

**490-RICR-00-00-4**

## **TITLE 490 – WATER RESOURCES BOARD**

### **CHAPTER 00 – N/A**

### **SUBCHAPTER 00 – N/A**

#### **PART 4 – Administrative Procedure: Water Development Fund**

### **4.1 Water Authority**

#### **4.1.1 Water Development Fund**

- A. There is hereby created a special fund called “water development fund” in accordance with the provisions of R.I. Gen. Laws § 46-15.1-20.
- B. The source of funds may be any net proceeds which may be paid to the State from the lease of any reservoir sites or other facilities as may be acquired or constructed by the State or resulting from the sale of surplus property or any interest therein, the sale of excess gravel, timber or other such materials located on such reservoir sites or other facilities.
- C. Monies from this fund may be appropriated by and available for borrowing by the Board in accordance with the provisions of R.I. Gen. Laws Chapter 46-15.1, R.I. Gen. Laws § 46-15.1-20 and R.I. Gen. Laws Chapter 46-15.2, as amended, exclusive of the acquisition of reservoir sites.
- D. If the water development account created by this chapter exceeds the sum of one million dollars (\$1,000,000), such excess over that amount is hereby made available and appropriated for expenditure by the Board to implement the plans and programs authorized by provisions of R.I. Gen. Laws Chapters 46-15.1 and 46-15.2, as amended, exclusive of the acquisition of reservoir sites.
- E. All monies in the water development fund, not immediately required for payment or loan may be invested pursuant to R.I. Gen. Laws Chapter 35-10; provided, however, the securities in which said fund is invested shall remain a part of such fund until exchanged for other securities; and provided further, that any net profit or income from such investments shall become part of the general fund of the state and shall be applied to the payment of debt service charges of the State; provided however, that any interest from loans made pursuant to this chapter may be retained by the said Board for the purposes authorized herein.

- F. All monies in this water development fund, in excess of one million dollars (\$1,000,000) shall be deposited by the general treasurer into one (1) or more of the depositories in which the funds of the State may be lawfully kept in a special account. The state controller is hereby authorized and directed to draw his/her orders upon the general treasurer for payment out of such special account of such sum or sums as may be required, from time to time, upon receipt of properly authenticated vouchers.

#### **4.1.2 Definition**

“Water supply facilities” means water reservoirs, wells and well sites, transmission or distribution systems, any equipment and improvements held in connection therewith, and any other property or mixed, used or held to be used in connection therewith.

#### **4.2 Eligible Projects**

Loans may be made to all eligible applicants for the purposes of constructing water supply or transmission facilities, purchase of land, pumps, pipe, valves, hydrants, etc. wherein those purchases are necessary to and become a part of the applicants’ proposal to increase its supply facilities, to provide a public water supply to areas not presently served or for such other purpose as the Water Resources Board may approve as necessary or desirable to the proper and significant development and utilization of available water resources.

#### **4.3 Eligible Applicants**

Eligible applicants shall include municipalities, fire and/or water districts, water authorities, other similar bodies politic having jurisdiction over publicly owned water supply and/or water distribution systems and corporate or noncorporate authorities which are public instrumentalities of the state having as a purpose the establishment of water supply facilities, and all of whom provide water service to domestic, commercial or industrial users within the State of Rhode Island, where such authorized jurisdiction encompasses a service area, which in the judgment of the Water Resources Board represents a meaningful part of the need to develop the total water resources of the State of Rhode Island.

#### **4.4 Appropriate Authorization**

- A. Applications for loans must be:
1. Attested to by the applicant’s responsible executive officer or official.

2. Accompanied by a resolution of the applicant's governing body officially authorizing execution of the loan application; and,
3. Certified to by the applicant's attorney that no litigation of any nature is now pending or threatened (in either state or federal courts) restraining or enjoining the applicant from executing the terms of the loan if approved.

#### **4.5 Justification and Need**

All applicants shall be required to submit a work program, as prescribed by the Water Resources Board, outlining and identifying the needs, goals and operations necessary for the implementation of the desired project. The work program shall identify not only the work activities to be financed through the Water Development Fund but also those work activities undertaken specifically in relation to the loan requested which are or may be financed by federal, state, municipal or private resources. Said program shall include a specific listing of all activities for which application for federal financing has been, is or shall be made including a statement reflecting the reasonable probability of receiving the same.

#### **4.6 Financial Contribution of Applicant**

Unless otherwise deemed advisable in a specific instance by the Water Resources Board, all applicants shall contribute not less than twenty-five (25) percent of the specific project costs to which the monies received under the Water Development Fund are to be applied. The applicant's contribution may be made either in the form of cash or, upon further approval of the Water Resources Board, in the form of cash equivalent services, equipment, or other nonexpendable property owned by the applicant. Loans so granted may be applied as the applicant's Nonfederal Contribution in seeking or receiving federal grant-in-aid funds for the defined project.

