

HOUSE BILL No. 1033

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-1.2-17.

Synopsis: Local unit water infrastructure fund. Establishes the local unit water infrastructure fund (fund) to provide grants, loans, and other financial assistance to counties, cities, and towns for projects to: (1) repair, replace, or increase the capacity of water infrastructure; or (2) replace lead water service lines; in community water systems. Requires the Indiana finance authority (authority) to administer the fund. Provides that the fund consists of appropriations from the state general fund and money from other sources. Requires the authority to adopt guidelines to establish criteria for the making of grants and the providing of loans and other financial assistance from the fund. Provides that an application for a grant, a loan, or other financial assistance must be accompanied by all supporting materials required by the authority. Requires a local unit that applies for a grant, a loan, or other financial assistance to develop an asset management program for its community water system. Authorizes the authority to establish a maximum amount that one county, city, or town may receive as a grant. Requires the authority, if possible, to allocate at least 50% of the total amount of grants to counties having a population of less than 50,000 and cities and towns located in counties having a population of less than 50,000. Authorizes the authority to make the award of a grant conditional upon the local unit contributing a local match of funds to be combined with the grant, but imposes an upper limit on the amount of a matching grant that can be required of a county, city, or town falling within certain population parameters. Requires the authority to
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Effective: July 1, 2023.

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January 9, 2023, read first time and referred to Committee on Ways and Means.



Digest Continued

establish the interest rate or interest rate parameters for each loan from the fund, and allows the authority to take into account certain factors in setting interest rates or interest rate parameters. Provides that the authority may require a local unit that receives a loan to enter into a binding financial assistance agreement. Requires a biennial report on grants awarded and loans and other financial assistance provided from the fund.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1033

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-1.2-17 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]:
4 **Chapter 17. Local Unit Water Infrastructure Fund**
5 **Sec. 1. (a) As used in this chapter, "asset management plan"**
6 **means a plan or program for the prudent management of all**
7 **physical assets that make up a community water system, including:**
8 (1) **an inventory of the physical assets of the system;**
9 (2) **the scheduling and tracking of the maintenance,**
10 **replacement, and expansion of the physical assets of the**
11 **system; and**
12 (3) **the budgeting of expenses and revenues to ensure the long**
13 **term financial stability of the system.**
14 (b) **The term includes the following:**
15 (1) **An asset management plan developed for the purposes of**
16 **applying for a grant, a loan, or other financial assistance from**
17 **the fund under this chapter.**



1 **(2) An asset management program developed:**

2 **(A) under IC 5-1.2-11.5-10(e)(1) with the assistance of the**
 3 **drinking water and wastewater infrastructure research**
 4 **and extension program;**

5 **(B) under IC 5-1.2-14-8(a)(2)(A) as a condition of receiving**
 6 **a loan, a grant, or other financial assistance from the water**
 7 **infrastructure assistance fund; or**

8 **(C) under IC 5-1.2-14.5-7(a)(2)(A) as a condition of**
 9 **receiving a loan, a grant, or other financial assistance from**
 10 **the water infrastructure grant fund;**

11 **to the extent that the asset management program is approved**
 12 **by the authority as appropriate for use as the asset**
 13 **management plan of a local unit under this chapter.**

14 **Sec. 2. As used in this chapter, "authority" refers to the Indiana**
 15 **finance authority established by IC 5-1.2-3-1.**

16 **Sec. 3. As used in this chapter, "community water system"**
 17 **means a public water system (as defined in 42 U.S.C. 300f) that:**

18 **(1) serves at least fifteen (15) service connections used by**
 19 **year-round residents of the area served by the system; or**

20 **(2) regularly serves at least twenty-five (25) year-round**
 21 **residents.**

22 **Sec. 4. As used in this chapter, "eligible project" means a**
 23 **project that is:**

24 **(1) undertaken by a local unit; and**

25 **(2) intended:**

26 **(A) to repair, replace, or increase the capacity of the water**
 27 **infrastructure; or**

