrastructure Fund- to receive and disburse financial assistance from MassBank for infrastructure projects.
- b. Debt service reserve funds- for payment of principle, interest and premiums on debt obligations issued by MassBank; source of funds to be project revenues and revenues from the investment of reserve funds not required for immediate disbursement.
- c. Trust account- holds capitalization revenues and is dedicated to corporate purposes.

## 7. Evaluation of program effectiveness (e.g. audits):

Governmental units receiving financial assistance from MassBank must submit a statement of the general condition of the project financed, plus any statements of the financial condition of the unit itself. MassBank would also annually evaluate State infrastructure programs receiving financial assistance. Each year, MassBank would file a report with the Governor, summarizing findings and making recommendations. Additionally, MassBank must file operating and financial statements, certified by independent CPAs, with the Governor. MassBank would also undergo an annual audit by the Commonwealth's auditor, plus the secretary-treasurer would conduct an annual audit through an independent CPA.

## 8. Default experience/non-compliance with requirements:

No experience, but the proposed approach stresses preventive techniques (e.g., sound loans, dedicated local revenue streams and the aid intercept provision).

## 9. Private sector participation:

None specified in program proposal.

## 10. Program issues or problems:

- a. Source of capitalization funds (i.e., seed money).
- b. Operating budget, limited to 1% of annual seed money, may be too restrictive.
- c. Considerable concern with how construction grant program will be phased out, stressing the need for a gradual transition so that communities can adjust in an efficient and effective manner.

## IV. Relation to Federal programs and legislative proposals:

Legislation is written to utilize Federal revolving loan fund capitalization grants.

## V. Materials available:

- proposed legislation
- legislative outline
- MassBank: A Proposal to Rebuild and Expand the Commonwealth's Economic Infrastructure (source: Governor's office)

## VI. State contact:

Ms. Linda Simio  
 Administrative Services  
 Dept. of Environmental Quality  
 1 Winter St. 9th Floor  
 Boston, MA 02108  
 (617) 292-5553

THE MINNESOTA WATER POLLUTION CONTROL FUND (MWPCF)  
Summary

The MWPCF, established in 1984, provides communities with 50% grants for the construction of wastewater treatment works. The funds may be used for broader eligibilities than allowed under the Federal construction grants program and targets assistance to small, rural communities in particular. The source of funding for this independent grants program is a 4 cent cigarette tax. An exceptional feature is the CSO loan program for the State's largest metropolitan area.

THE MINNESOTA WATER POLLUTION CONTROL FUND (MWPCF)  
Program Annotated Outline

I. Program Description

A. Organization

1. Scope (eligible projects)

Eligibilities parallel those in the Federal CG program, plus:

- reserve capacity for 20 years
- land acquisition for ponds (targets small/rural communities)
- collection systems
- reimbursement

2. State agency involved:

- Minnesota Pollution Control Agency (MPCA)

B. Establishment: 1984

1. Options initially considered:

In a study prepared for MPCA by Peat Marwick, with MFOA, the following alternative state aid programs were considered:

- grants programs (straight, directed, sliding scale, variable)
- loan and interest subsidy programs (State guarantee, interest subsidy, bond bank, revolving loan, and combinations of these)

Crystal Waters Act of 1969: authorized \$1.5 million for interest subsidy program with reimbursement provision.

Not attractive to communities at that time; none applied.

2. Political and legal considerations:

Strong public and legislative sentiment that communities required to comply with wastewater permits were entitled to grants led to the establishment of an independent 50% State grants program.

3. Statutory and constitutional restrictions

None

4. Subsequent program modifications:

Added CSOs as eligible for funding (grant/loan mix for Twin Cities; grant only for So. St. Paul).

II. Program Administration:

A. Staff: same staff as work on Federal CG program

B. Administrative funds: Because Fund uses same staff as Federal CG program, delegation agreement stipulates that 205(g) money may be used to cover Fund administrative costs.

### III. Operations

#### A. Capitalization of Fund

1. The first year of funding was through a \$12 million appropriation derived from general obligation bonds.
2. In 1985, the legislature changed the funding source to a 4 cent cigarette tax.

#### B. Leveraging Capability: None

#### C. Forms of Assistance

1. Grants: 50% grants for eligible projects (See I.A.1.)
2. Grant/loan mix for St. Paul/Mpls CSO projects
  - no interest loans, repayments not to begin for 10 years, loans have not been made at this time
  - dedicated WPCF account for loans has ability to revolve
  - \$6.75 million allocated for combination loan/grant, cities must provide match
3. 15% add-on grant for AT projects
4. 0-30% financial need grant, based on a community's median household income, assessed property values, and median per connection cost of projects bid in all communities in the previous two years. Used for State and Federal program.

#### D. Eligibility Requirements

1. Same as for Federal CG program, plus:
  - reserve capacity (20 years)
  - land acquisition for ponds
  - collection systems
  - reimbursement

#### E. Requirements on grant recipients:

1. Financial: At least 10% of eligible costs must be locally funded (6% for I/A and AT projects prior to 1985).
2. Environmental: Same as those that apply to the Federal construction grants program

#### F. Program Effectiveness:

Program too new to have results available

#### G. Privatization

1. Private sector expresses interest, activities will depend on Federal tax reform and favorable State legislation (unspecified).

### IV. Comments Regarding Federal Programs and Legislative Proposals

1. What are limits on eligible projects after the first round?
2. Would like to see Regional office expand technical assistance role, (eg, provide guidance regarding screening and approving technologies for I/A systems).

## V. Materials Available:

- Evaluation of Alternative State Aid and Other Programs for Financing Construction of Wastewater Treatment Facilities (for MPCA by Peat Marwick and MFOA 10/83)
- State and Federal Wastewater Treatment Facilities Construction Grants Programs (MPCA 8/85)
- MPCA Plan of Operation Review Checklist
- Procurement (A/E) Requirements

## VI. State Contact:

Duane Anderson, CG Section Chief  
Division of Water Quality  
Minnesota Pollution Control Agency  
1935 W. County Road B2  
Roseville, MN 55113  
(612) 296-7205

NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST  
Summary

The New Jersey Environmental Infrastructure Trust is an independent State authority for the purpose of providing financial support for environmental infrastructure projects. The Trust operates a revolving loan fund capitalized by dedicated revenues and could receive any Federal appropriations specifically for capitalizing revolving loan funds. The Trust is authorized to issue bonds and other obligations to provide financial support for the local share of costs of environmental infrastructure projects. Forms of support include grants and revolving low or no interest loans from State bond proceeds.

NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST  
Program Annotated Outline

I. Program Description

1. Organization:

- a. Scope (eligible projects): Categories eligible for assistance from the Trust include:
  - wastewater treatment projects
  - resource recovery facilities
  - secure landfills
  - closure of landfills
- b. Agencies involved:
  - Dept. of Environmental Protection (houses the trust, develops priority lists)
  - Dept. of Treasury (approves financing proposals)
  - Dept. of Community Affairs (reviews all municipalities annual budgets)
  - Legislature (confirms project priority list/appropriations bills)
  - Governor's office (can line-item veto specific projects)

2. Establishment: 1985.

- a. Options initially considered:
 

New Jersey Infrastructure Bank- to aid in financing a broad spectrum of infrastructure projects. Subsequently separated transportation and established the Transportation Trust which is supported through gas taxes, highway tolls and commercial vehicle registration/license fees.
- b. Political and legal considerations:
 

Wrote legislation to enable applying existing state funds toward state share in the event of Federal revolving fund legislation.
- c. Statutory and constitutional restrictions:
 

None, though bond issues will be worded carefully in order to give the Trust adequate flexibility and protection.
- d. Subsequent program modifications:
 

N/A.
- e. Future picture:
 

Will depend on Federal tax reform legislation (re: bond issues) and reauthorization of the Clean Water Act.

II. Administrative

1. Training:

None specified. The Trust will receive support from state agencies and retain experts as necessary.

2. Staff size/skill mix:

Seven member board of directors (to serve without compensation). Executive director and any other employees as required. The Trust may engage the services of attorneys, engineers, accountants, financial experts and other advisors and determine their compensation. Small staff anticipated.

3. Administrative costs/operating budget:

Annual expense not to exceed \$250,000. The Trust may charge fees for costs incurred in connection with its financings and establishment and maintenance of reserve or other funds.

### III. Operations

#### 1. Capitalization of fund (funding sources):

Initially plan for \$300 million to go into the Trust with \$100 million for wastewater treatment projects. [\$50 million from an appropriation, \$50 million from a new general obligation bond (GOB) issue].

Equity sources - Federal construction grant funds  
 - Federal appropriations specifically for capitalizing State revolving loan funds  
 - G.O. bonds  
 - Additional revenues and private contributions

#### 2. Leveraging capability: 4:1 anticipated by using part State equity monies and part bond issues in a secured account.

##### a. Marketing:

Not specifically limited in enabling legislation.

##### b. Bond rating:

The Trust will be used as security in going to the market. While it lacks the "full faith and credit" of the State, it does carry the respected status of a State agency. It will have to earn its own rating.

##### c. Reserve requirements and amount of coverage:

Not specified. The Trust can create and adjust funds as needed to obtain the best bond rating at minimal cost.

##### d. Investment restrictions (e.g. limits on interest earned):

Limited by rules of the State Investment Council.

Interest earned on loans or temporary investments are returned to the fund.

#### 3. Forms of assistance:

##### a. Loans:

Low or no interest loans for 65-100% of local share of costs.  
 Terms flexible, interest rates variable.

##### b. Bonds:

The Trust is authorized to guarantee payment on bonds issued by a governmental unit to finance the cost of an environmental project.

##### c. Grants:

The Trust is authorized to make grants and a program is under consideration for depressed areas.

##### d. Bond insurance:

The Trust may procure insurance to secure the payment of its bonds, guarantees and loans. This is not viewed as normally necessary, given other security features of the program.

##### f. Other credit enhancement:

-bond pooling  
 -debt refinancing

#### 4. Evaluation of applications (eligibility requirements):

##### a. Criteria for providing assistance (e.g. financial need):

-No stress test to qualify.  
 -Facility must be on approved project priority list.  
 -Additional criteria will be addressed in implementing rules and regulations of the Trust.

- b. Conditions placed on forms of assistance:
    - Governmental unit must prepare an infrastructure facility master plan to guide investment decisions.
    - Governmental unit must waive entitlement to Federal construction grants.
    - Governmental unit may not have outstanding defaulted loans.
- 5. Requirements on loan recipient:
  - a. Local assurances:
    - i. financial (e.g. dedicated repayment source):
 

The Trust would receive broad authority to define rules and procedures directing the submission of loan, grant or guarantee requests, and to establish criteria for evaluation of requests. These may include:

      - a rate covenant pledging that the local unit will charge/levy sufficient fee/taxes to cover O&M and debt service.
      - a dedicated loan repayment and debt service schedule to be included in a municipality's annual budget proposal.
      - State aid intercept provision, whereby local aid may be withheld and applied toward any defaults on payments.
    - ii. environmental:
 

Dept. of Environmental Protection (DEP) maintains control over project ranking criteria and develops the annual priority list for submission to the Senate and General Assembly. While it is possible that the initial project list may subsequently be modified in the appropriation process, the current environmental requirements still apply in the development of the list.
  - b. Application of State procurement rules:
 

Left to the discretion of the trust.
  - c. Environmental review procedures:
 

DEP would retain responsibility for project reviews. The State's program would likely be similar to current Federal procedures.
  - d. Report filing requirements:
 

The Trust is required to make annual activities report to the Governor and Legislature. This report would include operating and financial statements, financial assistance activity and a summary of projects.
- 6. Fund accounts:
  - a. Dispersal of monies from fund/repayments of monies to fund:
 

The Trust has broad authority to establish accounts and accounting systems it deems necessary to achieve statutory intent. Of note is the provision for a covenant between the Trust and bond-holders, and generally to create reserve accounts for other purposes. Also, repayments of loans from the Trust would be made to "general equity funds" as would all revenues and receipts. (Unless required to be otherwise applied pursuant to law). This means that new loans from this account could be made for any environmental infrastructure project covered by the authority of the Trust.