#### **4.7 Number and Frequency of Loan**

- A. In order to administer equitably the Water Development Fund to the benefit of all applicants and unless otherwise deemed advisable in a specific instance by the Water Resources Board, no applicant shall request more than one (1) loan commencing from the date of the final acceptance of an application and until a period of two (2) years has elapsed from the date of official discharge of the original loan.
- B. In the event an applicant desires to make a significant modification in the work program which has otherwise been approved by the Water Resources Board, the applicant shall submit the proposed modification to the Water Resources Board for approval in the same manner as required of the original application.

- C. Supplemental loans so approved by the Water Resources Board in connection with such a modification shall be considered a part of the original loan.

#### **4.8 Maximum Amount of Loan**

The Water Resources Board may, in its sole discretion, establish loan ceilings dependent upon the need of an applicant as determined by the Water Resources Board and the capacity of the Water Development Fund to support such additional loans.

#### **4.9 Terms of Loan**

- A. Unless otherwise deemed advisable in a specific instance by the Water Resources Board, the duration of the loan shall extend over a four (4) year period commencing with the date the loan actually becomes outstanding, and an interest rate of four (4) per cent per annum shall be charged on the outstanding unpaid balance of the loan and such loans are to be amortized to provide for repayment by the applicant to the Water Development Fund according to the following schedule.
- B. Repayment schedule:
  - 1. On the second anniversary of the loan an amount equal to one-half (1/2) of the principal amount of the loan, plus an interest charge computed at four (4) per cent per annum on the principal amount.
  - 2. On the third anniversary, a principal payment equal to one-half (1/2) of the outstanding balance, plus interest at four (4) per cent per annum on the outstanding balance.
  - 3. On the fourth anniversary, the final payment of the balance outstanding, plus interest at four (4) per cent per annum on the final payment due.

#### **4.10 Termination or Suspension of Loan**

- A. If an applicant, in the sole discretion of the Water Resources Board, unduly delays in carrying out any of the work program as approved by the Water Resources Board, or abandons the work program activities in part or in whole, or for any reason the commencement, prosecution, or timely completion by the applicant of any work program activities are determined, in the sole discretion of the Water Resources Board, not likely to be completed in a timely manner through mismanagement; or misfeasance; or, malfeasance of the applicant or in violation of the applicable local, State, or federal law, the Water Resources Board may, by written notice to the applicant,

1. Suspend approval of the loan application, until any violation is corrected or ceases to exist, and
2. Declare the applicant in default and demand immediate repayment of the loan outstanding plus interest.

#### **4.11 Use of Funds, Budget and Accounts**

- A. All applicants shall deposit all funds received from the Water Development Fund in a separate account acceptable to the Water Resources Board and in accordance with such written instructions as the Water Resources Board may from time to time issue.
- B. All applicants shall carry out the work program activities, incur obligations and make disbursements in connection with Water Development Funds only in conformity with the latest budget approved by the Water Resources Board. This budget may be revised from time to time, subject to the approval of the Water Resources Board.
- C. All applicants shall establish separate accounts for monies received from the Water Development Fund, in conformance with uniform requirements as may be prescribed and required by the Water Resources Board. Said accounts shall be maintained in accordance with the discretion of the Water Resources Board, either within the applicant's existing accounting system or otherwise independently thereof.
- D. All applicants at such time and in such forms as the Water Resources Board shall require, shall furnish to the Water Resources Board such statements, records, other data, and information, and such periodic reports as requested pertaining to the work program, the cost and obligations incurred or to be incurred in connection therewith, as well as information pertaining to all other matters relating to the application for the loan.

#### **4.12 Conflict of Interest: Public Officials and Others**

No member of the applicant's governing body or of the governing body of the locality wherein the applicant is located, and no official or employee of the applicant or the said locality or any other person who exercises any functions or responsibilities in connection with the loan shall own or acquire any personal interest in any property, contract or proposed contract which would conflict with the performance of his/her duties or responsibilities under this loan, except to the extent hereinafter provided. If any such member, official, employee or other person (hereinafter referred to collectively as "person") presently, or in the future, acquires, owns, or controls any such share, benefit, or personal interest, he/she

shall disclose immediately such share, benefit, or personal interest to the Water Resources Board and upon such disclosure, such person shall not participate in the program or in any action affecting the preparation of the program unless the applicant and the Water Resources Board shall determine that, in the light of such share, benefit, or personal interest, the participation of such person in any such action would not be contrary to the public interest. The applicant will promptly advise the Water Resources Board of the facts and circumstances concerning any disclosure made to it pursuant hereto or any information obtained by it relating to any conflict of interest.

#### **4.13 Meter Replacement**

Loans may be made in conformance with the procedures contained herein to all eligible applicants for replacing water supply metering systems or a portion thereof and, unless otherwise deemed advisable in a specific instance by the Water Resources Board, said systems or portions thereof shall have been in place for fifteen (15) years or more.

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**PART 4 - ADMINISTRATIVE PROCEDURE: WATER DEVELOPMENT FUND**

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**Agency Signature**

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Agency Head Signature

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Agency Signing Date

**Department of State**

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