28 **(B) to replace lead water service lines;**

29 **in a community water system located within the local unit.**

30 **Sec. 5. As used in this chapter, "fund" refers to the local unit**
 31 **water infrastructure fund established by section 7 of this chapter.**

32 **Sec. 6. As used in this chapter, "local unit" means a:**

33 **(1) county;**

34 **(2) city; or**

35 **(3) town.**

36 **Sec. 7. (a) The local unit water infrastructure fund is established**
 37 **for the purpose of making grants and providing loans and other**
 38 **financial assistance to local units for the purposes of eligible**
 39 **projects.**

40 **(b) The fund shall be administered, held, and managed by the**
 41 **authority.**

42 **(c) The authority may invest or cause to be invested all or a part**



1 of the fund, pursuant to the authority's investment policy, in a
 2 fiduciary account or accounts with a trustee that is a financial
 3 institution. Notwithstanding any other law, any investment under
 4 this subsection may be made by the trustee in accordance with one
 5 (1) or more trust agreements or indentures. A trust agreement or
 6 indenture referred to in this subsection may permit disbursements
 7 by the trustee to the authority, the budget agency, a local unit, or
 8 any other person as provided in the trust agreement or indenture.

9 (d) The fund consists of:

10 (1) appropriations from the state general fund;

11 (2) grants or gifts to the fund from any source;

12 (3) repayments of loans and other financial assistance from
 13 the fund; and

14 (4) the proceeds of the sale of:

15 (A) gifts to the fund; and

16 (B) loans and other financial assistance provided from the
 17 fund.

18 (e) Repayments of loans and other financial assistance from the
 19 fund, including interest, premiums, and penalties, shall be
 20 deposited in the fund.

21 (f) The expenses of administering the fund shall be paid from
 22 money in the fund.

23 (g) Money in the fund at the end of a state fiscal year does not
 24 revert to the state general fund.

25 (h) Fees and other amounts received by the state pursuant to
 26 laws concerning the funding of the fund shall be paid by the
 27 treasurer of state to the authority upon the authority's request with
 28 warrants issued by the auditor of state and deposited in the fund.

29 (i) All money in the fund is continuously appropriated for the
 30 purposes specified in this chapter.

31 **Sec. 8. (a) The authority, without complying with IC 4-22-2,**
 32 **shall adopt guidelines to govern the administration of this chapter.**
 33 **The guidelines must establish criteria for:**

34 (1) the making of grants; and

35 (2) the providing of:

36 (A) loans (including parameters for establishing interest
 37 rates, if any, on the loans); and

38 (B) other financial assistance;

39 from the fund.

40 (b) The making of grants and the providing of loans and other
 41 financial assistance from the fund to or for the benefit of local units
 42 under this chapter are subject to the following conditions:



- 1 **(1) A grant, a loan, or other financial assistance may be used:**
 2 **(A) for:**
 3 **(i) the planning, design, and execution of eligible**
 4 **projects; and**
 5 **(ii) other activities necessary or convenient to the**
 6 **completion of the tasks referred to in item (i); or**
 7 **(B) to pay the following:**
 8 **(i) Consultant, advisory, and legal fees.**
 9 **(ii) Other costs or expenses necessary or incident to the**
 10 **making of grants, loans, or other financial assistance or**
 11 **the administration of the fund.**
 12 **(2) The authority may establish the terms and conditions that**
 13 **the authority considers necessary or convenient to:**
 14 **(A) the making of grants; and**
 15 **(B) the providing of loans and other financial assistance;**
 16 **from the fund under this chapter.**
 17 **(c) In addition to exercising the authority's powers under**
 18 **subsection (b), the authority may also make grants or provide loans**
 19 **or other financial assistance from the fund to or for the benefit of**
 20 **local units under this chapter:**
 21 **(1) for planning, designing, acquiring, constructing,**
 22 **renovating, improving, or expanding community water**
 23 **systems and for other activities necessary or convenient to the**
 24 **completion of these tasks; or**
 25 **(2) to pay the following:**
 26 **(A) Consultant, advisory, and legal fees.**
 27 **(B) Other costs or expenses necessary or incident to the**
 28 **grant, loan, or other financial assistance.**
 29 **Sec. 9. (a) An application for a grant, a loan, or other financial**
 30 **assistance from the fund must be accompanied by all supporting**
 31 **materials required by the authority.**
 32 **(b) Supporting materials that the authority may require under**
 33 **subsection (a) include the following:**
 34 **(1) A certification and guarantee of signatures.**
 35 **(2) A certification that, as of the date of the grant, loan, or**
 36 **other financial assistance, no litigation is pending challenging**
 37 **the validity of or entry into the grant, loan, or other financial**
 38 **assistance.**
 39 **(3) Any other certifications, agreements, security, or**
 40 **requirements that the authority requests.**
 41 **(4) An approving opinion of nationally recognized bond**
 42 **counsel.**



