

*As Engrossed: 3/15/91*

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Representative Mike Wilson**

**A BILL ACT 718 OF 1991**  
**HOUSE BILL 1246**

**For An Act To Be Entitled**

8 *"AN ACT TO CREATE AND PROVIDE FOR THE FUNDING OF A SPECIAL*  
9 *FUND OF THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY TO BE*  
10 *ADMINISTERED BY THE ARKANSAS DEPARTMENT OF POLLUTION*  
11 *CONTROL AND ECOLOGY TO BE KNOWN AS THE 'CONSTRUCTION*  
12 *ASSISTANCE REVOLVING LOAN FUND'; DECLARING THE MONEYS IN*  
13 *THE FUND TO BE CASH FUNDS; AUTHORIZING MONEYS IN THE FUND*  
14 *TO BE PLEDGED AND USED TO PAY DEBT SERVICE AND COSTS*  
15 *RELATED TO BONDS ISSUED BY THE ARKANSAS DEVELOPMENT*  
16 *FINANCE AUTHORITY AND TO PAY ADMINISTRATIVE EXPENSES OF*  
17 *THE ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY*  
18 *AND FOR OTHER PURPOSES FOR CONSTRUCTION OF PUBLIC*  
19 *WASTEWATER SYSTEMS; AUTHORIZING THE ARKANSAS DEPARTMENT OF*  
20 *POLLUTION CONTROL AND ECOLOGY TO CHARGE FEES TO LOCAL*  
21 *GOVERNMENTAL ENTITIES IN CONNECTION WITH THE*  
22 *CONSTRUCTION ASSISTANCE REVOLVING LOAN FUND PROGRAM;*  
23 *AUTHORIZING THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY TO*  
24 *COLLECT SUCH FEES FROM LOCAL GOVERNMENTAL ENTITIES ON*  
25 *BEHALF OF THE ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND*  
26 *ECOLOGY; REPEALING ARKANSAS CODE § 19-5-944; PRESCRIBING*  
27 *OTHER MATTERS RELATING THERETO; AND DECLARING AN*  
28 *EMERGENCY. "*

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

31  
32 *SECTION 1. (a) There is hereby established on the books of the*  
33 *Arkansas Development Finance Authority (the "Authority") a special restricted*  
34 *fund to be known as the "Construction Assistance Revolving Loan Fund" (the*  
35 *"Fund"), which shall be maintained in perpetuity by the Authority and*  
36 *administered by the Arkansas Department of Pollution Control and Ecology (the*

1 "Department") for the purposes stated herein. Grants from the federal  
2 government or its agencies allotted to the state for capitalization of the  
3 Fund, state matching grants where required, proceeds of bonds issued by the  
4 Authority for such purpose, and loan principal, interest, and premiums shall  
5 be deposited directly in the Fund. Moneys in the Fund shall be expended in a  
6 manner consistent with the terms and conditions of applicable federal and  
7 state capitalization grants and may be used:

8 (i) to provide loans for the construction or rehabilitation of public  
9 wastewater systems;

10 (ii) subject to the provisions of paragraph (b) of this Section, to  
11 secure the payment of the principal of and premium, if any, and interest on  
12 and to pay costs incurred in connection with bonds issued by the Authority if  
13 the net proceeds of such bonds are deposited into the Fund;

14 (iii) to purchase bonds, notes, or other evidences of indebtedness  
15 issued by local governmental entities for wastewater system projects;

16 (iv) to fund other wastewater system programs which the federal or  
17 state government may allow in the future through grants;

18 (v) to fund the administrative expenses of the Department relating to  
19 the responsibilities and requirements of this act; or

20 (vi) to provide for any other expenditures consistent with applicable  
21 federal and state law.

22 (b) There is hereby established a separate account within the Fund  
23 designated the "State Grants Account" (the "State Grants Account") into which  
24 moneys appropriated to the Authority by the state for such purpose shall be  
25 deposited. Moneys in the State Grants Account may be expended for the same  
26 purposes as other moneys in the Fund provided, however, that moneys in the  
27 State Grants Account shall never be pledged to the payment of, or as security  
28 for, any bonds issued by the Authority pursuant to this act.

