

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representative Hawkins**

# **A Bill**

**ACT 858 OF 1993**  
**HOUSE BILL 2127**

## **For An Act To Be Entitled**

8 "AN ACT TO CREATE THE WATER RESOURCES AND WASTE DISPOSAL  
9 REVOLVING LOAN FUND; AND FOR OTHER PURPOSES."

### **Subtitle**

12 "AN ACT TO CREATE THE WATER RESOURCES AND WASTE DISPOSAL  
13 REVOLVING LOAN FUND."

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

17 SECTION 1. Fund - Establishment - Uses - Accounts.

18 (a) There is hereby established on the books of the Arkansas  
19 Development Finance Authority a special restricted fund to be known as the  
20 Water Resources and Waste Disposal Revolving Loan Fund which shall be  
21 maintained in perpetuity by the Authority and administered by the Arkansas  
22 Soil and Water Conservation Commission for the purposes stated herein. Grants  
23 from the federal government or its agencies allotted to the State for  
24 capitalization of the fund, State matching grants where required, proceeds of  
25 bonds issued by the Authority for such purpose, and loan principal, interest,  
26 and premiums shall be deposited directly in the fund.

27 (b) Moneys in the fund shall be expended in a manner consistent with  
28 the terms and conditions of applicable federal and State capitalization grants  
29 and may be used:

30 (1) To provide loans for the construction or rehabilitation of  
31 public water systems and waste disposal or pollution abatement facilities.

32 (2) Subject to the provisions of subsection (c) of this section,  
33 to secure the payment of the principal of and premium, if any, and interest  
34 on, and to pay costs incurred in connection with, bonds issued by the  
35 Authority, if the net proceeds of such bonds are deposited into the fund;

36 (3) To purchase bonds, notes, or other evidences of indebtedness

1 issued by local governmental entities for water systems and waste disposal or  
2 pollution abatement projects;

3           (4) To fund other water system and waste disposal or pollution  
4 abatement programs which the federal or State government may allow in the  
5 future through grants;

6           (5) To fund the administrative expenses of the Commission  
7 relating to the responsibilities and requirements of this subchapter; or

8           (6) To provide for any other expenditures consistent with  
9 applicable federal and State law.

10          (c) There is hereby established a separate account within the fund  
11 designated the State Grants Account into which moneys appropriated to the  
12 Authority by the State for such purposes shall be deposited. Moneys in the  
13 State Grants Account may be expended for the same purposes as other moneys in  
14 the fund, provided, however, that moneys in the State Grants Account shall  
15 never be pledged to the payment of, or as security for, any bonds issued by  
16 the Authority pursuant to this subchapter.

17

18          SECTION 2. Fund – Administration.

19          (a) The fund shall be administered by the Commission, as agent for the  
20 Authority, and the Commission is authorized to establish procedures and adopt  
21 such regulations as may be required to administer the fund and programs  
22 financed in whole or in part with moneys in the fund in accordance with  
23 federal or State law providing for public water systems or waste disposal or  
24 pollution abatement projects, as the same may be amended from time to time,  
25 and to enter into contracts and other agreements in connection with the  
26 operation of the fund, including, but not limited to contracts and agreements  
27 with federal agencies, local governmental entities, the Authority, and other  
28 parties to the extent necessary or convenient for the implementation of the  
29 program.

30          (b) Acting as agent for the Authority, the Commission shall maintain  
31 full authority for the operation of the fund in accordance with applicable  
32 federal and State law, including withdrawals necessary to achieve the intended  
33 purposes of the fund.

34

35          SECTION 3. Fund – Grants – Deposits – Cash Funds.

1           (a) The Authority is authorized to accept grants for the use of the  
2 funds from any State or federal agencies, municipalities, corporations,  
3 foundations, individual donees, or authorities, specifically including but not  
4 limited to grants from any federal agency for water programs or waste disposal  
5 programs or pollution abatement programs and appropriations from the State  
6 Treasury as heretofore or hereafter provided.