7. Evaluation of program effectiveness (e.g. audits):

a. Program/project:

An annual audit of books and accounts of the Trust by a CPA would be required. The State auditor may also audit the Trust. In addition, the Trust would prepare every two years, a project inventory to include, in part:

-A listing of all projects having received assistance, specifying location, type, capacity, utilization and future utilization, life expectancy, condition and effectiveness;

-An evaluation of repair, rehabilitation and expansion needs for projects on the priority list approved by the Legislature, plus the need for new projects for 10 years out.

8. Default experience/non-compliance with requirements:

a. Penalties and legal recourse:

State aid intercept provision combined with annual budget planning is expected to prevent defaults quite effectively.

9. Private sector participation:

New Jersey recently enacted an alternative to its existing Local Public Contracts Law that allows up to 40 year municipal service contracts and permits an RFQ/RFP approach which gives municipalities flexibility in collecting and reviewing bid proposals.

The extent of private sector involvement will depend on proposed changes in Federal tax law. To date, it has been popular in resource recovery projects in New Jersey.

10. Program issues or problems:

The Legislature must act on the Trust proposal which is a central piece of the Governor's legislative package.

The earlier issue for some municipalities, regarding the exchange of a grant for a loan, may be resolved by the "hold harmless" provision in the enabling act that would retain Federal grant eligibility for projects scheduled for grants in FY 85.

IV. Relation to Federal programs and legislative proposals:

New Jersey is eager for supporting Federal legislation and has written its own legislation with language that would allow use of Federal revolving loan fund capitalization grants.

V. Examples of materials available:

-copies of legislation

-legislative outline

-Priority System and Project Priority List for FY 1985

VI. State contacts:

John W. Gaston, Director,  
Div. of Water Resources

Nicholas G. Binder, Asst. Dir.,  
CG Administration Element

Dept. of Environmental Protection  
CN029

Trenton, New Jersey 08625

(609) 292-1637

(609) 292-8961

NEW MEXICO ENVIRONMENTAL IMPROVEMENT DIVISION (NMEID)  
Summary

A 20% State matching grants program for wastewater treatment projects is funded from severance tax proceeds. The legislature has also provided special State appropriations in 1984 and 1985 for wastewater treatment. The NMEID is planning to propose legislation to create a State-financed revolving fund (SFRF). The fund is anticipated to be used to provide financing where it is needed most, primarily for reserve capacity and second-track funding.

NEW MEXICO ENVIRONMENTAL IMPROVEMENT DIVISION (NMEID)  
Program Annotated Outline

I. Program Description

1. Organization:

a. Scope (eligible projects):

State matching grants (20%) for wastewater treatment are provided. Since 1977, the legislature has also made special State appropriations for wastewater treatment. In 1984 and 1985 these appropriations exceeded the EPA grant program by a factor of three. 100% grants are also available for special projects (any infrastructure) from the NM Community Assistance Program.

b. Agencies involved:

- NMEID administers the EPA/EID wastewater construction grant program and is anticipated to administer the SFRF if enacted (as the State's water pollution control agency).
- New Mexico Local Governments Division (LGD): Administers the NM Community Assistance Program. The LGD reviews and approves the annual budgets of municipalities in the State. The LGD also assists municipalities in budget preparation.
- New Mexico Municipal League: Advisory role to municipalities.

2. Establishment: State matching grants since the late 1950's.

3. Future picture:

Proposed legislation is planned for the creation of a State-financed revolving fund (SFRF), for introduction to the legislature in February, 1986, whether the Clean Water Act is reauthorized or not.

II. Administrative

1. Training:

Plan to train the NMEID staff extensively for roles in implementing and operating the revolving fund.

2. Staff size/skill mix:

Currently, the NMEID program is administered by 12 people, and that number is anticipated to change if the revolving fund is adopted. Staff includes: one manager, four engineers, two administrators, two fiscal accountants, and support staff.

III. Operations

1. Capitalization of fund (funding sources):

The 20% State match is funded by the legislature from severance tax dollars (coal, uranium, oil, gas, minerals). The legislature also provided a special State appropriation (severance tax) for wastewater treatment (\$43 million in 1984 and \$13 million in 1985).

2. Evaluation of applications (eligibility requirements):

a. Criteria for providing assistance (e.g. financial need):

The FmHA financial capability test is used.

3. Application of State procurement rules: Do apply.

4. Private sector participation: No current privatization projects.  
None anticipated.

## 5. Program issues or problems:

- Extraction levels are falling in the State, thus there is reluctance to use revenue from severance taxes indefinitely. The SFRF would provide revenue for much needed reserve capacity and second-track funding. It is thought that general revenue funds, possibly 1/4% gross receipts tax or other funding sources (not severance monies), would be needed to capitalize the SFRF, due to the restrictions on arbitrage.
- Survey of all communities in Fall, 1984 revealed \$268 million in all wastewater needs for next fiscal year regardless of funding sources. Only \$100 million may be eligible for EPA funding, thus, major need is for second-track funding source (loan or grant) with a separate priority list to address needs not eligible for EPA program.
- 1986 enabling legislation will probably address just wastewater. If successful, in 1987 or beyond may expand to address water, solid waste, or other infrastructure.
- Note: Schedule calls for public meetings in August-September, 1985 to gather ideas, and draft possible bills in October-November. Thus, details of the SFRF are subject to change.

## IV. Examples of materials available:

- State Statute: NM Water Quality Act
- State Statute: NM Environmental Improvement Act
- List of Major NM Municipal and Industrial NPDES Permittees
- NM Water Quality Control Commission Regulations
- NM Water Quality Standards for Interstate and Intrastate Streams

## V. State Contact Person:

Dave Hanna, Program Manager  
 Environmental Improvement Division  
 Construction Grants Section  
 P.O. Box 968  
 Santa Fe, NM 87504  
 (505) 984-0020

NEW YORK STATE ENVIRONMENTAL QUALITY BOND ACT  
Summary

The enactment of the New York State Environment Quality Bond Act of 1972 authorized the creation of a State debt of \$1.15 billion to provide moneys for the preservation, enhancement, restoration and improvement of the quality of the State's environment. A sum of \$650 million was dedicated to assist communities in constructing new sewage treatment facilities. Bond proceeds are used by the New York State Department of Environmental Conservation to provide assistance to municipalities in the form of grants. Environmental Quality bonds are backed by the full taxing power of the State.

## NEW YORK STATE ENVIRONMENTAL QUALITY BOND ACT

## I. Program Description

## A. Organization

## 1. Scope (eligible projects):

- sewage treatment facilities
- solid waste recycling
- air pollution abatement from public facilities
- acquisition of forest preserve land, wetlands, and other unique lands

## 2. Agencies involved

- Dept. of Environmental Conservation (determines cash needs to implement program)
- State Comptroller's Office (markets bonds)
- State Legislature (appropriates funds for bond program)

## B. Establishment: 1972

## 1. Options initially considered:

Pure Waters Bond Act of 1965 provided \$1 billion in 30% grants to municipalities for construction of POTWs. In addition, the shortfall in Federal grants was prefinanced to limit the local share to 40%. Program ended in 3/72.

## 2. Political and legal considerations:

Voter approval required. Need for bond act due to inadequate Federal assistance, higher subsequent treatment standards, inflation, and capacity requirements raised to meet 1990 flow estimates.

## 3. Statutory and constitutional restrictions:

None.

## 4. Subsequent program modifications:

Beginning 1984, the State will pay 1/2 of the nonFederal share of 75% Federally funded projects and 2/3 of the nonFederal share of 55% Federally projects. Total assistance not to exceed 30% total eligible project costs.

## C. Future picture:

Environmental Quality Bond Act is under consideration for 1986.

Revolving Loan program is currently under study.

## II. Administrative:

Technical support and program administration is provided by the Construction Grants staff in the Department of Environmental Conservation.

Administrative costs and operating budget are provided through the agency's annual budget.

## III. Operations:

## A. Capitalization (funding sources):

\$1.15 billion in State debt authorized by the State legislature with passage of the Environmental Quality Bond Act (\$650 million targeted to providing assistance to communities for construction of new sewage treatment plants).

B. Leveraging capability: None

1. Marketing:

The State Comptroller typically borrows the bond money for up to 2 years through issuance of bond anticipation notes. This period allows the State Comptroller's financial experts to take advantage of the best possible market conditions before longer term bonds are sold. Sale is through competitive bidding to assure the State the lowest possible interest rates.

2. Bond rating: AA

3. Reserve requirements:

An amount equal to 7.4% of debt issued must be maintained in a contingency fund to cover inflation costs.

C. Forms of Assistance:

1. Grants to communities for construction of new projects. Total assistance not to exceed 30% of the eligible cost.

With 55% Federal grants, municipalities must provide 15% of project cost (Local share of I/A projects is a minimum of 7.5%).

D. Evaluation of applications (eligibility requirements):

1. Criteria for providing assistance:

a. project must be approved for Federal construction grants assistance

b. bond funds are allocated according to priority list

c. projects are rated and entered into the project priority list based on the following criteria:

1. the nature of existing conditions which require correction;

2. the value of the natural resource in need of protection and/or improvement, the severity of impairment to the quality and use of the resource and the probable results of the proposed project in terms of restoration of beneficial uses and/or protection of public health;

3. the need to maintain an on-going and progressive water quality program;

4. the needs of communities statewide in various population size categories.

2. Conditions placed on forms of assistance:

a. municipality must agree to proceed expeditiously, complete the project according to approved plans

b. operate and maintain according to law, and not to discontinue service without approval of the commissioner

c. to provide for the payment of the local share

E. Requirements on loan recipient:

1. Local assurances:

N/A (I.e., loans are not involved.)

2. Applicability of State procurement rules:

All New York State procurement rules apply.

3. Environmental review:  
Projects must meet Federal construction grants program environmental requirements and State Environmental Quality Review Act requirements.
  4. Report filing requirements:  
The commissioner must keep adequate records of the amount of Federal and State assistance received by each municipality.
  - F. Fund accounts (disbursal/repayment):  
Other than the contingency fund, every dollar goes toward construction. The commissioner makes payments to a municipality as construction progresses. Total State assistance is subject to final determination of actual project cost upon completion.
  - G. Evaluation of program effectiveness: \$8.6 billion worth of assistance has been provided to date.
  - H. Default experience/non-compliance with requirements: N/A
  - I. Private sector participation:  
Very little activity to date; privatization has not been competitive with Federal construction grants.
  - J. Program issues and comments on legislative proposals:
    1. Program planning is difficult given the unknown impact of the Administration's tax reform package.
    2. Concern with scope of new federal requirements if proposed legislation becomes law (Assure flexibility).
    3. Concern with limitations on use of SRF loans; for SRF to be effective for New York, eligibilities must be broadened (The majority of the State's needs involve CSOs).
- IV. Materials Available:
- A. Fact Book: Environmental Quality Bond Act of 1972
  - B. Amendments to the Environmental Conservation Law in relation to the State share of eligible costs (Chapter 82 of 1984 Amendments)
- V. State Contact:
- W. F. Esmond, Jr., P.E.,  
Director, Bureau of Program Management  
New York State Department of Environmental Conservation  
50 Wolf Road  
Albany, New York  
(518) 457-6252

OHIO WATER DEVELOPMENT AUTHORITY (OWDA)  
Summary

The Ohio Water Development Authority (OWDA) enters into Cooperative Agreements with Local Government Agencies (LGA's) to finance the construction of water supply and wastewater treatment facilities. These agreements set the interest rate and the period of years over which the LGA must repay the OWDA for the non-grant or local share of project costs. Initial funding was provided from a \$100 million State appropriation from proceeds of the 1968 bond issue, and subsequent capitalization has been solely from the sale of Water Development Revenue Bonds. In 1983, the Hardship Program was initiated to provide low-interest loans to eligible LGA's. Through 1984, the OWDA funded a total of 369 projects, having a total project dollar-value in excess of \$1.5 billion.

