



# Tennessee State Revolving Fund: An Analysis with Recommendations

## Preface

### The State of Water Infrastructure

Water infrastructure in the United States is aging and in need of replacement, and many systems are already failing. Estimates suggest \$1.25 trillion ([\\$625 billion](#) for Drinking Water infrastructure and [\\$630 billion](#) for Clean Water infrastructure) is needed over the next 20 years to invest in wastewater, stormwater, and drinking water systems. Inadequate investments in water infrastructure has a significant negative impact on the health and well-being of communities, and disproportionately impacts low-income communities and communities of color.

The Bipartisan Infrastructure Law (**BIL**), passed in November of 2021, was the single largest federal investment in water infrastructure to date. Of the \$55 billion to be administered by the Environmental Protection Agency (**EPA**), \$43 billion is being distributed through the Clean Water State Revolving Fund (**CWSRF**) and the Drinking Water State Revolving Fund (**DWSRF**) over Federal Fiscal Year (**FFY**) 2022-2026. Although 49% of these funds must be distributed to “disadvantaged communities” as grants or forgivable loans (rather than loans that need to be repaid), communities with the greatest need [still face several barriers](#) in accessing these funds. Interventions to address these barriers include reforms to State Revolving Fund (**SRF**) policies that determine how SRF funds are allocated to communities within each state.

## Why and How This Project Came to Be

In early 2023, PolicyLink started its three-year “Southern State Revolving Fund (SRF) Analysis and Advocacy Project” to help ensure equitable implementation of BIL SRF funds and base SRF programs in the South. In focusing on the South, we recognized that the racial and economic disparity in clean and affordable water is particularly pronounced there and that there was a need for strong community-based advocacy.

This project consists of two main phases:

### **Phase I: Analyses of DWSRF and CWSRF Across Seven Southern States**

In early 2023, PolicyLink partnered with the Environmental Policy Innovation Center (EPIC) to train and support policy analysts across seven southern states (Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas) to conduct equity analyses of each state’s Clean Water and Drinking Water State Revolving Fund. These analyses are being used to inform advocacy in Years 2 (2024) and 3 (2025) of the project.

### **Phase II: Community-Based-Organization (CBO) Led Advocacy Across Four States**

Of the seven states, PolicyLink selected four states—Alabama, Louisiana, Tennessee, and Texas—for Phase II (supporting CBO-led SRF Advocacy). These represent two states from EPA Region 4 (Tennessee and Alabama) and two states from EPA Region 6 (Louisiana and Texas). PolicyLink selected a cohort of 16 CBOs (4 CBOs per state) to undergo SRF Advocacy training (administered by River Network) and supports them in their state and regional SRF advocacy efforts.

This document is part of the larger series of SRF program analyses (Phase I deliverables) developed by individual consultants, with guidance from PolicyLink and the Environmental Policy Innovation Center (EPIC).

To learn more about the project and/or to access other material related to the state analyses, please see the project [site](#).

## Acknowledgments

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- Arkansas: EPIC
- Louisiana: Rebecca Malpass, The Water Collaborative of Greater New Orleans
- Mississippi: Dr. Christine Curtis, Grow Where You’re Planted
- Oklahoma: EPIC
- Tennessee: Grace Stranch and Anne Passino, Harpeth Conservancy
- Texas: Danielle Goshen, National Wildlife Federation

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# Abbreviations Sheet

**ARP** - American Rescue Plan  
**ATPI** - Ability to Pay Index  
**BIL** - Bipartisan Infrastructure Law  
**CW** - Clean Water  
**CWA** - Clean Water Act  
**CWSRF** - Clean Water State Revolving Fund  
**DAC** - Disadvantaged Community  
**DW** - Drinking Water  
**DWSRF** - Drinking Water State Revolving Fund  
**EPA** - Environmental Protection Agency  
**GPR** - Green Project Reserve  
**IIFA** - Infrastructure Investment and Jobs Act  
**IUP** - Intended Use Plan  
**LSL** - Lead Service Line  
**NIMS** - National Information Management System  
**PFAS** - Per- and Polyfluorinated Substances  
**PRL** - Priority Ranking List  
**SDC** - Small and Disadvantaged Community  
**SDWA** - Safe Drinking Water Act  
**SRF** - State Revolving Fund  
**SWIG** - State Water Infrastructure Grants  
**TA** - Technical Assistance  
**TAUD** - Tennessee Association of Utility Districts  
**TDEC** - Tennessee Department of Environment and Conservation  
**TLDA** - Tennessee Local Development Authority  
**TPUC** - Tennessee Public Utilities Commission  
**UDL** - Utility Development Law  
**WRRDA** - Water Resources Reform and Development Act  
**WWTP** - Wastewater Treatment Plant

