

DWSRF Guidance Document Number 7
Municipal Authority to Execute Loan Agreements

The 1997 amendments to Title 10, Chapter 55, include authority and conditions for a municipal legislative body to execute a DWSRF loan agreement. This provision was modified in 2001. Compliance with this provision is addressed in this document. The general authority for municipalities to execute loan agreements under the Drinking Water State Revolving Fund is included in Title 10, Chapter 55, 1624(b)(3), as follows:

"(3) A municipal legislative body may execute a loan agreement under this subsection, provided the loan is authorized by municipal voters and secured by the full faith and credit of the municipality."

A. More specific requirements are included in Title 24, Chapter 120, 4755(a)(3) and (a)(4) which apply to construction loans:

- (1) "(3) the loan shall be evidenced by a municipal bond, payable by the municipality over a term not to exceed 20 years, and without deferral of payment except as provided by 10 V.S.A. §§ 1624(b) and 1624a, or by any other permitted debt instrument payable as permitted by Chapter 53 of this title."
- (2) "(4) notwithstanding any other provisions of law, municipal legislative bodies may execute notes and incur debt on behalf of municipalities, with voter approval at a duly warned meeting, for amounts less than \$75,000.00, or increase previously approved bond authorizations by up to \$75,000.00 to cover unanticipated project costs."

B. Title 24, Chapter 120, 4756(e) applies specifically to planning and final design loans:

"The legislative body of a municipality may execute notes and incur debt of the municipality under subsections (b) and (c) of this section without public approval, provided that such debt shall be included in any subsequent public authorization of municipal indebtedness necessary to construct the project for which planning loans were used. A municipality desiring to secure public authorization of debt incurred under subsections (b) and (c) of this section may utilize procedures authorized under section 1786a of this title, and may be refunded through a consolidation under subsection (d) of this section."

- C. The Chapter 120 provisions and Chapter 53 requirements for bond approval and borrowing for public improvements and capital assets include specific procedures for obtaining voter authorization, which are more demanding than the general requirements of Title 10, Chapter 55, 1624(b)(3). Therefore, compliance with these provisions satisfies the requirements of 1624(b)(3).
- D. The municipal legislative body is responsible for ensuring it has authority to sign loan agreements in accordance with Chapters 53 and 55.

Honorable Jim Douglas, Governor George Crombie, ANR Secretary Jeffrey Wennberg, DEC Commissioner

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Water Supply Division
103 South Main Street
Waterbury, VT 05671-0403
Toll free 1-800-823-6500
Out of State 1-802-241-3400
Fax 1-802-241-3284