OHIO WATER DEVELOPMENT AUTHORITY (OWDA)  
Program Annotated Outline

I. Program Description

1. Organization:

a. Scope (eligible projects):

The OWDA administers the Local Government Agency (LGA) Program, which provides loans for wastewater and water supply construction projects. In addition, the OWDA's Industrial Program finances (through IDB's) the construction of pollution abatement facilities for industry.

b. Agencies involved:

- Ohio Environmental Protection Agency (OEPA)
- Ohio Dept. of Natural Resources
- Ohio Development Agency

2. Establishment: 1968.

a. Options initially considered:

Loans to LGA's were considered superior to grants. The repayments provide capital for new loans and ensure the longevity of the OWDA program.

b. Political and legal considerations: (see I.2.c. below)

c. Statutory and constitutional restrictions:

No constitutional provisions precluded the formation or operation of the OWDA.

d. Subsequent program modifications:

The Pollution Abatement Program, initiated in 1969 by the OWDA, provided loan financing for the local share of projects that received Federal Grant (CG) monies. It expired in 1974, and was replaced by The Clean Water Program, which provided loans for State sewer and water projects, as well as the local share of Federally funded projects. In 1979, the Clean Water Program expired, and was replaced by the Safe Water Program. In addition to providing loans for the local share of project costs, the OWDA funds the Federal share from the proceeds of Safe Water Federal Grant Advance Notes. The Federal Grant (CG) payments are pledged to the payment of principal of the Advance Notes.

In 1983, the OWDA initiated the Hardship Program to provide low-interest loans (2% and up) to LGA's unable to finance at market interest rates.

e. Future picture:

Continue to offer loans at or near market rates, except for the hardship cases. This strategy is necessary to ensure long-term fund solvency.

## II.

## Administrative

1. Training: None specified.
2. Staff size/skill mix:

The OWDA is composed of a seven person staff; an executive director, a chief engineer, a comptroller (CPA), a local government agency representative (CPA), an administrative assistant, a processor of payment requests, and a secretary. The OWDA retains outside bond counsel and financial advisor for market and investment expertise.

3. Administrative costs/operating budget:

A one-time administrative fee of 0.35% of total estimated project costs is charged to the LGA. The 1984 operating budget was approximately \$0.59 million.

The OWDA has eight board members; five appointed by the Governor, and three voting ex-officio members from the Ohio Environmental Protection Agency, Ohio Dept. of Natural Resources, and Ohio Development Agency.

## III.

## Operations

1. Capitalization of fund (funding sources):

The initial capitalization was from a \$100 million State appropriation from the proceeds of the November, 1968 bond issue. There have been no further appropriations to the fund. Revenue bond issues were as follows:

1971 - 74	\$155 million
1975 - 78	\$115 million
1979	\$268 million (refunder)
1981	\$ 40 million
1982	\$ 72 million
1983	\$135 million
1984	\$ 40 million
1985	\$221 million (refunder)

The 1979 refunder freed-up \$85 million which was used to start the Safe Water Program in 1980. The current bond issue (1985) is a refunder of the 1979 refunder. It is anticipated to free-up approximately \$55 million in funds. The released monies come from the following sources:

- reduction in coverage required.
- reduction in debt service reserve.
- bonds bought back at less than face-value.
- monies now recoverable under new IRS rules.

2. Leveraging capability:

- a. Marketing:

Bond counsel, Squire, Sanders, and Dempsey, provide guidance on legal aspects of LGA program including bond issues. The Ohio Company serves as financial advisor for each of the various bond issues and advises on bond market conditions for the OWDA. The trustee bank handles all payments from the OWDA (including construction contractor, LGA, and paychecks).

- b. Bond rating:  
Prior to the 1985 bond issue, the OWDA had an A rating. The 1985 issue has an Aaa rating, being the first OWDA issue to carry bond insurance (AMBAC).
  - c. Reserve requirements and amount of coverage:  
Adequate debt service reserve funds, dedicated to principal and interest payments on the bonds, are required by the market place. Historically, coverage requirements to permit the issuance of additional bonds necessary to keep the construction fund revolving, has been 120% of maximum annual debt service requirements for the first 10 years after bond issuance and 110% of maximum annual debt service thereafter. There is no local coverage requirement on the payback from LGA's to the OWDA.  
There is no "moral obligation" provision in the Ohio statute.
  - d. Investment restrictions (e.g. limits on interest earned):  
Federal restrictions on arbitrage must be observed.
3. Forms of assistance:
- a. Loans (terms):  
The contract interest rate is determined quarterly, by adding 15 basis points to the "Bond Buyer's" 20 Bond Index. Loan terms can be from 10 to 25 years (LGA discretion).
  - b. Grants: None.
  - c. Rate subsidies:  
A \$15 million Hardship Program was established in 1983 from surplus funds. These monies are used to subsidize, through blending, the contract interest rate to levels as low as 2%. Loan terms are 25 to 30 years. Only LGA's that are determined by the OEPA to be unable to afford market rate loans are considered. Typically, eligible LGA's have projected sewer rates that exceed \$20 per month. The OEPA determines affordable loan terms and interest rates for eligible LGA's. Subsequently, eligible LGA's enter into Cooperative Agreements with the OWDA under the subsidized terms.
  - d. Bond insurance: None.
  - e. Loan guarantees: Not available.
  - f. Other credit enhancement: None.
4. Evaluation of applications (eligibility requirements):
- a. Criteria for providing assistance (e.g. financial need):  
A prospective pool of applicants is served on a first-come, first-serve basis. The OWDA will fund any legitimate project costs (up to 100%). The cap for LGA financing from the OWDA cannot exceed \$100 million or 10% of the total (water and wastewater) loans outstanding from the OWDA, for any applicant whose notes or bonds are rated below investment grade. The OEPA is responsible for assessing the eligibility of LGA for participation in the low-interest loan Hardship Program (see II.3.c. above).

- b. Conditions placed on forms of assistance:  
The LGA must enter into a Cooperative Agreement with the OWDA prior to receiving a loan (see III.5.a.i. below).
- 5. Requirements on loan recipient:
  - a. Local assurances:
    - i. financial (e.g. dedicated repayment source):  
The OWDA will not approve a Cooperative Agreement with a LGA until the following criteria are met:
      - (1) Bids have been received and contract awards have been tentatively approved.
      - (2) Legislation passed authorizing the signing of the Cooperative Agreement.
      - (3) Completed any necessary assessment, tap-in, and/or rate legislation.
      - (4) Prepared an amortization schedule projecting revenues, debt service obligations, and O & M costs, over the contract term of years repayments are made to the OWDA.
      - (5) Received notification by U.S. EPA of grant (CG) award (if any).
    - ii. environmental:  
All projects must be approved by the OEPA, and those receiving Federal (CG) funds must have U.S. EPA approval. The applicant agrees to comply with all Federal and State requirements for construction and operation and maintenance of the project.
  - b. Application of State procurement rules: Do not apply.
  - c. Environmental review procedures: (see III.5.a.ii. above)
  - d. Report filing requirements:  
Loan repayments must be made to the OWDA according to the dedicated schedule detailed in each Cooperative Agreement. No other report are required of the LGA.
- 6. Fund accounts:
  - a. Dispersal of monies from fund/repayments of monies to fund:  
The OWDA pays all construction costs directly to the contractor. All other project costs are reimbursed directly to the LGA. The money is dispersed monthly during the construction period. The interest rate charged during construction is 4% below the contract interest rate (in order to compete with short-term note financing).  
If the project is eligible for a Federal (CG) grant, payments are made from two separate accounts; (1) OWDA Construction Fund (interest charged), and (2) Grant Advance Fund (no interest charged).  
Semi-annual repayments from LGA's to the OWDA typically begin immediately after the anticipated date of project completion. Repayments may be made on an equal annual basis, or an equal annual principal basis (as specified in the Cooperative Agreement).

7. Evaluation of program effectiveness (e.g. audits):

a. Program/project:

Semi-annual financial audits of the OWDA program are conducted by Peat, Marwick, Mitchell, & Co.

8. Default experience/non-compliance with requirements:

a. Penalties and legal recourse:

The Cooperative Agreement signed by the LGA and the OWDA specifies that the user rates must be sufficient to cover loan repayments. The OWDA has the power to force the LGA to raise user rates through a court order. Only one LGA has been served a court-ordered rate increase. Interest is charged on late payments.

b. Refinancing option:

Not available once a LGA has signed into a Cooperative Agreement. However, with prior arrangement, the OWDA will allow the LGA to finance with short-term debt, and arrange for long-term financing after the construction is completed.

9. Private sector participation:

No privatization projects have been undertaken in Ohio.

The OWDA Industrial Program offers tax-exempt financing (IDB's) for installation of pollution control facilities (water and solid waste) by industry. The credit of the industry involved must be sufficient to secure the bond sale. Treatment plans must receive approval from the OEPA prior to initiation of the bond sale. Through 1984, a total of 104 Industrial Agreements had been signed, with a net value of \$1.2 billion.

10. Program issues or problems:

- The proposed Federal tax reforms may disallow tax-exempt financing for non-public uses, which would affect the OWDA Industrial Program.
- The OWDA is concerned that the 1984 Deficit Reduction Act will affect the ability of the OWDA to issue Grant Advance Notes. The OWDA has chosen not to issue any more Grant Advance Notes until the regulations relating to indirect guarantees are promulgated.

IV. Relation to Federal programs and legislative proposals:

In the event of a Federal role in capitalizing SRF's, the mechanism for implementation exists within the OWDA program.

V. Recommendations for other States considering similar programs:

Several key points central to the success of the OWDA program:

- (1) An initial legislative appropriation for capitalizing the fund.
- (2) Simplicity of the Cooperative Agreements between the LGA's and the OWDA (no reports to file, no necessity to approach the bond market).

- (3) Charging at or near market interest rates to ensure fund solvency. The OWDA is reluctant to subsidize the interest rate below the market level, due to the threat to long-term fund solvency.
- (4) Consistent and long-term involvement with outside expertise (bond counsel and financial advisor).

VI. Materials Available:

- Brief overview of OWDA program
- State statute: Ohio Water Development Authority Act
- OWDA 1984 Annual Report
- July 1, 1984 OWDA Bond Issue
- April 1, 1985 OWDA Bond Issue
- Fact sheet on OWDA Industrial Program
- Regulations for Sewer and Water Supply Systems
- Regulations for Hardship Program
- Sample Amortization Schedule
- Cooperative Agreement for Construction, Maintenance, and Operation of State Water Project
- Cooperative Agreement for Construction, Maintenance, and Operation of State Sewer Project
- Cooperative Agreement for Construction, Maintenance, and Operation of Title II Project
- Cooperative Agreement for State Planning Project

VII. State Contact Person:

E.B. Ransom, Executive Director  
Room 1425  
50 W. Broad St.  
Columbus, OH 42315  
(614) 466-5822

OKLAHOMA WATER RESOURCES BOARD (OWRB)  
STATEWIDE WATER DEVELOPMENT REVOLVING FUND  
Summary

A Water Resources Fund (WRF) was created in 1979 from which loans could be made for water resource development projects. The Oklahoma Water Resources Board (OWRB) was given the authority to determine the interest rate required of borrowers, and the repayment term of the loan. The bill was amended in 1982 to establish a Statewide Water Development Revolving Fund (SWDRF), which was capitalized with a \$25 million appropriation from the general revenue fund. The interest earned in the SWDRF is earmarked to maintain a small grant program at \$5 million to help alleviate local emergencies. All other interest income and Fund monies will serve as collateral for investment certificates (bonds) issued to finance loans to local entities.