This summary memorandum provides a high-level analysis of key components of the policy framework for Tennessee’s water infrastructure State Revolving Fund program. To help policymakers, community members, and stakeholders, this memo offers an overview of Tennessee’s program as of January 2024, accompanied by a look at (1) challenges facing the effectiveness of the program’s ability to connect communities with needed resources and (2) opportunities to increase the equitable distribution of SRF funds. This memo summarizes cited source materials on file with PolicyLink.

## I. Introduction

The State Revolving Fund (**SRF**) Program in Tennessee is comprised of the Clean Water State Revolving Fund (**CWSRF**) and the Drinking Water State Revolving Fund (**DWSRF**). These two funding programs are the primary way the federal government provides support for water infrastructure in Tennessee. Tennessee is required to match 20% of the federal funds. The Infrastructure Investment and Jobs Act (**IJIA**), also known as the Bipartisan Infrastructure Law (**BIL**), included an infusion of supplemental funds to the SRFs for a set period of years, providing additional funds specifically designated for lead service line replacement (**LSLR**) and to address emerging contaminants (**EC**).

Although federal funds support Tennessee’s SRF Program, the policies that determine the projects and communities that are prioritized to receive funding — including which communities receive additional subsidies in addition to low-interest loans — are determined at the state level. These policies are reflected in Tennessee’s statutes that authorize the program, regulations promulgated by the relevant agencies to help govern the program, and annual plans prepared by the agency to implement the program. The draft versions of Tennessee’s annual plans to implement the CWSRF and DWSRF programs are called Intended Use Plans (**IUPs**).

The SRF program includes special provisions to help “disadvantaged communities” (**DACs**). Tennessee’s SRF program prioritizes projects that benefit economically disadvantaged and small communities. To identify such communities, Tennessee has developed a tool called the Ability to Pay Index (**ATPI**). The ATPI is comprised of nine factors calculated at the city-level and county-level: median household income, unemployment, food stamp dependence, families in poverty, community assets, revenues, debt, expenditures, and change in population. Several aspects of Tennessee’s SRF

programs rely on the Ability to Pay Index:

- Whether a community is considered “disadvantaged” [ATPI score of 50 or less]
- What interest rate to charge [Tennessee offers a tiered interest rate structure ranging from 40-100% percent of 20-, 25-, and 30-year Bond Buyer Index and Municipal Market Data General Obligation Yields]
- Whether a community is eligible for principal forgiveness [for example: per the CWSRF, communities with ATPIs of 50 or less are eligible to receive 20% of project costs as principal forgiveness (up to a maximum of \$2,500,000 in principal forgiveness per project); per the DWSRF, TDEC offers 50% principal forgiveness from BIL funds with a maximum of \$5 million per project]
- How to prioritize projects [projects with the same priority points are ranked in ascending order using the ATPI and population]

To implement the state’s policy preference to help small and disadvantaged communities (**SDCs**), Tennessee also makes small communities (i.e., population of 20,000 or fewer) eligible for priority principal forgiveness, capped at \$250,000.

## State Revolving Fund (SRF) Administration in Tennessee

The primary administering agency for Drinking Water State Revolving Fund (DWSRF) and Clean Water State Revolving Fund (CWSRF) funds is the Tennessee Department of Environment and Conservation (**TDEC**), Division of Water Resources (**DWR**). The State Water Infrastructure Grants (**SWIG**) office, part of TDEC’s Division of Water Resources, supports the disbursement of SRF Funds and federal government funding from the American Rescue Plan (**ARP**). Notably, in the short term, the Infrastructure Investment and Jobs Act (**IJIA**), also known as the Bipartisan Infrastructure Law (**BIL**), included an infusion of supplemental funds to the SRFs, including general supplemental funds for the DWSRF and CWSRF as well as additional funds designated for lead service line replacement (**LSLR**) and to address emerging contaminants (**EC**) such as Per- and Polyfluorinated Substances (**PFAS**). TDEC contracts with the Tennessee Association of Utility Districts (**TAUD**) to develop a consolidated technical assistance program to provide targeted technical assistance to distressed or disadvantaged communities.

