

Act 220 of the 1989 Regular Session.

Act 220

SB216

By: Senator Malone

"AN ACT TO AMEND VARIOUS SECTIONS OF CHAPTER 230 OF TITLE 14 OF THE ARKANSAS CODE OF 1987 TO ALLOW FUNDING OF WATER, SEWER, AND SOLID WASTE MANAGEMENT SYSTEMS WITH OTHER STATE ASSISTANCE PROGRAMS; TO REPEAL ARKANSAS CODE SECTION 14-230-104; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 14-230-102 is hereby amended to read as follows:

"14-230-102. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Eligible applicant" means a city, a town, a county, a regional water district, a special improvement district, a public facilities board, including boards and commission thereof, other public entity, or a non-profit corporation which provide water, sewer, or solid waste services to one (1) or more cities, towns, or counties;

(2) "Eligible applicant with special needs" means an eligible applicant which, due to high percentages of its population being elderly, low income or unemployed could not be expected without undue economic and social burdens to exhaust other existing funding resources or commit all existing or future local funds for the purpose of financing water, sewer, or solid waste management systems. The Commission shall set specific criteria for designation of an eligible applicant with special needs;

(3) "Commission" means the Arkansas Soil and Water Conservation Commission;

(4) "Emergency" means a situation that interrupts service to the customers of the eligible applicant, and for which the eligible applicant does not have resources to immediately remedy."

SECTION 2. Arkansas Code 14-230-103 is hereby amended to read as follows:

"14-230-103. General duties of commission. The Arkansas Soil and Water Conservation Commission shall:

(1) Administer the loan and grant programs authorized under this chapter;

(2) Take necessary action to ensure that the funds are used for the purposes established in the chapter and in accordance with state and federal laws;"

SECTION 3. Arkansas Code 14-230-105 is hereby amended to read as follows:

"14-230-105. State loan and grant program authorized. (a) The commission is authorized to:

(1) Make loans and grants to provide funds for water, sewer, or solid waste management financial assistance.

(b) The commission shall not pay for more than fifty percent (50%) of the total project cost for water, sewer, or solid waste management systems under this chapter."

SECTION 4. Arkansas Code 14-230-106 is hereby amended to read as follows:

"14-230-106. Eligible applicants. (a) An eligible applicant is eligible to apply for loans and grants specified in this chapter. Combinations of eligible applicant may apply jointly for loans or grants authorized under this chapter in accordance with Section 25-20-101 et seq.

(b) (1) Final award of a loan or grant shall be made contingent upon actual receipt of a federal or other state financial assistance for which an eligible applicant has applied.

(2) Final award of a loan or grant for supplemental purposes shall be made contingent upon the actual receipt of the federal or other state financial assistance or upon the eligible applicant's final appropriation of funds for water, sewer, or solid waste management systems.

(c) Unless the applicant is an eligible applicant with special needs, a grant under this chapter shall not be awarded until the eligible applicant making application for the grant has furnished the commission with sufficient proof of the exhaustion of all other funding sources which may exist and established that a deficiency exists in the amount of local funds necessary for the proposed projects or that such funds are unavailable to the eligible applicant for that purpose."

SECTION 5. Arkansas Code 14-230-107 is hereby amended to read as follows:

"14-230-107. Applications for grants. (a) The commission shall promulgate such rules, regulations, and forms as are needed for the efficient administration of the chapter.

(b) All applications shall be submitted concurrently to the commission, to the appropriate regional planning and development district.

(c) Within thirty (30) days after receipt of the application, the regional planning and development district shall make a recommendation to the commission concerning the consistency of the application with regional plans and the disposition of the application. These recommendations shall be one (1) of the criteria used in the selection of projects to receive financial assistance under this chapter.