OKLAHOMA WATER RESOURCES BOARD (OWRB)  
STATEWIDE WATER DEVELOPMENT REVOLVING FUND  
Program Annotated Outline

I. Program Description

1. Organization:

a. Scope (eligible projects):

Projects eligible for OWRB loans and grants include wastewater treatment (since 1980) and surface or subsurface water conservation or development (segregated accounts).

b. Agencies involved:

- Oklahoma Water Resources Board
- State Treasurer's Office

2. Establishment: 1979 (first bond sale 1982)

a. Options initially considered:

The 1979 legislation limited loans to a maximum of \$1.5M; this limit was removed in 1982. Grants were limited to \$50K per community per year by 1980 legislation; in 1982 this limit was raised to \$100K, or not exceeding 20% of grant funds available during any fiscal year. The 1979 legislation limited loans to partially Federally funded projects; the 1980 legislation eliminated that requirement.

b. Political and legal considerations (see I.2.c. below).

c. Statutory and constitutional restrictions:

A constitutional amendment authorizing use of the Revolving Fund appropriation for security and collateral for debt issuance was passed in 1984, overruling the Oklahoma Supreme Court finding that the statute was unconstitutional. An Attorney General's opinion determined that competitive bidding was required to retain services of an underwriter, trustee bank, bond insurer and financial consultants.

d. Subsequent program modifications: None required.

e. Future picture:

Anticipate future bond issues to maintain lower cost financing to communities; intend to make fund self-supporting.

II. Administrative

1. Training:

Attended seminars sponsored by private sector; OJT.

2. Staff/skill mix:

The staff to the SWDRF is expected to comprise 3 engineers, 1 financial analyst, and 1 secretary. The Board retains outside bond counsel and financial consultants.

3. Administrative costs/operating budget:

The operating costs are approximately 1.5% of the program, not including costs for the technical review by construction grants staff in the Department of Health, prior to their issuance of construction permits. The objective of the OWRB is to keep the interest rate charged to loan recipients as close to the State's cost of money as possible (i.e. no more than 8.95% based on current issue costs of 8.68%). The OWRB has a nine-member Board which meets once a month.

### III. Operations

#### 1. Capitalization of fund (funding sources):

The 1982 legislation appropriated \$25M from the State general revenues to be used as security and collateral. The interest from this fund is used to maintain the grant fund. Additional interest, exceeding \$5M in the grant fund, is used to increase the collateral for investment certificates (bonds). There have been no further appropriations.

Revenue Bond issues were as follows:

1982	\$1,160,000 (project specific)
1985	\$50,000,000 (blind pool)

#### 2. Leveraging capability: 1:6.7

##### a. Marketing:

Guidance on market conditions and coordination of sale for current issues provided by: Bond Counsel - Fagin, Brown, Bush, Tinne, Kiser & Rogers; Financial Advisor - Stifel, Nicolous & Company, Incorporated. Both are located in Oklahoma City, OK.

##### b. Bond Rating: AAA

##### c. Reserve requirements and amount of coverage:

Reserve requirement: 15% (i.e., \$7.5M. on \$50M). The current issue is insured by the Municipal Bond Insurance Corporation. As a condition of the insurance policy, only \$7.5M of the issue can be backed by loans to communities that do not receive an investment grade rating of BBB or better (Standard & Poor's). A collateral fund from the \$25M reserve had to be created to cover dollar for dollar loans to these communities as additional security. The coverage requirement is for local cash flow equal to 125% of O&M and principal and interest.

##### d. Investment restrictions (e.g. limits on interest earned):

An arbitrage certificate which details the Federal limitations on investment earnings accompanies each bond issue. State law limits State from charging more than 15% interest. All of the bond proceeds must be loaned within three years or the Federal arbitrage limits start to apply.

#### 3. Forms of assistance:

##### a. Loans (terms):

For loans from the current \$50M issue, the interest rate will be no more than 9%. The board may defer repayment of principal or an installment on such assistance for a total cumulative period not to exceed five years. Two loans were made from a 1982 bond sale totalling \$674,189. Loans may be made to projects partially funded by Federal funds.

##### b. Grants:

Emergency grants are limited to a maximum of \$100K per community per year, not to exceed 20% of the Grant fund balance. Since July 1983 and ending by fiscal year 1985, 83 communities received grants totalling \$5,971,333. Loans and grants can be combined.

##### c. Rate subsidies: Not available from the State.

##### d. Bond insurance: Not available from the State.

##### e. Loan guarantees: Not available from the State.

##### f. Other credit enhancements: Not available from the State.

4. Evaluation of applications (eligibility requirements):
  - a. Criteria for providing assistance (e.g. financial need):  
For loans, applicant must provide information on the ability to finance the project without Board assistance, and ability to repay loan. Loans under current issue will be made on a first-come, first-serve basis. For grant applications, the applicant must provide a local declaration of emergency, relative needs, availability of revenues to finance the project without assistance, significance of need, per capita indebtedness, income, and other financial information.
  - b. Conditions placed on loans:  
Security on loan: mortgage on project, lien on revenues, and additional security as required by Board.
5. Requirements on loan recipient:
  - a. Local assurances:
    - i. Financial (e.g. dedicated repayment source):  
Loan recipient must demonstrate they will have adequate revenues to meet repayments on schedule (see also III.4.b. above).
    - ii. Environmental/technical:  
Loan recipient must meet requirements of the State Department of Health, and (if Federally funded) any applicable Federal requirements.
  - b. Application of State procurement rules:  
State rules apply but do not require competitive bidding on selection of engineering services.
  - c. Environmental review procedures: (see III.5.a.ii. above).
  - d. Report filing requirements:  
While the assistance is outstanding, the Board has the right to inspect the project.
6. Fund accounts:
  - a. Dispersal of loan monies from fund/repayments to fund:  
Loan dispersals are based on project specific agreements; may include advance, but can not be total lump sum payment. Board may require documentation prior to any disbursement. Not more than 90% disbursed until Board has approved the project as constructed. Grant funds may be disbursed in a lump sum. Grant disbursements are based on the bid and sent to a separate account within the grantees accounting system. Unused or reserved funds are returned to the fund.
7. Evaluation of program effectiveness (e.g. audits):
  - a. Project:  
Upon completion, applicant must notify Board which will conduct inspection and audit.
  - b. Program:  
Annual OWRB report to Legislature.
8. Default experience/non-compliance with requirements:  
No monetary default has occurred in program. Non-compliance with requirements has not been a problem.

a. Penalties and legal recourse:

Can require community to raise user charges; can reamortize loan; can use interest earned on fund to cover temporary late payments; can call on insurance. Trustee bank monitors and advises Board if potential problem. No forgiveness of loans.

9. Private sector participation:

Oklahoma City has service contract for operation of wastewater treatment works.

10. Program issues or problems:

None since constitutional issue resolved.

IV. Relation to Federal programs and legislative proposals:

If unable to leverage capitalization grant and if Title II requirements apply, would not be able to operate on a self-sustaining basis and State loans would be less competitive with private sector. May have to amend law to restrict use of Federal grant to only wastewater projects.

V. Recommendations for other States:

- Carefully research State law, constitution, case law, Attorney General opinions; look for issues such as prohibition on State assumption of local debt, use of general obligation bonds, limitations on interest earned or charged, use of competitive bidding requirements.
- Consider benefits of leveraging and ability to operate without regular appropriations.
- Insure that the agency administering the revolving fund can meet legal and market requirements to assure successful bond issues.

VI. Examples of materials available:

- State Statutes
- Legislative history, article on program
- Oklahoma Supreme Court decision
- Chronology
- Administrative regulations
- Grant priority system
- Grant and loan application forms
- FY85 Report to Legislature (Proposal for FY86)
- Notice of Sale for Series 1985 Bond issue
- Article on successful bond issue
- Pamphlet on program

VII. State Contact Person:

Walid Maher, Chief  
 Planning and Development Division  
 Oklahoma Water Resources Board  
 1000 N.E. 10th Street  
 P.O. Box 53585  
 Oklahoma City, OK 73152  
 (405) 271-2555

THE TENNESSEE LOCAL DEVELOPMENT AUTHORITY (TLDA)  
Summary

The Tennessee Local Development Authority (TLDA) was created during the 1978 session of the General Assembly and had its first bond issuance in 1981. This is an expanded version of a loan program created in 1970 to provide the 25% match for the EPA grant program. The Authority provides financial assistance for the construction of wastewater treatment plants, water projects, and solid waste resource recovery facilities. The TLDA has a legislative authorization of \$339.4 million, of which \$139.025 million is for wastewater treatment facilities.

TENNESSEE LOCAL DEVELOPMENT AUTHORITY  
Program Annotated Outline

I. Program Description:

The Tennessee Local Development Authority (TLDA) is a bond bank that is authorized to issue loans to provide financial assistance for the construction of wastewater treatment plants and solid waste resource recovery facilities. The TLDA pools local bond issues in order to improve the marketability of the loan offerings.

1. Organization:

a. Scope (eligible projects)

- wastewater treatment plants
- water projects
- solid waste resource recovery facilities

b. Agencies Involved:

- Safe Growth Team (Governor's office)
- Dept. of Health and Environment
- Comptroller of the Treasury
- Office of Water Management

2. Establishment:

a. Options initially considered:

Original loan program, set up in 1970, was financed through the issuance of State general obligation bonds and bond anticipation notes. Though the program worked well, the large future needs threatened to adversely effect the State's strong credit rating.

b. Political and legal considerations:

There is strong political support to clean up water resources in the State. This has allowed a strong State supported financing program to develop.

c. Statutory and constitutional restrictions:

Annual debt service on loans to local governments can not be larger than twice the annual State-share of taxes. State-shared taxes consist of taxes collected at the State level and appropriated and allocated by law to local governments.

d. Subsequent program modifications:

Change in 1978 away from State G.O. bonds to revenue bonds in order to protect the State's high (AAA) credit rating. Authority had to establish its own credit rating.

## e. Future picture:

Authority will continue current program, with the possibility of a larger loan authority. The authority is considering a combination of grants and loans to fund small communities that are unable to afford a straight loan program.

## II. Administrative:

## 1. Training:

No training program. Authority receives assistance, expert advice from other State offices, bond counsel etc.

University of Tennessee runs a municipal technical advisory (MTAS) program that helps communities set up appropriate user fees (rate structure manual)

## 2. Staff size/skill mix:

State Finance Board oversees program (includes State Treasurer, Secretary of State, Comptroller, Commissioner of Finance, and the Governor).

An accountant, two clerical staff members, and a secretary spend approximately 30% of their time working on business for the Authority, while a staff attorney spends 15% of her time on TLDA business. The Authority also has use of the Attorney General's office. Construction grants personnel do technical review work.

## 3. Administrative costs/operating budget:

Administrative costs run approximately \$60,000 annually for staff salaries. Funds to pay administrative costs are derived from interest earned from funds awaiting disbursement to construction projects.

## III. Operations:

## 1. Capitalization of fund (funding sources):

Total legislative authorization of \$339.4 million, of which \$139,025,000 is for wastewater treatment.

List of debt offerings:

1981 --	\$90,675,000
1982 --	\$92,250,000
1983 --	\$78,280,000
1984 --	\$68,850,000
1985 --	\$21,350,000

Level of outstanding bonds is currently \$58,662,000 (10% interest).

Authority is not near appropriation limit. If limit is reached, Authority would approach legislature for an increase in funding level limits.