In addition to TDEC’s role overseeing and managing the two SRF programs, there are several other agencies, commissions, and boards with a role to play in the SRF Program. The Tennessee Local Development Authority (**TLDA**), an office within the Tennessee Comptroller of the Treasury, administers the revolving funds and provides policy and guidance materials for borrowers. The Tennessee Public Utilities Commission (**TPUC**) oversees rates charged to consumers by private utilities that receive SRF funds. As of January 2024, there are 13 private wastewater utilities and 9 private water utilities. The Tennessee Board of Utility Regulation (**TBUR**) is given the responsibility of ensuring the financial integrity of publicly owned gas, water, and wastewater systems, and providing financial, managerial, and technical guidance to 247 municipal systems, 12 county systems, 14 authorities, and 172 utility districts.

## II. Tennessee Clean Water State Revolving Fund (CWSRF)

### 2A. Governance

In addition to the annual Intended Use Plan (IUP) for wastewater and stormwater needs, the Tennessee Clean Water SRF is governed by statutes and regulations. See, e.g., Tenn. Code Ann. § 68-221-1005(l) (“(1) The department and the authority may use any federal funds allocated to the state to make loans and to subsidize loans made through the program authorized by this part, through such mechanisms as forgiveness of principal, other loan forgiveness, and through refinancing or restructuring of debt; (2) The department and the authority may administer the program using the funds in accordance with the criteria set by the federal government; and (3) The department may promulgate rules and develop forms that may be deemed necessary for the program.”) (emphasis added); Tenn. Comp. R. & Regs. 0400-46-01 (Priority Ranking System).

### 2B. Eligibility

TDEC lists eligible CWSRF projects on its SRF website, including categories like water loss training, wastewater treatment plant (WWTP) upgrades and improvements, stormwater management, decentralized systems, green infrastructure, watershed protection, water conservation, and energy efficiency, and nonpoint source pollution.

### 2C. Types of Assistance

The purpose of the CWSRF program is to provide local governments with low-cost financial assistance, and — by legal definition in Tennessee — the term “local government” includes public and private systems, as well as privately owned for-profit community public wastewater treatment systems.

Assistance includes low-interest loans, principal forgiveness, green project subsidies, and technical assistance.

According to TDEC’s CWSRF website, “CWSRF highly encourages the use of green projects to promote stormwater and wastewater system resilience, water and energy efficiency, and potentially improve water quality in our streams and creeks. Green projects may be eligible for an added reduction in interest rates if the proposed project qualifies. The state encourages public systems to capitalize on opportunities to protect water resources, use green infrastructure stormwater controls, and reduce runoff issues.”

### 2D. Principal Forgiveness (PF)

Private systems may not be considered for principal forgiveness.

- Communities with an ATPI score of  $\leq 50$  are eligible for BIL Principal Forgiveness and Base SRF Capitalization Grants, though BIL principal forgiveness cannot be combined with other forms of principal forgiveness.
- Communities with a population  $\leq 20,000$  are eligible for Base SRF Capitalization Grant funds.
- Communities of any size and any ATPI are eligible for Green Project Reserve (GPR) Principal Forgiveness.
- Percentages and caps differ for each fund.

### 2E. Prioritization

Potential projects—those that are for planning and design, or ready to proceed with construction—are prioritized by assigning Project Criteria Points based on the project criteria established in Rule 0400-46-01-.02(2).

## 2F. Readiness to Proceed

After an applicant is placed on the Priority Ranking List (PRL), they must submit a letter requesting their funding, the last three years of audited financial statements (submitted to the Tennessee Comptroller of the Treasury), and a current water/sewer rate ordinance. Additional items are needed for construction projects.

# III. Tennessee Drinking Water State Revolving Fund (DWSRF)

## 3A. Governance

The scope of the Drinking Water SRF program is governed by TDEC's annual IUP and by statute. See Tenn. Code Ann. § 68-221-1201 et seq. (Drinking Water Revolving Loan Fund Act of 1991); Tenn. Code Ann. § 68-221-1205(l) (authorizing TDEC and TLDA to use federal funds "to make loans and to subsidize loans made through the program authorized by this part, through such mechanisms as forgiveness of principal, other loan forgiveness, and through refinancing or restructuring of debt" and to "administer the program using the funds in accordance with the criteria set by the federal government") (emphasis added).