29 (c) The Fund shall be administered by the Department, as agent for the  
30 Authority, and the Department is authorized to establish procedures and adopt  
31 such regulations as may be required to administer the Fund and programs  
32 financed in whole or in part with moneys in the Fund in accordance with  
33 federal or state law providing for public wastewater systems, including  
34 without limitation the Federal Clean Water Act (Public Law 92-500) as the same  
35 may be amended from time to time, and to enter into contracts and other

1 agreements in connection with the operation of the Fund, including but not  
2 limited to contracts and agreements with federal agencies, local governmental  
3 entities, the Authority, and other parties to the extent necessary or  
4 convenient for the implementation of the Fund program. Acting as agent for  
5 the Authority, the Department shall maintain full authority for the operation  
6 of the Fund in accordance with applicable federal and state law, including  
7 withdrawals necessary to achieve the intended purposes of the Fund.

8 (d) The Authority is authorized to accept grants for the use of the  
9 Fund from any state or federal agencies, municipalities, corporations,  
10 foundations, individual donees, or authorities, specifically including but not  
11 limited to appropriations from the State Treasury as heretofore or hereafter  
12 provided.

13 (e) All moneys received by the Authority under and pursuant to the  
14 provisions of this act shall be deposited as and when received in the Fund,  
15 except as otherwise specifically provided by state law.

16 (f) Except for moneys hereafter deposited in or paid to the Authority  
17 for deposit in the State Grants Account, all moneys now or hereafter received  
18 for, deposited in, or paid to the Authority for deposit in the Fund are  
19 specifically declared to be cash funds, restricted in their use, and which  
20 shall not be deposited in the State Treasury or deemed to be a part of the  
21 State Treasury for the purposes of Arkansas Constitution, Article 5, Section  
22 29; Arkansas Constitution, Article 16, Section 12; Arkansas Constitution,  
23 Amendment 20; or any other constitutional or statutory provisions, but shall  
24 be held and applied by the Authority solely for the uses set forth in this  
25 act. Interest and other moneys received from the investment of moneys, the  
26 purchase of bonds, notes, or other evidences of indebtedness issued by local  
27 governmental entities, or the making of loans with moneys in the Fund,  
28 including in each case moneys in the State Grants Account, are declared to be  
29 cash funds, restricted in their use, and shall not be deposited in the State  
30 Treasury, but shall be held and applied by the Authority solely for the uses  
31 set forth in this act.

32 (g) The Department is hereby authorized to establish fees for its  
33 technical and administrative services in connection with construction or  
34 rehabilitation of public wastewater systems financed in whole or in part with  
35 moneys in the Fund. Such fees shall be payable in any one or more of the

1 following methods:

2 (i) from the proceeds of bonds, notes, or other evidences of  
3 indebtedness of a local governmental entity purchased from moneys in the Fund;

4 (ii) from the proceeds of bonds issued by the Authority in connection  
5 with the Fund; or

6 (iii) from periodic payments due on the bonds, notes, or other  
7 evidences of indebtedness of a local governmental entity purchased with moneys  
8 in the Fund.

9 (h) The Authority is hereby authorized, if requested by the Department,  
10 to collect the fees from local governmental entities and to remit the fees  
11 directly to the Department within fifteen (15) days after each periodic  
12 payment is made, and such fees shall not be deposited in the Fund.

13 (i) Except for moneys in the State Grant Accounts, the Authority is  
14 authorized to use the moneys in the Fund and the assets acquired with moneys  
15 in the Fund to secure the payment of the principal of and premium, if any, and  
16 interest on bonds issued by the Authority if the net proceeds of such bonds  
17 are deposited into the Fund.

18

19 SECTION 2. (a) The Authority is authorized to accept moneys for  
20 deposit into the Fund from allocations from the State Treasurer as provided in  
21 this Section.