## 2. Leveraging capability:

7:1. Use of State appropriation and State moral obligation to obtain a more favorable bond rating.

## a. Marketing:

Two bond issues in 1985, both through:

Bond Counsel -- Wood Dawson Smith and Hellman, New York.

Underwriter -- Prudential-Bache.

## b. Bond rating:

The TLDA has a bond rating of: AA -- Standard and Poor's  
A+ -- Moody's

Factors that determine rating include: 1) State moral obligation, 2) control of user fee structure, and 3) debt service requirements, 4) State-share taxes, and 5) power to increase local property taxes to cover repayment costs.

## c. Reserve requirements and amount of coverage:

There is a one-year debt service requirement for revenue bonds. The debt service, until 1984, could not be larger than a community's portion of State-share taxes. To increase leveraging capability, the authority reduced the debt service requirement to 50% of State-share taxes (doubled borrowing capability). State set up statutory reserve fund to cover the other 50% of debt service. The Governor has a moral obligation to refill statutory reserve fund if it is depleted.

## d. Investment restrictions (e.g. limits on interest earned):

No restrictions on investments. Interest earned on monies in fund in excess of 200% reverts back to the general State fund.

## 3. Forms of assistance:

Assistance only given with assurances of user rate discipline. In addition to repayment and operation and maintenance costs, user fees must also cover replacement costs.

## a. Loans (terms):

Size of loan varies with need and ability to repay. Can be as high as 100% of construction costs.

Loans received through the TLDA have lower interest rates than rates communities can get on their own. This occurs through pooling mechanism and by the authority subsidizing interest rates.

## b. Grants:

Program originally set up to supplement EPA grant program. Authority uses "Index of ability to pay," which rates financial capability of all communities. Towns on the top half of the list are ineligible for grants while the lower 50% are eligible for grants ranging from 5-35%, depending on list ranking (lower ranking cities can receive larger grants).

- c. Rate subsidies:  
Indirect rate subsidies result from the authority's ability to obtain lower interest rates on bond yields. Communities receive direct subsidies if the authority offers a reduced interest rate or grant to offset pressures on user charge fees.
- d. Bond insurance:  
Not used.
- e. Local guarantees:  
None.
- 4. Evaluation of applications (eligibility requirements):
  - a) Criteria for providing assistance (e.g. financial need)  
Local Development Authority, along with the Dept. of Health and Environment, reviews and approves loan applicants if:
    - 1) The project is technically feasible.
    - 2) The project can be operated with the department's environmental standards.
    - 3) The project meets EPA eligibility criteria (sewage treatment only).
- 5. Requirements on loan recipient:
  - a. Local assurances:  
Municipalities must establish a user fee to provide debt service repayment on loans, operation and maintenance, and depreciation costs.  
Municipalities must promise to levy appropriate user fees, increase property taxes if necessary and agree to a cut-off of State-share taxes if community goes into default.
  - b. Application of State procurement rules:  
No state regulations.
  - c. Environmental review procedures:  
Abide by same environmental regulations that apply with the construction grants program.
  - d. Report filing requirements:  
Each community must file an audit report to the State Auditor's Office every year. This is reviewed by the local Municipal Finance Division to determine whether user charge fees are adequate to pay off all costs associated with the facility.

6. Fund accounts:

a. Dispersal of monies from fund/repayments of monies to fund:

Local Development Fund -- funds derived from bond issues are dispersed to communities. A main goal of the Authority is to have the ability to issue long-term loans at fixed interest rates under 10%. Authority maintains watch over borrowing communities to ensure continued ability to repay loans.

7. Evaluation of program effectiveness (e.g. audits):

a. Program/project:

The State requires annual audits of each community. Those with outstanding loans are reviewed to see whether user charge rate structure is adequate to repay debt service, O & M, and depreciation costs. Audits are undertaken by the Division of Municipal audits.

8. Default experience/non-compliance with requirements:

a. Penalties and legal recourse:

Under the current program, there have not been any defaults. If a borrowing community does go into default, the authority has several options to recover the funds. They include:

- 1) increasing the user fees of the community.
- 2) withholding State-share taxes.
- 3) collection of an ad valorem tax.

b. Refinancing option:

The Authority does not allow refinancing of loans. Policy is that refinancing is not a solution to a problem -- it only extends it. Monitoring communities allows for resolution of problems before they become major ones.

9. Private sector participation:

Larger communities, which do not receive grants from the Authority, may opt for privatization. The Authority does not get involved with these projects, and they are not eligible for loans.

10. Program issues or problems:

- There is no ongoing review of past loan recipients to determine whether communities are maintaining adequate user fees.
- Current Federal programs (particularly FmHA) do not promote self-sufficiency. There should be provisions in grant programs that user fees must be adequate to cover depreciation, operation and maintenance, and debt service costs.
- Engineers on construction sites are given too much responsibility. They are often called upon to make important decisions outside of their field, due to lack of trained professionals.

IV. Relation to Federal programs and legislative proposals:

The Authority is working diligently to have wastewater treatment facilities in compliance by the July 1, 1988 deadline. The Local Development Authority could use Federal funds and would be able to comply with a State match. The Authority would like the flexibility to use the funds as a reserve fund to obtain lower interest rates on bond issues.

V. Materials Available:

- overview of the Tennessee Local Development Authority.
- TLDA: State Loan Program, General Bond Resolution.
- legislation of program.

VI. State Contact:

Mr. Ben L. Smith, Executive Director  
 Safe Growth Team  
 State of Tennessee  
 Suite 1600  
 James K. Polk Building  
 Nashville, TN 37219  
 (615) 741-5782

TEXAS WATER DEVELOPMENT FUND (TWDF)  
Summary

The TWDF has financed the construction of wastewater treatment and water supply projects since 1957. Loans are provided to Political Subdivisions from the proceeds of TWDF general obligation (G.O.) bonds. A bill recently passed by the legislature and signed by the Governor, will provide an additional \$980 million G.O. bonding authority to the TWDF. In addition, a proposal to create a Revenue Bonding Authority, controlled by the TWDF, is currently under consideration.

TEXAS WATER DEVELOPMENT FUND (TWDF)  
Program Annotated Outline

I. Program Description

1. Organization:

a. Scope (eligible projects):

The Texas Water Development Fund (TWDF) provides loans for wastewater (Water Quality Enhancement Account) and water supply (Water Development Account) projects. The TWDF has dealt primarily with Political Subdivisions (PS) unable to enter the bond market due to either poor or overextended credit.

b. Agencies involved:

- Texas Dept. of Water Resources
- Texas Municipal Advisory Council

2. Establishment: 1957.

a. Options initially considered: Not discussed.

b. Political and legal considerations:

None in current program, although the State legislature examined some of the restrictions under the proposal described below (see I.3. below).

c. Statutory and constitutional restrictions: (see I.2.b. above)

d. Subsequent program modifications:

The Water Conservation and Development bill passed the State legislature and was signed by the Governor this year. The voters approved the bill by a 3 to 1 margin in November, 1985. The package provides \$980 million bonding authority to the Texas Water Development Board (TWDB), which governs the TWDF (see II.3. below). The \$980 million is to be divided in the following manner:

Water (Water Development Account)	\$190 million
Sewer (Water Quality Enhancement Account)	\$190 million
Water Reservoir Purchase	\$400 million
Flood Control	\$200 million

In addition, the legislature authorized loan guarantees from the TWDF of up to \$500 million, backed by \$250 million full faith and credit of the State. A 2:1 leveraging ratio is achieved from this loan guarantee provision.

3. Future picture:

A proposal to create a Revenue Bonding Authority (non-profit), controlled by the TWDB, nearly passed the legislature in 1984. This "Portfolio Asset Restructuring" proposal is a form of advance refunding. The TWDB would sell its portfolio of loans to the Authority, and use the proceeds to purchase US Treasury investments with scheduled maturities corresponding to future debt service requirements on outstanding TWDB Bonds. The Authority would issue insured revenue bonds, which would be collateralized solely from loans purchased from the TWDB.

The Portfolio Asset Restructuring is anticipated to defease all outstanding TWDB debt, thus reducing the State of Texas general obligation debt.

## II. Administrative

1. Training: None specified.
2. Staff size/skill mix:  
The TWDF has a six member staff; a fund manager, a project monitor, three accountants, and a secretary.
3. Administrative costs/operating budget:  
The annual operating budget is approximately \$215,000, which is funded by an appropriation from the legislature. The Water Conservation and Development bill (see I.2.d. above), increases the operating budget to over \$1 million. The TWDF is governed by a nine member board (TWDB). The board reviews fund activity, including permit issuance and enforcement.

## III. Operations

1. Capitalization of fund (funding sources):  
Initial capitalization occurred in 1957, when the TWDF was given the authority to issue \$100 million State of Texas general obligation (GO) bonds. Since then, the TWDF has been authorized to issue a total of \$600 million in bonds, of which, \$118 million bonding authority remains.
2. Leveraging capability:  
The fund has not been leveraged (see III.3.e. below).
  - a. Marketing:  
Rely on bond counsel and investment advisor for matching future projections with debt service schedules.
  - b. Bond rating:  
All bonds issued are State of Texas GO, which carry a Aaa rating.
  - c. Reserve requirements and amount of coverage:  
The financial status of each PS is evaluated to determine how much (if any) coverage and debt service reserve will be required in the bond resolution.
  - d. Investment restrictions (e.g. limits on interest earned):  
Federal limitations on arbitrage earnings.
3. Forms of assistance:
  - a. Loans (terms):  
The TWDF provides loans to political subdivisions with local bond ratings of Baa or lower. These loans are made to each PS by purchasing the PS's locally bonded debt. The terms of the loan are negotiated with each PS, and outlined in a legally binding bond resolution. The loan funds are provided from the proceeds of the TWDF bonds. Loans may cover up to 100% of project costs. The interest rate offered to the PS is usually about 0.5% above the rate on the most recent State bond issue. Loan terms may be up to 20 years, with the average maturity being 11-13 years. Long-term loans (30-40 years) were given in the past, but are considered unsatisfactory from a market perspective.
  - b. Grants: Not offered.
  - c. Rate subsidies: No subsidies are offered.

- d. Bond insurance:  
Not used in current program. However, under the proposed Revenue Bonding Authority (see I.3. above), bond insurance would be utilized to obtain the highest possible credit rating and therefore lowest interest cost on revenue bonds.
- e. Loan guarantees:  
The current program has no loan guarantees, but the bill passed in November 1985 (see I.2.d. above) allows the TWDF to provide loan guarantees of up to \$500 million, backed by \$250 million full faith and credit of the State of Texas (providing 2:1 leveraging).
- f. Other credit enhancement: None.
- 4. Evaluation of applications (eligibility requirements):
  - a. Criteria for providing assistance (e.g. financial need):  
Projects are dealt with on a first-come, first-serve basis (no priority list). Political subdivisions judged eligible usually have had difficulty entering the bond market on their own. Thus, the TWDF primarily services PS with poor or overextended credit (Baa rating or lower). Reports from the Texas Municipal Advisory Council are utilized for assessment of PS financial soundness.
  - b. Conditions placed on forms of assistance:  
Political subdivisions must demonstrate on the Application for Financial Assistance that they can make scheduled repayments to the TWDF, or the loan will not be given.
- 5. Requirements on loan recipient:
  - a. Local assurances:
    - i. financial (e.g. dedicated repayment source):  
The required pledge of revenues for loan repayment from the PS does not have to be user-charge based. The PS may use any form of tax or revenue stream to satisfy their repayment requirement.
    - ii. environmental:  
All projects are reviewed by the Texas Dept. of Natural Resources, and those receiving Federal funds are subject to US EPA approval.
  - b. Application of State procurement rules: Do not apply.
  - c. Environmental review procedures: (see III.5.a.ii. above)
  - d. Report filing requirements:  
An Application for Financial Assistance must be filed with the TWDF in order to be considered for a loan. As long as payments are made to the TWDF on schedule, no further reports are required. The financial condition of all PS's with outstanding loans is regularly monitored. The TWDF uses this preventative approach to ensure early detection of PS financial problems which could affect loan repayments. The TWDF may require monthly operating statements from a PS having difficulty meeting payments.
- 6. Fund accounts:
  - a. Dispersal of monies from fund/repayments of monies to fund:  
Loan funds are dispersed to PS in one lump-sum payment. Repayments from the PS are deposited into an I&S (reserve) fund, which is dedicated to debt service on the outstanding bonds. Any remaining repayment monies are deposited in TWDF accounts for providing new loans.