The DWSRF IUP also includes the implementing standards for Lead Service Line Replacement (LSLR) fund disbursement. There is no state match required for the LSLR grant; in FY 2023, Tennessee was allotted nearly \$90 million for LSLR and set aside 10% for local assistance, 4% for administration, and 1% for program management and supervision assistance.

## 3B. Program Scope

TDEC lists eligible DWSRF projects on its SRF website, and types of projects include green infrastructure, compliance, transmission and distribution, consolidation/regionalization, water loss/distribution system rehabilitation, source water development, wellhead protection, and water conservation. Noneligible projects are those intended for categories like economic development, fire protection, and operation and maintenance expenses. Tennessee makes special considerations for small communities: 15% of the amount credited to the SRF fund each year "shall be available solely for providing loan assistance to water systems which regularly serve fewer than" 10,000 persons "to the extent such funds can be obligated for eligible projects of water systems."

## 3C. Types of Assistance

Types of assistance include low-interest loans, principal forgiveness, and technical assistance to qualifying entities.

According to TDEC's DWSRF website, "DWSRF highly encourages the use of green projects to promote drinking water system resilience, water and energy efficiency, and potentially improve water quality in our streams and creeks. Green projects may be eligible for subsidies, including further reduced interest rates."

## 3D. Principal Forgiveness (PF)

PF is granted on a first-come-first-serve basis to eligible communities (ATPI score of 50 or less).

## 3E. Prioritization

Tennessee has a 100-point priority ranking system aligned with the Safe Drinking Water Act (**SDWA**). Ineligible projects, including those primarily for future growth, do not receive priority points. Communities with an approved growth plan receive an additional five points. The greatest points (100) are awarded to projects that target acute health risks; other projects receive 89, 60, 40, or 20 points based on the type and severity of the problem they seek to address.

## 3F. Readiness to Proceed

**After an applicant is placed on the Priority Ranking List (PRL), they must submit:**

- A letter requesting the funding,
- The last three years of audited financial statements (submitted to the Tennessee Comptroller of the Treasury), and
- A current water/sewer rate ordinance.

Additional items are needed for projects with construction components.

## IV. Timelines and Opportunities for Involvement

The draft versions of Tennessee’s plans to implement the CWSRF and DWSRF programs are called Intended Use Plans (IUPs). Draft IUPs are uploaded to TDEC’s webpage, typically in June or July. TDEC also provides notice to individuals on an e-mail listserv who have requested to be informed about the SRF program.

Following the public disclosure of the IUPs, TDEC hosts a public meeting to describe the plans and take questions. For the last few years, TDEC has enabled virtual participation in these meetings and posts recordings of the webinars to its SRF webpage. Tennessee typically provides 30 days to comment on the IUPs. TDEC compiles the public comments on the draft IUPs and then publishes a summary of those comments and its response.

### The typical Timeline for the SRF funding cycle is:

- January/February: TDEC solicits projects.
- March/April: TDEC scores projects.
- June: TDEC develops/finalizes Project Priority Lists.
- July: TDEC holds public meeting(s) about the draft IUPs.
- August: TDEC applies for federal capitalization grants.
- August/September: Upon receipt of capitalization grants, TDEC notifies entities on the Priority Ranking List with a funding notification letter.
- August: TDEC solicits second Drinking Water projects.
- September/October: TDEC provides notice of awards.
- 90 days after the end of the fiscal year: Annual program reports are released.

Interested eligible communities can submit a CWSRF questionnaire or DWSRF questionnaire online to TDEC through an online portal on the SRF website. Other resources about the SRF programs are available on TDEC’s webpage, including responses to public comments, prior years’ IUPs, and presentations.

## V. Summary of Policy Recommendations

Tennessee has taken significant positive steps to meet the growing challenges facing its aging water infrastructure and underserved communities, which includes:

- Identifying pilot projects for “emerging issues” including lead testing, disaster resilience, sustainable and resilient projects, urban waters, and water loss;
- Actively working to expand technical assistance opportunities;
- Beginning to partner with other state agencies to review opportunities for small and disadvantaged communities; and
- Offering small communities assistance with planning and design loans, which can help work towards later construction loans.

Most recently, the SRF program repurposed the State Water Infrastructure Grants (**SWIG**) program to offer funding streams for lead service line (**LSL**) inventory efforts (funding to investigate LSLs that can be used to develop a plan for replacement eligible for BIL LSL SRF grants) and asset management plan development, which includes streamlined application project and assistance with writing and developing a plan.