1 **Sec. 10. (a)** A local unit that applies for a grant, a loan, or other
 2 financial assistance under this chapter must demonstrate that it
 3 has developed or is in the process of developing an asset
 4 management plan for the community water system located within
 5 the local unit.

6 **(b)** Not later than July 1, 2024, the authority shall make the
 7 asset management plans of local units that are approved under this
 8 chapter available in an electronic format specified by the authority
 9 on a website maintained by:

10 (1) the authority; or

11 (2) an entity contracted by the authority to approve asset
 12 management plans.

13 **Sec. 11. (a)** The guidelines adopted by the authority under
 14 section 8 of this chapter may establish a maximum amount that
 15 any one (1) local unit may receive as a grant under this chapter.

16 **(b) If:**

17 (1) the authority establishes a maximum amount under
 18 subsection (a); and

19 (2) multiple local units, including any combination of cities,
 20 towns, and counties, apply jointly for a grant under this
 21 chapter to undertake an eligible project that would benefit all
 22 of the applying local units;

23 the maximum amounts of the applying local units may be
 24 aggregated for purposes of the maximum amount established
 25 under subsection (a).

26 **Sec. 12.** In each state fiscal year, the authority shall if possible
 27 allocate at least fifty percent (50%) of the total amount of grants
 28 awarded from the fund under this chapter to:

29 (1) counties having a population of less than fifty thousand
 30 (50,000); and

31 (2) cities and towns located in counties having a population of
 32 less than fifty thousand (50,000).

33 **Sec. 13. (a)** The authority may make the award of a grant from
 34 the fund to a local unit for an eligible project conditional upon the
 35 local unit contributing a local match of funds to be combined with
 36 the grant for purposes of the eligible project.

37 **(b)** The local match that may be required of a local unit under
 38 this section may not exceed the following:

39 (1) For a local unit that is a county:

40 (A) fifty percent (50%) of the total cost of the eligible
 41 project if the county has a population of at least fifty
 42 thousand (50,000); or