(d) Upon receipt of an application, the commission shall send a copy of the application to the Department of Pollution Control and Ecology and the Department of Health which shall review the application and determine if it is in compliance with applicable state and federal laws, regulations, requirements, and plans. The Department of Pollution Control and Ecology and the Department of Health shall return their findings and recommendations to the commission within thirty (30) days after receipt of the application.

(e) (1) Upon receipt of the recommendations of the regional planning and development district, the Department of Pollution Control and Ecology, and the Department of Health, the commission shall consider the merits of the application and, in accordance with the criteria for selection and the available funds, make a final determination concerning the disposition of the application. After an application has been on file for sixty (60) days, an applicant may request its application be considered. Upon the request, the commission shall consider the application at its next regular meeting.

(2) The director of the commission shall, within ten (10) days, notify the applicant, the regional planning and development district, the Department of Pollution Control and Ecology, and the Department of Health of the final action of the commission in accepting, modifying, or rejecting the application."

SECTION 6. Arkansas Code 14-230-108 is hereby amended to read as

follows:

"14-230-108. Criteria for selection of loan and grant recipients. In selecting the recipients for loans and grants authorized in this chapter, the following factors shall be taken into consideration by the commission:

(1) The financial ability of the eligible applicant to provide the funds for the project. Loans and grants shall be provided only when local funds are unavailable and the eligible applicant is utilizing all available tax sources, as provided in Section 14-230-106, except with regard to an eligible applicant with special needs;

(2) The burden placed on low income, elderly, or unemployed persons if an eligible applicant constructs a water, sewer, or solid waste management system and pays for the loan through user fees and/or taxes;

(3) Evaluations and priorities as enunciated in the Arkansas State Water Plan and in the reviews and recommendations by the regional planning and development districts;

(4) State priorities and requirements as recommended by appropriate state agencies;

(5) The amount of fair user charges or other revenues which the project may reasonably be expected to generate in excess of those which would amortize the local share of initial cost and provide for its successful operation and maintenance, including depreciation."

SECTION 7. Arkansas Code 14-230-109 is hereby amended to read as follows:

"14-230-109 Revolving fund. (a) A special fund, entitled the "Water, Sewer and Solid Waste Systems Revolving Fund", is created to provide a depository for funds which may be appropriate or otherwise secured for the purposes of matching or supplementing federal and state grants and loans as provided in this chapter.

(b) The revolving fund shall be used to provide low-interest loans or grants to an eligible applicant for the purposes established in this chapter. Funds from the repayment of loans made under this chapter shall return to the revolving fund and shall be reloaned in a manner which is consistent with the purposes of this chapter.

(c) The commission is authorized to use up to twenty-five percent (25%) of the funds made available under this chapter for grants to or for suspended repayment of loans to an eligible applicant with special needs, as defined in this chapter and designated by the commission.

(d) Special terms for repayment of loans, including a negotiated schedule of repayment that reasonably minimizes the user-fee cost and tax burden upon customers of an eligible applicant, may be negotiated by the commission and concluded by contractual agreement. Repayment of loans not exceeding a fifty-year period as authorized.

(e) (1) The commission is further authorized to use up to ten percent (10%) of the amount of funds made available under this chapter for emergency loans or grants to an eligible applicant.

(2) The emergency provisions provided by this chapter shall not be subject to Section 14-230-105.

(f) (1) The commission is authorized to require partial or complete repayment of grants plus the payment of interest accumulated on the sum granted if the operation of a water, sewer, or solid waste management system constructed with the assistance of such grants produces an income which exceeds the sum necessary to repay the federal, state or other loans for construction of the system and the expenses of operating the system.

(2) The terms and conditions of possible repayment of grants shall be specified and agreed to in writing prior to the disbursement of the grant.

(g) No grant or loan may be made under this act for any project if the

awarding of the grant or loan will result in a corresponding loss of federal funds."

SECTION 8. All provisions of this act of general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 9. (a) Arkansas Code 14-230-104 is hereby repealed.

(b) All other laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: February 24, 1989

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