7. Evaluation of program effectiveness (e.g. audits):
    - a. Program/project:
 

The TWDF requires an annual audit of every project by a CPA.
  8. Default experience/non-compliance with requirements:
 

The TWDF has had no defaults in its history.

    - a. Penalties and legal recourse:
 

The TWDF has the power (authorized in the bond resolution) to force the PS to raise user-rates through a court order. A forced increase has been used at least once to prevent a default. If a PS is unable to remedy its repayment obligations, the TWDF can have a court-appointed trustee take over the ownership and operation of a project.
    - b. Refinancing option:
 

Not typically a part of operations. If a political subdivision's user-charges and other revenue sources are severely strained, the TWDF may consider, as a last resort, some adjustment of the loan terms.
  9. Private sector participation:
 

No major municipal projects have been privatized. Many builders and developers in the State have constructed and operated plants in newly developed areas.
  10. Program issues or problems:
 

The proposed Federal tax reforms may disallow advance refunding schemes, including the "Portfolio Asset Restructuring" proposed by the TWDF (see I.3. above).
- IV. Relation to Federal programs and legislative proposals:
- In the event of a Federal role, some changes to the TWDF statute would be necessary.
- V. Recommendations for other States considering similar programs:
- A system for assessing a political subdivision's ability to meet future debt service obligations is necessary to ensure loans will be repaid on schedule.
- VI. Examples of materials available:
- Chapter 313: Rules Relating to Financial Programs
  - Water Conservation and Development Act (November, 1985)
  - Report on TWDF "Portfolio Asset Restructuring"
  - List of all projects financed with TWDF loans
  - Sample of Texas Municipal Advisory Council Report
  - Official Statement of Texas Water Development Bonds, Series 1985A and 1985B
  - Summary of Procedures to Close a Loan for a Water Quality Project
  - Procedures for Implementation of the Water Quality Enhancement Loan Program / Water Loan Assistance Program
  - Plans and Specifications Review Worksheet
  - Sample Application for Loan Assistance
  - Bond Resolution Checklist
  - Sample Bond Resolution

## VII. State contact person:

M. Reginald Arnold II  
Development Fund Manager  
Texas Water Development Fund  
P.O. Box 13087  
Capitol Station  
Austin, TX 78711  
(512) 463-7867

UTAH WASTEWATER LOAN, CREDIT  
ENHANCEMENT AND INTEREST BUY-DOWN PROGRAM  
*Summary*

A Loan and Credit Enhancement Program for municipal wastewater projects has been operational for two years. The proceeds from \$20 million in State bonds were used to subsidize interest rates by allowing loans at the same rate that the State paid to issue bonds (7.324%). The repayments are allotted to a Fund which is available for financial assistance to local governments. All communities are required to develop a financial plan and a plan for maintaining/achieving compliance. A Report to the Legislature on the first year of the program resulted in modifying the legislation to include revolving loans with variable interest rates.

UTAH WASTEWATER LOAN, CREDIT  
ENHANCEMENT AND INTEREST BUY-DOWN PROGRAM  
Program Annotated Outline

I. Program Description

1. Organization:

a. Scope (eligible projects):

Projects eligible for loans, credit enhancement and interest buy-down agreements include wastewater treatment, drinking water, and water development projects.

b. State Agencies involved:

- Department of Health (wastewater, drinking water)
- Division of Water Resources (water development).

2. Establishment: 1983.

a. Options initially considered:

Loans and credit enhancement agreements. The program will continue to make credit enhancement agreements which loan or grant money to purchase bond insurance, but will probably not use letters-of-credit.

b. Political and legal considerations:

Goal of legislature--maximize leveraging, fully consider private sector for contractual and financial assistance.

c. Statutory and constitutional restrictions:

Agreements do not constitute a pledge or charge against the general revenues, credit or taxing powers of the State.

d. Subsequent program modifications:

Expanded non-loan provisions to include interest buy-down agreements and provisions for variable interest rates for loans.

e. Future picture:

Appropriations for future loans unlikely. Preliminary discussions of central infrastructure bank, but no legislative initiation yet.

II. Administrative

1. Training:

None used. Experience with construction grants delegation and older water resource loan program.

2. Staff size/skill mix:

Program administrator, .25FTE accountant .50FTE accounting technician, technical review by existing construction grants staff. Contract services: bond counsel, financial advisors.

3. Administrative costs/operating budget:

Currently operating with insufficient funds (at 1% bond proceeds). Optimal level estimated at 2% of program. Closing costs are charged to community on an actual time basis and overhead, technical review by construction grants staff not charged for.

III. Operations

1. Capitalization of fund (funding sources):

Initial capitalization of loan fund (\$20M in 1983) was from \$50M State general obligation bond (\$30M used for drinking water and water resources). In addition the legislature appropriated \$5.0M for credit enhancement agreements, \$2.5M for wastewater and \$2.5M for drinking water. Repayments of loans are paid into that account.

2. Leveraging capability (of credit enhancement program): 39:1
  - a. Marketing:
 

Special Counsel: Sutter, Axland, Armstrong and Hanson (Wm. Prater)
  - b. Bond rating:
 

State bond rating: Aaa. Under credit enhancement agreements, a bond insurance policy generally results in a Aaa rating for local bonds.
  - c. Reserve requirements and amount of coverage:
 

Community given 6 years to build up a reserve of one year's principal and interest. Coverage: must show local revenue stream that is 125% of O&M and principle and interest payments.
  - d. Investment restrictions (e.g. limits on interest earned):
 

Federal arbitrage limits apply to funds from the original general obligation bond issue not used in the construction of projects within three years. Possible extension to five years if lack of use of funds due to physical limitations.
3. Forms of assistance:
  - a. Loans (terms):
 

All available loan funds (\$20M) have been committed. Loans are evidenced by the issuance of local bonds to the State with the loan funds deposited in a supervised escrow account. Interest rates on the loans were the same as the cost of the original bond issue to the State (i.e. 7.3%). The term set by the Committee is no greater than 20 years. Future loans can be made at other than the States cost of money. Loans can only be made after credit enhancement, interest buy-down agreements, and private sector involvement have been evaluated.
  - b. Grants: Not made under this law.
  - c. Credit Enhancement agreements:
    - Bond insurance -- several no-interest loans have been made for the purchase of municipal bond insurance payable at the end of the bond maturation period. A bond issuance policy generally yields an Aaa bond rating, and may achieve a one to two percent savings on interest rates (beneficial mainly to medium to larger communities with projects of \$1.5M or larger).
    - Letter of Credit - One no-interest loan made (\$125K) to purchase a letter of credit. Pay back period = 10 years. Difficult to do in Utah; bond insurance seems better.
  - d. Interest buy-down agreements:
    - State loan at low interest rate is blended with best bond terms available in private market to achieve target level of subsidy.
    - Legislation allows consideration of other unspecified mechanisms.
    - Trust account (invested sinking fund), though evaluated, has not shown to be the cost effective solution due in part to arbitrage limits on the account. Future purchasing power of repaid loans make these approaches less attractive to the program.

4. Evaluation of Applications (eligibility repayments):
  - a. Criteria for providing assistance:
 

Needs; ability to obtain funding from other sources including use of privatization; ability to repay loan; whether project is cost effective; whether the project protects against present or potential health; a water pollution control problem (State or Federal); financial impact on community; readiness to proceed; and other criteria the Committee may deem appropriate. State uses financial capability guide book published by EPA. To set the target level of subsidy, the annual user charge should not exceed 1.5% of the annual median household income and should be comparable to user charges for other recent projects. After evaluating financial options that will provide equal subsidy to the community, the options are compared to identify the one which, given the program portfolio and finances, will best leverage available funds and maintain the purchasing power of the program.
  - b. Conditions placed on forms of assistance:
 

Because the State purchases local bonds rather than making loans, a more formal and public evaluation of the transaction occurs, and a more thorough review of project ownership (e.g. land or easement ownership). In addition, a supervised escrow account is established for all project funds (except in the case of very small State financial involvement in the project). A bond must be provided for the local staff handling repayment reviews. Additional conditions may be required by the committee.
5. Requirements on loan recipients:
  - a. local assurances:
    - i. Financial:
 

Community can secure loan with revenue, general obligation or assessment bond. Must present opinion from legal counsel that the agreement represents a valid and binding obligation (see III.7.a. and VI.4.b.).
    - ii. Environmental:
 

Environmental reviews similar to those done under Construction Grants program, though less detailed. Focus on issues that would affect facilities ability to function and effects on water quality.
  - b. Application of State Procurement rules: Yes, they apply.
  - c. Environmental review procedures: (see III.a.ii).
  - d. Report filing requirements:
 

Simpler than Construction Grants. Program prepares annual report to State Legislature.
6. Fund accounts:
  - a. Dispersal of monies from fund/repayments to fund:
 

After review by program staff, Trustee bank makes dispersal from escrow account. Repayments go into State security account for reuse in loans, credit enhancement or interest buy-down agreements.

## 7. Evaluation of program effectiveness:

Project inspections are conducted monthly. Audits are conducted under normal State procedures.

## 8. Default experience/non-compliance with requirements:

No default experience. No forgiveness provisions.

## a. Penalties and legal recourse:

State can charge late penalty, require acceleration of payments, require community to raise user charges.

## b. Refinancing options:

Possible to spread out payments (not done yet).

## 9. Private sector participation:

Privatization was hoped for when legislation originally passed. Little activity expected in the future.

## 10. Program issues or problems:

Narrow range of communities can use credit enhancement agreements. More loan funds are needed, particularly in light of the Clean Water Act requirements. Many projects cannot be sufficiently funded with credit enhancement or interest buy-down agreements alone.

## IV. Relation to Federal Programs and Legislative Proposals:

In the event of a Federal SRF program, the State Legislature would need to allow leveraging of Federal funds. Based on the FY 85 allotment, Utah could probably use 20 percent of the FY 86 allotment for loans, 50 percent in FY 87, and 100 percent in FY 88.

## V. Recommendations for Other States:

- Authorize multiple year funding in the beginning of the program. Line-up projects before the bond issue.
- Start early (8-10 months to implement legislation -- given prior experience with State Loan program).
- In Utah, financially able projects on the construction grants priority list elected to take only a loan. This enabled the less financially able projects to move up on the list.

## VI. Examples of materials available:

- Statutes
- Policies and Procedures (regulations)
- Application package (includes feasibility report format)
- Loan authorization letter
- form letters for fund transfers
- Construction phase report formats
- Progress report

## VII. State Contact Person:

Don Ostler  
Utah Bureau of Water Pollution Control  
Room 4108, State Office Building  
P.O. Box 45500  
Salt Lake City, UT 84145-0500  
(801) 533-6121

WASHINGTON PUBLIC WORKS TRUST FUND  
Summary

The Washington Public Works Trust Fund is a new program being designed to address a statewide need for infrastructure financing assistance, particularly in the areas of facility rehabilitation and repair. Development of the trust fund was preceded by a detailed inventory process that documented local government financing capabilities and shortfalls throughout the State. The trust fund operates as a revolving loan fund, and is capitalized from dedicated tax revenue. The State legislature must approve the fund's proposed project funding list and make an appropriation for each approved project. The fund is intended to be self-sustaining and readily adaptable to new Federal requirements.