- 1 **(B) twenty-five percent (25%) of the total cost of the**
 2 **eligible project if the county has a population of less than**
 3 **fifty thousand (50,000).**
- 4 **(2) For a local unit that is a city or town:**
- 5 **(A) fifty percent (50%) of the total cost of the eligible**
 6 **project if the city or town has a population of at least ten**
 7 **thousand (10,000); or**
- 8 **(B) twenty-five percent (25%) of the total cost of the**
 9 **eligible project if the city or town has a population of less**
 10 **than ten thousand (10,000).**
- 11 **Sec. 14. The purposes for which a loan or other financial**
 12 **assistance may be provided to a local unit under this chapter, in**
 13 **additional to those set forth in section 8(b)(1) of this chapter,**
 14 **include the following:**
- 15 **(1) To establish guaranties, reserves, or sinking funds,**
 16 **including guaranties, reserves, or sinking funds to secure and**
 17 **pay, in whole or in part, loans or other financial assistance**
 18 **made from sources other than the fund (including financial**
 19 **institutions), for a purpose permitted by this chapter.**
- 20 **(2) To provide interest subsidies.**
- 21 **(3) To pay financing charges, including interest on the loan or**
 22 **other financial assistance during construction of an eligible**
 23 **project and for a reasonable period after the completion of**
 24 **construction.**
- 25 **Sec. 15. (a) The authority shall establish:**
- 26 **(1) the interest rate; or**
- 27 **(2) parameters for establishing the interest rate;**
- 28 **on each loan made under this chapter.**
- 29 **(b) The authority, in setting the interest rate or parameters for**
 30 **establishing the interest rate on each loan, may take into account**
 31 **the following:**
- 32 **(1) Credit risk.**
- 33 **(2) Environmental, water quality, and health protection.**
- 34 **(3) Affordability.**
- 35 **(4) Other fiscal factors the authority considers relevant,**
 36 **including the cost of funds.**
- 37 **(c) Based on the factors set forth in subsection (b), different**
 38 **interest rates may be established and used:**
- 39 **(1) for loans or other forms of financial assistance provided to**
 40 **different participants; or**
- 41 **(2) for two (2) or more loans or other forms of financial**
 42 **assistance provided to the same participant.**



1 **Sec. 16. (a) The authority may require a local unit that is**
 2 **provided a loan or other financial assistance from the fund under**
 3 **this chapter to enter into a financial assistance agreement.**

4 **(b) A financial assistance agreement entered into under this**
 5 **section is a valid, binding, and enforceable agreement of the local**
 6 **unit.**

7 **Sec. 17. (a) The authority may sell or pledge:**

8 **(1) loans or evidence of other financial assistance from the**
 9 **fund; and**

10 **(2) other obligations of local units evidencing loans or other**
 11 **financial assistance from the fund;**
 12 **to secure other loans or financial assistance from the fund to or for**
 13 **the benefit of local units.**

14 **(b) The authority must approve the terms of a pledge made**
 15 **under this section.**

16 **(c) Notwithstanding any other law, a pledge of property made**
 17 **by the authority under this section is binding from the time the**
 18 **pledge is made. Revenues, other money, or other property that are:**

19 **(1) pledged; and**

20 **(2) received after the pledge is made;**

21 **are immediately subject to the lien of the pledge without any other**
 22 **act.**

23 **(d) The lien of a pledge made under this section is binding**
 24 **against all parties having claims of any kind in tort, contract, or**
 25 **otherwise against:**

26 **(1) the fund; or**

27 **(2) the authority;**

28 **regardless of whether the parties have notice of the lien.**

29 **(e) A resolution, an indenture, or another instrument by which**
 30 **a pledge is created under this section does not have to be filed or**
 31 **recorded, except in the records of the authority.**

32 **(f) Action taken to:**

33 **(1) enforce a pledge made under this section; and**

34 **(2) realize the benefits of the pledge;**

35 **is limited to the property pledged.**

36 **(g) A pledge made under this section does not create a liability**
 37 **or indebtedness of the state.**

38 **Sec. 18. The authority may provide services to a local unit in**
 39 **connection with a grant, a loan, or other financial assistance from**
 40 **the fund, including advisory services and other services.**

41 **Sec. 19. Beginning in 2025, not later than August 1 of each**
 42 **odd-numbered year, the public finance director shall prepare for**



1 **the budget committee established by IC 4-12-1-3 and the legislative**
2 **council a report that includes the following:**
3 **(1) Information concerning:**
4 **(A) grants awarded from the fund; and**
5 **(B) loans and other financial assistance provided from the**
6 **fund;**
7 **during the two (2) most recent fiscal years.**
8 **(2) Any other information requested by the budget committee**
9 **and the legislative council.**
10 **The report must be submitted in an electronic format under**
11 **IC 5-14-6.**

