

Act 257 of the 1989 Regular Session.

Act 257

SB284

By: Senator Ingram

"AN ACT TO ESTABLISH A WATER RESOURCES COST SHARE PROJECT PROGRAM UNDER THE SOIL AND WATER CONSERVATION COMMISSION TO AID LOCAL GOVERNMENTS AND IMPROVEMENT DISTRICTS IN ARKANSAS TO MEET THE COST SHARE REQUIREMENTS OF THE FEDERAL GOVERNMENT; TO CREATE THE ARKANSAS WATER RESOURCES COST SHARE REVOLVING FUND AND A STATE PROGRAM OF GRANTS AND LOANS TO THE STATE AND LOCAL GOVERNMENTS AND IMPROVEMENT DISTRICTS; AND FOR OTHER PURPOSES."

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

SECTION 1. This act shall be known and cited as the "Arkansas Water Resources Cost Share Finance Act."

SECTION 2. The purpose of this act is to provide the state and the local political subdivisions of the State of Arkansas with the non-federal share of their financial obligations required under any local cooperative agreements entered into with the federal government.

SECTION 3. As used in this act, unless the context otherwise requires:

- (1) "Commission" means the Arkansas Soil and Water Conservation Commission;
- (2) "Cooperative agreement" means an agreement entered into between the federal government and the state and the local government in Arkansas;
- (3) "Cost sharing" means a program where the state or local governments in Arkansas are financially responsible for the non-federal share of various water resources development projects;
- (4) "Local governments" means all political subdivisions of the State of Arkansas which shall include, but not be limited to, cities of the first class, cities of the second class, and incorporated towns; all county governments and their agencies; all regional water districts; all conservation districts; all irrigation and drainage improvement districts; all levee improvement districts; all drainage improvement districts; and all drainage and levee improvement districts, and other political subdivisions of the state;
- (5) "Revolving fund" means the Arkansas Water Resources Cost Share Revolving Fund created by this act;
- (6) "State" means the State of Arkansas or its instrumentalities; and
- (7) "Water resources development project" means the construction, acquisition, ownership, replacement, operation, and maintenance of facilities, including land, easements, and works of improvement, for the protection, conservation, preservation, development, utilization, and proper disposal of the state's water resources and related land resources in order to:
 - (A) Provide for the people of the state adequate supplies of quality water for municipal, industrial, agricultural, recreational, and domestic purposes; water for navigation; and access to the state's lakes and streams, and parks and other recreational sites along their shores;
 - (B) Reclaim, preserve, and protect the state's land resources and to adequately protect the wealth of the state from disastrous floods.

SECTION 4. The Arkansas Soil and Water Conservation Commission shall:

- (1) Administer the loan and grant programs authorized under this act;
- (2) Take necessary action to ensure that the funds are used for the purposes established in this act and in accordance with state and federal laws;
- (3) In accordance with the Arkansas Administrative Procedures Act, 25-15-201 et seq., promulgate such rules and regulations, and procedures necessary for the operation of this program.

SECTION 5. (a) The Arkansas Soil and Water Conservation Commission is authorized to make, either, loans or grants to local governments to provide them with the non-federal interest's share of the cost share for a water resources development project;

(b) The commission shall not make a loan or grant to a local government for more than twenty-five percent (25%) of the total project cost for a water resources development project.

SECTION 6.

(a) Local governments who have entered into or who are attempting to enter into a cooperative agreement for cost sharing to finance a water resources development project are eligible to apply for a loan or grant under this act. Combinations of local governments may apply jointly for loans or grants authorized under this act in accordance with Arkansas Code Annotated 25-20-101 et seq.

(b) The final award of the loan or grant for cost sharing purposes shall be made contingent upon actual receipt of federal funding for the federal share of the water resources development project.

(c) The commission shall, by regulation, specify the form and style of any forms needed for application by the local governments for loans or grants.

(d) Beginning January 1, 1990 and each January 1 thereafter, the commission shall take applications from the state and local governments for grants and loans to be awarded for water resources development projects for the next fiscal year, beginning with the 1990-91 fiscal year. The annual deadline for loan or grant application shall be March 31 of each year. The commission shall award the grants and loans for the water resources development projects, contingent on the availability of funds, by June 30 of each year.

SECTION 7. From each year's application for grants and loans, the commission shall develop a priority list for water resources development projects which ranks each project in order of its priority. The priority ranking of water resources development projects shall be based on the following factors:

- (1) the overall cost of the project weighted against its potential or predicted benefits;
- (2) the potential for the project to provide economic development in the area; and
- (3) the commitment of any state or local government funds to the project to contribute to the non-federal interest's share of the cost of the overall project.

SECTION 8.

(a) A revolving fund is hereby created on the books of the Auditor of the State and the State Treasurer entitled the "Arkansas Water Resources Cost Share Revolving Fund" to provide a depository for funds which may be appropriated or otherwise secured for the purposes of cost sharing with the

federal government in local water resources development projects as provided for in this act.

(b) The revolving fund shall be used to provide loans or grants to local governments for the purpose established in this act. Funds from the repayment of loans from the revolving fund shall be returned to the revolving fund and shall be reused in a manner consistent with the purpose of the act.

(c) Loans from the revolving fund shall be repaid in full at an interest rate up to the maximum allowed under Section 13 of Article 19 of the Arkansas Constitution, as amended by Amendment 60. The terms and conditions of repayment of the state loans for cost sharing shall be specified and agreed to in writing prior to the awarding of the loan.

(d)(1) The commission is authorized to use the funds deposited in the revolving fund for grants to local governments with limited financial capacity.

(2) In selecting the recipients for state grants authorized in this act, the following factors shall be taken into consideration by the commission:

(A) The financial ability of the local government applicant to provide the cost sharing funds for the water resources development project including all available tax sources or assessments;

(B) The burden placed on low income, elderly, and unemployed persons if the local government applicant participates in a cost sharing project and pays for the non-federal share through a user fee or property tax;

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

(3) No grant under this act shall be awarded until the local government applicant has furnished the commission with sufficient proof of the exhaustion of all other funding sources and established that a deficiency exists in the amount of local funds necessary for the project.

SECTION 9. All provisions of this act of a 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 10. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: February 24, 1989