7           (b) *Notwithstanding the provisions of §§ 19-6-108 and 19-6-601, grants*  
8 *to the state under the Federal Clean Water Act (P.L. 92-500), all amendments*  
9 *and modifications thereto and under any other federal laws relating to water*  
10 *systems and solid waste disposal facilities received by the state treasurer*  
11 *from the federal government are declared to be cash funds restricted in their*  
12 *use and dedicated and are to be used solely as authorized in this subchapter.*

13           (A) *The cash funds, when received by the state treasurer, shall*  
14 *not be deposited or deemed to be a part of the state treasury for the purposes*  
15 *of Arkansas Constitution, Article 5, § 29; Arkansas Constitution, Article 16,*  
16 *§ 12, Arkansas Constitution, Amendment 20; or any other constitutional or*  
17 *statutory provision.*

18           (B) (i) *The state treasurer shall pay the cash funds to the*  
19 *Authority for deposit in the fund to be used for the purposes authorized by*  
20 *this subchapter.*

21           (ii) *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 subchapter.*

24           (C) *All moneys received by the Authority under and pursuant to*  
25 *this subchapter shall be deposited as and when received in the fund.*

26           (c) (1) *Except for moneys hereafter deposited in or paid to the*  
27 *Authority for deposit in the State Grants Account, all moneys now or hereafter*  
28 *received for, deposited in, or paid to the Authority for deposit in the fund*  
29 *are specifically declared to be cash funds, restricted in their use, and which*  
30 *shall not be deposited in the State Treasury or deemed to be a part of the*  
31 *State Treasury for the purposes of Arkansas Constitution, Article 5, § 29;*  
32 *Arkansas Constitution, Article 16, § 12; Arkansas Constitution, Amendment 20;*  
33 *or any other constitutional or statutory provisions, but shall be held and*  
34 *applied by the Authority solely for the uses set forth in this subchapter.*

35           (2) *Interest and other moneys received from the investment of*

1 moneys, the purchase of bonds, notes, or other evidences of indebtedness  
2 issued by local governmental entities, or the making of loans with moneys in  
3 the fund, including in each case moneys in the State Grants Account, are  
4 declared to be cash funds, restricted in their use, and shall not be deposited  
5 in the State Treasury, but shall be held and applied by the Authority solely  
6 for the uses set forth in this subchapter.

7

8 SECTION 4. Fees for Technical and Administrative Services.

9 (a) The Commission is hereby authorized to establish fees for its  
10 technical and administrative services in connection with construction or  
11 rehabilitation of public water systems or waste disposal or pollution  
12 abatement projects financed in whole or in part with moneys in the fund.

13 (b) Such fees shall be payable in any one (1) or more of the following  
14 methods:

15 (1) From the proceeds of bonds, notes, or other evidences of  
16 indebtedness of a local governmental entity purchased from moneys in the fund;

17 (2) From the proceeds of bonds issued by the Authority in  
18 connection with the fund; or

19 (3) From periodic payments due on the bonds, notes, or other  
20 evidences of indebtedness of a local governmental entity purchased with moneys  
21 in the fund.

22 (c) The Authority is hereby authorized, if requested by the Commission,  
23 to collect the fees from local governmental entities and to remit the fees  
24 directly to the Commission within fifteen (15) days after each periodic  
25 payment is made, and such fees shall not be deposited in the fund.

26

27 SECTION 5. Security for Bonds.

28 Except for moneys in the State Grants Account, the Authority is  
29 authorized to use the moneys in the fund and the assets acquired with moneys  
30 in the fund to secure the payment of the principal of and premium, if any, and  
31 interest on bonds issued by the Authority if the net proceeds of such bonds  
32 are deposited into the fund.

33

34 SECTION 6.

35 All provisions of this Act of a general and permanent nature are

1 amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
2 Revision Commission shall incorporate the same in the Code. The Commission is  
3 specifically authorized to cooperate and participate with the Authority with  
4 respect to the administration and expenditure of amounts in the fund in order  
5 to develop or finance any "Project" as defined in Arkansas Code Sections 15-  
6 22-602 and 15-22-702. Any bonds or other evidences of indebtedness issued by  
7 the Authority pursuant to the provisions of this Act shall not be limited by,  
8 controlled by or subject to the provisions of Arkansas Code Sections 15-22-605  
9 through 15-22-622 or Arkansas Code Sections 15-22-705 through 15-22-721.

10

11 SECTION 7.

12 If any provision of this Act or the application thereof to any person or  
13 circumstance is held invalid, the invalidity shall not affect other provisions  
14 or applications of the Act which can be given effect without the invalid  
15 provisions or application, and to this end the provisions of this Act are  
16 declared to be severable.

17

18 SECTION 8.

19 All laws and parts of laws in conflict with this Act are hereby  
20 repealed.

21

22

23

24

25

26

27

*/s/Bruce Hawkins*

28

29

APPROVED: 4/2/93

30

31

32

33

34

35

- 1
- 2
- 3