WASHINGTON PUBLIC WORKS TRUST FUND  
Program Annotated Outline

I. Program description

A. Organization

1. Scope: planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, and improvement of streets, bridges, water supply, storm and sanitary sewage systems (focus is on repair and rehabilitation).
2. Agencies involved
  - a. Public Works Board - 13 members appointed by governor
  - b. Department of Community Development (DCD) - provides staff support for Public Works Board

B. Establishment

1. Options initially considered: dedicated appropriation
  - a. Invest monies that would otherwise be used for bond fees.
  - b. State legislature did not believe this was realistic.
2. Political/legal considerations
  - a. Source of capitalization monies
  - b. How to accomplish goal without stepping on turf of any other state agency
3. Statutory/constitutional restrictions
  - a. Debt ceilings on general obligation bonds for municipalities
  - b. Re-financing not permitted
  - c. Board is prohibited from pledging credit on taxing power of the state.
  - d. State legislature must approve project funding list.
4. Economic consideration: State's bond rating is lower than that of many of its local communities due to:
  - a. Unstable tax base
  - b. Cyclical economy
  - c. Washington Public Power Supply System (WPPSS) default
  - d. State economy is changing (timber industry in depression; agriculture uncertain; aerospace industry expanding)
5. Subsequent program modifications: N/A
6. Status (as of 10/85): in middle of first funding cycle

II. Administration

A. Training: none planned

B. Staff size/skill mix

1. Small staff
2. Expect to bring people on board who have some financial expertise
3. No capacity in-house for conducting engineering reviews; local applicants do their own engineering reviews, which must be approved by the appropriate regulatory agency (for wastewater projects, this is the Department of Ecology through existing channels)

- C. Administrative costs/operating budget: Staff support costs are currently paid out of state's general fund; DCD would like to change this to a percentage of the Assistance Account so that staff funding would correspond to program magnitude.

### III. Operations

- A. Capitalization: dedicated taxes
  - 1. 60% of the monies collected via water, sewer, and refuse collection taxes are deposited in the Public Works Assistance Account.
  - 2. 46.5% of the monies collected via conveyance taxes are deposited in the Public Works Assistance Account.
  - 3. Expect \$20.5 million per year from these dedicated taxes.
- B. Leveraging capability: none
- C. Forms of assistance
  - 1. Loans
    - a. Low interest (up to 3% in first funding cycle); zero interest for natural disaster or hardship cases
    - b. Repayment monies are returned to the Public Works Trust Fund
    - c. Term of loan: up to 20 years
    - d. Minimum local share: 10%
  - 2. Loan guarantees: Board may pledge monies in the account or to be received by the account to the repayment of all or part of the principal of or interest on obligations issued by local governments to finance public works projects.
- D. Eligibility requirements
  - 1. The applicant city or county must be imposing a tax of at least one quarter of one percent (This refers to a real estate excise tax, the first quarter of which must be dedicated to capital purposes.)
  - 2. The applicant must have developed a long-term plan for financing public works needs.
  - 3. The applicant must be using all local revenue sources that are reasonably available for funding public works, taking into consideration local employment and economic factors.
- E. Requirements on loan recipient
  - 1. Local assurances
    - a. Financial: Not yet determined
    - b. Environmental: As required by existing State environmental protection law
  - 2. Applicability of State procurement rules: Any project for which a loan is received must be put out for competitive bids.
  - 3. Environmental review procedures: State environmental laws, which DCD believes are generally more stringent than NEPA, apply.
  - 4. Report filing requirements: Biennial reports to legislature and governor on the activities of the Board.

## F. Fund accounts

1. Proposed project funding list must be prepared by February 1st (at least for first funding cycle); all applications reviewed at same time.
2. Legislature must approve the proposed funding list (may delete, but not add, projects, and may not (change priorities) and must appropriate funds for each approved project.
3. Repayments are returned to the public works assistance account to be used for new loans.
4. The Board may create subaccounts within the public works assistance account.

## G. Evaluation of program effectiveness

1. State auditor may audit program account records at any time.
2. State auditor also audits individual projects

## H. Default experience

1. No experience; not yet determined how to handle
  - a. Interception of other aid was rejected as an option because such action threatens the rating of all bonds.
  - b. Insurance may be good if interest rate is low enough.
2. Thorough examination of local financial capability is expected to minimize defaults
3. Washington is not a home-rule state, (i.e., all local governments, districts, etc. serve at the pleasure of the State)

## I. Privatization/Joint Development

1. State legislature has appropriated \$75,000 for a study, expected to be completed in late November 1985, on alternative financing mechanisms.
2. DCD is concerned about impact of the Administration's proposed 1% restriction on tax exempt financing.

## J. Program issue yet to be resolved: best way to pay for staff support

## IV. Compatibility with federal programs and legislative proposals

- A. Washington Public Works Trust Fund is a revolving loan fund.
- B. Board has authority to segregate accounts within the Fund for dedication of repayments to specific infrastructure categories, but has decided not to do so.
- C. May require legislative action to allow re-financing, etc.
- D. Department of Ecology is currently examining the possibility of establishing a separate revolving fund for wastewater treatment facility construction only, in the event of a Federal capitalization program

## V. Recommendations for other states considering similar programs

- A. Do an inventory of needs first.
- B. Establish early collaboration between local governments and the state.
- C. Obtain bi-partisan support.

- D. Obtain support of at least one powerful legislator.
- E. Obtain support of the governor.
- F. Obtain broad private sector support.

VI. Materials Available

- A. The Washington State Public Works Report, December 1983
- B. The Washington State Public Works Report, Appendix, December 1983
- C. The Washington State Public Works Report, Executive Summary, December 1983
- D. Financing Public Works: Strategies for Increasing Local Investment, December 1984
- E. Substitute [State] Senate Bill No. 4228, effective date: 7/1/85
- F. Substitute [State] House Bill No. 461
- G. Application package

VII. State contact:

Stephen Hodes, Community Program Developer  
 Public Works Project  
 Department of Community Development  
 Ninth and Columbia Building  
 MS GH-51  
 Olympia, WA 98504-4151

(206) 753-3205

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (WVWDA)  
Summary

The WVWDA initiated a low-interest revolving loan program in 1975 and 1976 to cover the local share of planning (Step I) and design (Step II) costs. The program funded 237 projects with loans totalling \$8,651,264. In 1981, a basic grant program that provided 5% grants for construction of wastewater facilities was replaced with a hardship grant program. The hardship grants are limited to \$1 million and are based on an average user charge of \$19.75. Also in 1981, the statute was amended to expand WVWDA loan and grant activities into the area of drinking water facilities' construction. In 1982, a bond issue providing loans at 12% interest (the Sewage Systems Loan Program) was blended with 0% loans (Supplemental Loan Program) from state funds to enable the award of 10% loans to participating local government entities (LGE's). In June 1985, a \$46,320,000 bond issue initiated the concept of a "prospective pool" to provide up-front, long-term financing for unspecified water and sewer facilities' construction.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (WVWDA)  
Program Annotated Outline

I. Program Description

1. Organization:

a. Scope (eligible projects):

Projects eligible for WVWDA loans and grants include wastewater treatment and drinking water (since 1981). Local government entities (LGE's) using the WVWDA must meet requirements for Federal grants and State regulatory provisions.

b. State agencies involved:

- West Virginia Dept. of Natural Resources
- West Virginia Public Service Commission
- Governor's Office of Economic and Community Development
- Municipal Bond Commission of West Virginia
- State Tax Dept.

2. Establishment: Formed 1972, initiated operations 1974.

a. Options initially considered:

The WVWDA initially provided low-interest loans (from State appropriations) to cover the local share of Step I and Step II costs.

b. Political and legal considerations: (see I.2.c. below)

c. Statutory and constitutional restrictions:

No constitutional or statutory provisions precluded the formation or operation of the WVWDA. LGE's are allowed to market bonds under West Virginia law. These bonds are then purchased by the WVWDA with proceeds from revenue bonds and State appropriations.

d. Subsequent program modifications:

The WVWDA program has evolved to provide low-interest loans and grants for the local share of construction costs for wastewater treatment and drinking water projects.

e. Future picture:

Continue low-interest loan program using bond proceeds blended with State appropriations. The WVWDA may try to achieve desirable lower interest rates (around 5%) for entities receiving 55% grants, but expresses concern that this will accelerate fund depletion.

II. Administrative

1. Training: None specified.

2. Staff size/skill mix:

The WVWDA is composed of a staff of five persons; a director, an engineer, an accountant, an administrative assistant, and a secretary. The WVWDA retains outside bond counsel and investment bankers for financial and market expertise.

3. Administrative costs/operating budget:

The annual operating budget is approximately \$250,000, which is paid from earnings from the bond program and the Step I and II loan program. The WVWDA is governed by the seven-member West Virginia Water Development Board, which meets several times a year.

### III. Operations

#### 1. Capitalization of fund (funding sources):

Initial capitalization was from State appropriations, from which Step I and II loans and grants were made. Subsequent annual appropriations have averaged \$4-5 million, and have been used essentially in the grant programs. In 1977, the legislature appropriated \$3.25 million for a special reserve fund. The revenue bond issues were as follows:

1978	\$ 8.1 million
1982	\$14.2 million
1985	\$46.3 million

The current bond issue includes an advance refunder of the 1978 and 1982 issues. In addition, ten projects (\$19 million) with short-term local notes were refinanced on a long-term basis. An allowance (estimated loan amount) is also included for, but not limited to, prospective participants that requested a loan, but have not yet received grants from the US EPA.

#### 2. Leveraging capability:

##### a. Marketing:

Lee O. Hill, bond counsel from Jackson, Kelly, Holt, & O'Farrell, and Harry Moore, investment banker from Young, Moore & Co., Inc., provide guidance on bond market conditions and coordinate sales after approval by the West Virginia Water Development Board.

##### b. Bond rating:

The State of West Virginia had held a AA+ rating (Standard and Poor's), but dropped to an AA- rating recently. Subsequently, the WVWDA rating fell from A+ to A- (Agencies within the State typically hold a rating 1-step below the State rating).

##### c. Reserve requirements and amount of coverage:

In 1977, the legislative appropriation of \$3.25 million was used for a debt service reserve fund. The monies in the debt service reserve account must always be adequately maintained. The statute contains a "moral obligation" provision which provides backing (although no legal obligation) of the bonds by the State. If the reserve funds are ever used to pay off WVWDA bonds, then the Chairman of the WVWDA will advise the Governor to request the legislature to replenish the reserve fund.

Required coverage had been 130% for previous bond issues, although the coverage required on the current (1985) issue was reduced to 115%.

##### d. Investment restrictions (e.g. limits on interest earned):

An arbitrage certificate which details the Federal limitations on investment earnings accompanies each bond issue.

#### 3. Forms of assistance:

##### a. Loans (terms):

Since 1982, low-interest supplemental loans have been given at 10%, by blending (interest-rate buy down) bond proceeds at 12% interest with 0% WVWDA funds. Loan terms are 40 years. The 1985 bond issue provides for loans at an interest rate of 9.75%.

##### b. Grants:

Hardship grants are limited to \$1.0 million. A total of 35 hardship grants (over \$13.6 million) have been made to date.