22 (b) After providing for the exclusion of the interest income classified  
23 as special revenues authorized by Arkansas Code § 15-41-110 and § 27-70-204  
24 and otherwise allocated to the Authority by Arkansas Code § 15-5-422, the  
25 first three million nine hundred thousand dollars (\$3,900,000) of interest  
26 income during the fiscal year ending June 30, 1991, the first two million  
27 three hundred eighty thousand dollars (\$2,380,000) of interest income during  
28 the fiscal year ending June 30, 1992, and the first one million five hundred  
29 eighty thousand dollars (\$1,580,000) of interest income during the fiscal year  
30 ending June 30, 1993, or such lesser amounts in any such fiscal year as the  
31 Chief Fiscal Officer of the state shall certify to be available for the  
32 purposes hereof, received by the State Treasurer from the investment of state  
33 funds invested as authorized by the State Treasury Management Law, Arkansas  
34 Code § 19-3-201 et seq., are declared to be cash funds restricted in their use  
35 and dedicated and are to be used solely as authorized in this act. The cash

1 funds, when received by the State Treasurer, shall not be deposited or deemed  
2 to be a part of the State Treasury for the purposes of Arkansas Constitution,  
3 Article 5, Section 29; Arkansas Constitution, Article 16, Section 12; Arkansas  
4 Constitution, Amendment 20; or any other constitutional or statutory  
5 provision. The State Treasurer shall pay the cash funds to the Authority for  
6 deposit in the Fund to be used for the purposes authorized by this act. Such  
7 interest earnings transferred directly to the Authority are declared to be  
8 cash funds restricted in their use and dedicated and to be used solely as  
9 authorized in this act.

10 (c) Notwithstanding the provisions of Arkansas Code § 19-6-108 and §  
11 19-6-601, grants to the state under the Federal Clean Water Act (Public Law  
12 92-500) as the same may be amended from time to time received by the State  
13 Treasurer from the federal government are declared to be cash funds restricted  
14 in their use and dedicated and are to be used solely as authorized in this  
15 act. The cash funds, when received by the State Treasurer, shall not be  
16 deposited or deemed to be a part of the State Treasury for the purposes of  
17 Arkansas Constitution, Article 5, Section 29; Arkansas Constitution, Article  
18 16, Section 12; Arkansas Constitution, Amendment 20; or any other  
19 constitutional or statutory provision. The State Treasurer shall pay the case  
20 funds to the Authority for deposit in the Fund to be used for the purposes  
21 authorized by this act. Such federal grants transferred directly to the  
22 Authority are declared to be cash funds restricted in their use and dedicated  
23 and to be used solely as authorized in this act.

24

25 SECTION 3. All assets of the Authority acquired prior to the effective  
26 date of this act with moneys in the Construction Grants Revolving Loan Fund  
27 created by Arkansas Code § 19-5-944 shall be subject to the provisions of this  
28 act and shall be assets of the Fund.

29

30 SECTION 4. All provisions of this act of a general and permanent nature  
31 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
32 Revision Commission shall incorporate the same in the Code.

33

34 SECTION 5. If any provision of this act or the application thereof to  
35 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without  
2 the invalid provision or application, and to this end the provisions of this  
3 act are declared to be severable.

4

5       SECTION 6. Arkansas Code § 19-5-944 is hereby repealed. All other laws  
6 and parts of laws in conflict with this act are hereby repealed.

7

8       SECTION 7. It is hereby found and determined by the General Assembly  
9 that there is an immediate need for improvements to public wastewater systems  
10 in the state that are operated by various local governmental entities and that  
11 the provisions of this act are immediately needed to provide an additional  
12 method of financing such improvements by such entities in connection with  
13 federal programs. Therefore, an emergency is hereby declared to exist and  
14 this act being necessary for the preservation of the public peace, health and  
15 safety shall be in full force and effect from and after its passage and  
16 approval.

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/s/ Mike Wilson

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APPROVED: 3-25-91

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