On top of these efforts, Tennessee can take additional steps to expand its equitable application of SRF funds and leverage the program to maximize its reach. After all, there is a large pipeline of projects in Tennessee’s SRF programs but significant carry-forward of funds, meaning that Tennessee has additional work to do to connect communities with available funds. Opportunities to expand Tennessee’s SRF programs include:

### ATPI

Currently, the ATPI captures more than half of Tennessee communities; its equally scored nine-factor test creates a situation whereby objective comparisons between and among communities may obscure underlying subjective judgments.

- Opportunities to connect funds with the most critical needs of vulnerable communities include revising the “disadvantaged communities” (DACs) definition to make it easier to review not only city/county level data but also census tract information.

- TDEC could consider explicitly including factors like those identified in EPA's Climate & Economic Justice Screening Tool, which identifies census tract communities as disadvantaged if they are at or above (1) the threshold for one or more environmental, climate, or other water burdens; (2) the threshold for an associated socioeconomic burden; or (3) the 50th percentile for low income, and completely surrounded by disadvantaged communities. EPA's screening tool includes census-tract datasets for factors like race, age, projected flood risk, energy cost, lack of indoor plumbing, and wastewater discharge.

## Eligibility

- Actively work to expand the loan process to include nontraditional eligible entities that could, for example, help connect communities to public wastewater systems.
  - See Tenn. Code Ann. § 68-221-301 (“Eligible recipients of grants awarded pursuant to this part must be limited to the types of entities eligible for low-cost loans under parts 10 and 12 of this chapter or otherwise eligible as provided by federal law for the capitalization grants authorized for the loan programs established by parts 10 and 12 of this chapter.
  - Eligible projects must be limited to those authorized by parts 10 and 12 of this chapter or otherwise eligible as provided by federal law for the capitalization grants authorized for the loan programs established by parts 10 and 12 of this chapter. The commissioner may administer the grant program in accordance with criteria set by the federal government.”) (emphasis added).

## Prioritization Among/Between DACs and For Project Scoring

- Restructure CWSRF prioritization process to include a sliding-scale or multi-variant point system with specific points awarded to projects that advance climate resilience, source water protections, and regionalization; seek more granular prioritization metrics by IUP or regulation for DWSRF program.
- Because Tennessee's DAC definition already captures a significant percentage of Tennessee's counties and communities, advocate for TDEC to balance the factors and score communities against each other, creating a relative ranking system to determine the most deserving communities and the most imperative needs.

## Project Development

Although smaller communities have been prioritized in the annual IUPs, Tennessee has struggled to fund projects for small systems. For example, in fiscal year 2021, the state provided principal forgiveness totaling approximately 2.6% of the capitalization grant to systems serving fewer than 10,000 persons.

### Stakeholders can encourage TDEC to:

- Study this issue using set-aside funds;
- Increase PF for planning grants;
- Build upon outreach efforts to affected communities and nonindustrial stakeholders to identify more innovative and shovel-worthy projects and connect communities with available funds;
- Support strategies to protect source waters, including TDEC's short-term goal to review the statute governing the DWSRF program for updates, “including improved clarity or language regarding source water protection eligibilities”; and
- Fully use set-aside funds for technical assistance (TA) to build capacity, sourced from the allowance for administration (4%), small systems technical assistance (2%) and local assistance (15%)—helping applicants become ready to proceed and able to receive construction loans.

## Regionalization

- Continue the policy priority reflected across TDEC's programs for regionalization by incentivizing integrated planning and otherwise conditioning SRF loans on appropriate changes by a utility to encourage regional water planning.
- At the same time, investigate the source water petition program whereby EPA has the authority to provide grants to connect households to public water systems (same standard to receive assistance to improve septic or connect to centralized wastewater systems).



## Notice

- Provide more public information, like inserting a “funding line” on the Project Ranking Lists (PRLs) to indicate projects that will receive awards or publishing a “funding list” in addition to the PRL;
- Ensure that all public hearings are recorded and posted online in time to be helpful to public commenters;
- Develop a DWSRF priority ranking system metrics by notice-and-comment rulemaking; and
- Maintain notices, drafts, and historic records on TDEC’s SRF website.

# PolicyLink

Lifting Up What Works®

## Headquarters

1438 Webster Street

Suite 303

Oakland, CA 94612

t (510) 663-2333

## **policylink.org**

LinkedIn: /PolicyLink

Instagram: @policylink