- c. Rate subsidies:  
Use of blending to achieve 10% interest rates on supplemental loans (see III.3.a).
- d. Bond insurance: Not available from the State.
- e. Loan guarantees:  
The LGE must meet loan agreement requirements in order to receive a WVWDA loan (see III.5.a).
- f. Other credit enhancement: None.
- 4. Evaluation of applications (eligibility requirements):
  - a. Criteria for providing assistance (e.g. financial need):  
In the current (1985) bond issue, a prospective pool of applicants will be served by the WVWDA on a first-come, first-serve basis. Previous bond issues have specified the LGE's to receive loans from the bond issue.
  - b. Conditions placed on forms of assistance:  
Prior to the current bond issue, LGE's were required to have received a federal Step III grant in order to receive a WVWDA loan. This requirement no longer applies, however, each LGE must satisfy the loan agreement assurances (see III.5.a.i.).
- 5. Requirements on loan recipient:
  - a. Local assurances:
    - i. financial (e.g. dedicated repayment source):  
The loan recipient must demonstrate to the WVWDA that they will have adequate revenues to meet the repayments on schedule. The user charges must be adequate to cover O & M, principal and interest on the loan, and debt coverage. The required coverage is 115% for 10 years. The coverage may be reduced to 110% if the LGE borrows for its debt service reserve up front. An additional account for renewal/replacement, capitalized with 2.5% of gross annual revenues, is included within the 110% cover.
    - ii. environmental:  
The loan recipient must meet the requirements of the State DNR and the U.S. EPA (for CG funded projects) prior to consideration for a loan from the WVWDA.
  - b. Application of State procurement rules: Do not apply.
  - c. Environmental review procedures: (see III.5.a.ii. above)
  - d. Report filing requirements:
    - Full financial statements
    - Project tracking (monthly) during construction, developed from cash flow projections.
    - Recordkeeping procedures following construction.
- 6. Fund accounts:
  - a. Dispersal of monies from fund/repayments of monies to fund:  
Loan funds are dispersed in one initial payment. Repayments from LGE's go into a State sinking fund (invested in the name of the entity), which holds the monies until the semi-annual (April 1, October 1) payment dates. Interest is paid twice a year and principal is paid annually.

7. Evaluation of program effectiveness (e.g. audits):
    - a. Program/project:
 

State statute requires an annual audit of the WVWDA program. Project audits are required by the WVWDA and the Public Service Commission.
  8. Default experience/non-compliance with requirements:
 

No monetary default has occurred in current program, however, one PSD has been unable to meet the closing requirements for long-term financing under the WVWDA program. Another PSD experienced a technical default that has now been resolved.

    - a. Penalties and legal recourse:
 

Interest is charged on late payments.
    - b. Refinancing option:
 

Not typically a part of operations. Short-term notes held by several local governments have been converted by the WVWDA into long-term debt (see III.1).
  9. Private sector participation:
 

No involvement yet, but there has been some corporate interest.
  10. Program issues or problems:
 

Issue: How to make the bond package taken to market attractive to buyers?

The initial bond issue (1978) for wastewater treatment could have been difficult to market. It did sell well, given the \$3.25 million legislative appropriation for debt service reserve and the required 130% coverage.
- IV. Relation to Federal programs and legislative proposals:
- In the event of a Federal role, the WVWDA does not foresee many implementation difficulties or delays.
- V. Recommendations for other States considering similar programs:
- An initial legislative appropriation is highly desirable for capitalizing the fund. It is very difficult to market bonds without established reserves and a repayment schedule.
- VI. Examples of materials available:
- State statute: West Virginia Water Development Act
  - Administrative Regulations (WVWDA)
  - WVWDA Program Summary
  - WVWDA Financial Tracking Manual
  - WVWDA Annual Report FY 1983-1984
  - 1982 WVWDA Bond Issue
  - Sample Loan Agreement
  - Sample Report of Examination of Financial Statements
- VII. State Contact Person:
- Ed Henry, Director  
 West Virginia Water Development Authority  
 1201 Dunbar Ave.  
 Dunbar, WV 25064  
 (304) 348-3612

WYOMING FARM LOAN PROGRAM  
Summary

The Wyoming Farm Loan Program is a state grant and revolving loan program, capitalized from three separate sources, and established to assist local governments with financing a variety of infrastructure projects. The Farm Loan Board (FLB) consists of the top five elected officials of the state (Governor, Secretary of State, State Auditor, State Treasurer, and Superintendent of Public Instruction), with the Farm Loan Commissioner serving as Secretary to the Board. The loan program operated by the FLB is a revolving fund in the sense that loan repayments are made available for new loans for eligible facilities, rather than being deposited in the state's general fund. There is, however, no separate account for using repayments solely for wastewater treatment/sewer facilities.

## WYOMING FARM LOAN PROGRAM

## I. Program Description

## A. Organization

1. Scope (eligible projects) - municipal development, including streets, water supply and wastewater systems, other public health facilities, recreational facilities, etc.
2. Agencies involved
  - a. Farm Loan Board
    - i. Composed of the top 5 elected officials: Governor, Secretary of State, Treasurer, Auditor, Superintendent of Public Instruction
    - ii. Assistance to the Board in the decision making process on applications to be funded is provided by the Farm Loan Board staff. Various state agencies are consulted in their respective areas of expertise; such agencies include the Department of Economic Planning and Development, Water Development Commission, Department of Environmental Quality, Highway Commission, and the Attorney General's Office.
  - b. Department of Environmental Quality (DEQ)

## B. Establishment

1. Grants and loans to cities, counties, and other political subdivisions of the state provided for under three statutes:
  - a. Joint Powers Act of 1974 (loans)
  - b. Coal Tax for Impact Assistance Act of 1975 (grants)
  - c. Government Royalty Impact Assistance Act of 1977 [Mineral Royalty] (grants)
2. Political and legal considerations - none discussed
3. Statutory and constitutional restrictions
  - a. State constitution prohibits state from going into debt by issuing general obligation bonds
  - b. Statute imposes a \$160 million ceiling on coal tax revenue; this limit is expected to be reached in 1987
4. Future picture
  - a. Coal tax program expected to end in 1987 due to statutory ceiling on funds
  - b. Future of mineral royalties from the Federal government is uncertain.

## II. Administration

A. Training - not needed; program is well established

## B. Staff size/skill mix

1. Direct staff support provided by Farm Loan Impact Assistance Division of the Department of Public Lands and Farm Loans.

Staff composed of:

- a. Grants (and loans) coordinator - reviews applications, ability to pay, etc.
- b. Bookkeeper/accountant - handles repayments
- c. Auditor
- 2. Technical support provided by the Construction Grants staff in the Department of Environmental Quality
- C. Administrative costs/operating budget - operational costs are paid out of state's general fund

### III. Operations - Approximately 170 grants and loans made per year

- A. Capitalization and forms of assistance
  - 1. Joint Powers Act of 1974
    - a. Initial appropriation of \$100 million
    - b. Loans made only for projects that will generate revenue (i.e., water systems, wastewater systems, recreational facilities with membership fees, etc.)
  - 2. Coal tax grants: annual capital = approximately \$15 million
  - 3. Mineral royalty grants: annual capital = \$18 million
- B. Leveraging capability
  - 1. The FLB has the authority to issue up to \$60 million in revenue bonds; however, to date, it has not used this authority.
  - 2. State constitution prohibits issuance of general obligation bonds.
- C. Terms of Assistance
  - 1. Loans (under Joint Powers Act)
    - a. Interest rate currently = 8.5%
    - b. Only for projects that generate revenue
    - c. Term of loan based on life of system; usually 30-35 years, but may be as long as 40 years
  - 2. Grants
    - a. Coal tax
      - i. Grants for capital construction in areas directly or indirectly impacted by the production of coal
      - ii. At least 50% of the \$\$ granted must be for streets and roads; remainder may be used for water and sewer systems.
    - b. Mineral royalty
      - i. Grants for capital construction in areas adversely impacted by energy development within the state
      - ii. Grants for water and wastewater systems, public health needs, streets and roads; water and wastewater are high priorities
      - iii. Grants are generally for 50% of project costs, but may vary, depending on need.

D. Evaluation of applications (eligibility requirements)

1. Criteria for providing assistance

a. Joint Powers loan

- i. Applicant must be a municipality or legally formed district of the state
- ii. Applicant must demonstrate that all local revenue resources are being fully utilized, but are insufficient to finance project

b. Coal tax and mineral royalty grants

- i. Applicant must demonstrate that it is directly or indirectly impacted by the production of coal (for coal tax grant) or by the development of minerals (for mineral royalty grant)
- ii. Applicant must show that it is making diligent effort to finance project as much as possible from local sources

2. Conditions placed on forms of assistance

- a. For a joint powers loan, project must be revenue-generating.
- b. For a water or sewer project, the assistance recipient must obtain a permit to construct from DEQ.

E. Requirements on loan recipient

1. Local assurances

a. Financial

- i. For a joint powers loan, before any loan proceeds are paid out, the recipient must transfer to the Farm Loan Board title to the property upon which the facility is to be constructed and/or whatever interest the loan recipient possesses in that property. The value of such property or interest must be at least equal to the amount of the loan. All such titles and interest transferred to that Board must be secured by title insurance (with Board named as primary beneficiary), which must be paid by the joint powers loan recipient.
- ii. For joint powers loans which are to be repaid from revenue generated, disbursement of loan fund is contingent upon passage of ordinances supporting the requisite fee structure.

b. Environmental - none required

- 2. Applicability of state procurement rules: Separate state statutes, not administered by the FLB, apply directly to the entity receiving financial assistance and procuring engineering and contractor services.
- 3. Environmental review - only that which is conducted by DEQ in the course of reviewing an application for a permit to construct
- 4. Report filing requirements: Loan recipients are required to submit annual reports, and the FLB may inspect any project during or after construction.

- F. Fund accounts (disbursal/repayment)
  - 1. Board meets three times per year to disburse grant/loan funds; may also make loans at monthly meetings
  - 2. Grant/loan monies only disbursed after costs incurred
  - 3. Grant monies only disbursed for costs incurred after date of grant award; fewer restrictions on use of loan funds
  - 4. Joint powers loan repayments are dedicated to the Joint Powers loan account.
- G. Evaluation of program effectiveness (audits)
  - 1. Coal tax and mineral royalty grants: Separate state statutes set audit requirements for every grant recipient.
  - 2. Joint powers loans: Farm Loan Board may, at any time, call for an audit of the books and records of the borrower, and has the authority to monitor the construction or other operation of the project for which the loan is made; audit is at the expense of the Farm Loan Board.
- H. Default experience/non-compliance with requirements
  - 1. Only one default to date. Emphasis is placed on preventive measures, primarily by obtaining adequate assurances of the recipient's financial condition and ability to repay the loan.
  - 2. Re-financing option: grants not available, but loans may be made for this purpose
- I. Private sector participation: not much interest in, or use for, privatization, given the extensive state and Federal assistance programs available
- J. Program issues and comments on federal legislative proposals
  - 1. Impact of the Administration's tax reform package on use of tax exempt financing - requested an analysis by EPA on this topic, with emphasis on any further restrictions proposed on the use of tax exempt municipal debt
  - 2. General concern with small communities "getting in over their heads" with technologies beyond their capabilities
  - 3. Concern with scope of new federal requirements if proposed legislation becomes law
  - 4. Concern with limitations on use of SRF loans once core needs are bought out

#### IV. Materials Available

- A. Wyoming Farm Loan Board Rules and Regulations re:
  - 1. Coal Excise Tax Grants
  - 2. Government Royalty Impact Assistance Account Grants and Loans
  - 3. Joint Powers Loans
- B. Wyoming Administrative Procedure Act
- C. Wyoming Statutes Section 39-6-305, Disposition of revenue collected
- D. Wyoming Statutes Section 9-4-604

- E. Annual Report of the Department of Public Lands & Farm Loans, 1984
- F. Agreement Between Political Subdivision and Wyoming Farm Loan Board (boilerplate)
- V. State Contact:
  - G. Alan Edwards, P.E., Water Quality Engineering Evaluator  
 Department of Environmental Quality  
 Water Quality Division  
 Herschler Building  
 Cheyenne, Wyoming 82002  
  
 (307) 777-7781