

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

Act 598 of 2003
SENATE BILL 388

5 By: Senator J. Bookout
6 By: Representative P. Bookout
7

For An Act To Be Entitled

10 AN ACT TO AUTHORIZE THE ARKANSAS SOIL AND WATER
11 CONSERVATION COMMISSION TO ISSUE REVENUE BONDS;
12 TO REPEAL AUTHORITY TO ISSUE REVENUE BONDS UNDER
13 §§ 15-22-501 THROUGH 15-22-503 AND §§ 15-22-505
14 THROUGH 15-22-514; AND FOR OTHER PURPOSES.

Subtitle

16 AN ACT TO AUTHORIZE THE ARKANSAS SOIL
17 AND WATER CONSERVATION COMMISSION TO
18 ISSUE REVENUE BONDS.
19

20
21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code Title 15, Chapter 22, is amended to add an
25 additional subchapter to read as follows:

26 15-22-1301 Water resources - Bonds.

27 The Arkansas Soil and Water Conservation Commission may issue revenue
28 bonds from time to time, whether or not the interest on the bonds is subject
29 to federal income taxation, to provide:

30 (1) Funds for:

31 (A) The Construction Assistance Revolving Loan Fund established
32 by § 15-5-901;

33 (B) The Safe Drinking Water Fund established by § 15-22-1102;

34 (C) The Arkansas Water Development Fund established by §15-22-
35 507 of the 84th General Assembly of the state;

36 (D) The Water, Sewer, and Solid Waste Systems Revolving Fund



1 established by § 19-5-310;

2 (E) The Arkansas Water Resources Cost Share Revolving Fund
3 established by § 15-22-808; and

4 (2) Financing all or a portion of the costs of water systems,
5 wastewater systems, solid and hazardous waste facilities, recycling
6 facilities, nonpoint source pollution management programs, wetland
7 conservation and management plans, irrigation systems, flood control and
8 drainage systems, water conservation projects and facilities, navigation
9 systems including port facilities, land and water reclamation projects, and
10 other environmental or water development projects.

11
12 15-22-1302. Legal counsel - Underwriter.

13 The Arkansas Soil and Water Conservation Commission may engage legal
14 counsel and an underwriter or underwriters to facilitate the issuance and
15 sale of bonds to be issued under this subchapter.

16
17 15-22-1303. Tax Exemptions.

18 (a) Any bonds issued under this subchapter and the interest paid on
19 the bonds shall be exempt from all state, county, and municipal taxes, and
20 the exemption shall include income, inheritance, and property taxes.

21 (b) Any municipality, board, commission, or other authority
22 established by ordinance of any municipality or the boards of trustees,
23 respectively, of the firemen's relief and pension fund and the policemen's
24 pension and relief fund of any municipality or the board of trustees of any
25 retirement system created by the General Assembly, in its discretion, may
26 invest any of its funds not immediately needed for its purposes, in bonds
27 issued under this subchapter, and bonds issued under this subchapter shall be
28 eligible to secure the deposit of public funds.

29
30 15-22-1304. Gubernatorial approval

31 (a) When gubernatorial approval is required by the provisions of the
32 Internal Revenue Code of 1986, as amended, or any other federal or state law,
33 the Governor may approve the issuance of bonds by the Arkansas Soil and Water
34 Conservation Commission upon receipt of written request for approval from the
35 executive director of the commission.

36 (b) The written request shall state that the commission has conducted

1 a public hearing pursuant to appropriate public notice concerning the
 2 purposes for which the bonds are to be issued.

3 (c) The written request shall also summarize the comments made and
 4 questions posed at the public hearing.

5
 6 15-22-1305. Bonds - Form - Terms.

7 (a)(1) The Arkansas Soil and Water Conservation Commission shall
 8 authorize by resolution the issuance of bonds under this subchapter.

9 (2) The commission shall determine with regard to the bonds:

10 (A) Form and denominations;

11 (B) Date or dates;

12 (C) Time of maturation;

13 (D) Interest:

14 (i) Times payable;

15 (ii) Places within or without the state; and

16 (ii) Rate or rates;

17 (E) Terms and prices of redemption in advance of maturity;

18 and

19 (F) Terms and conditions.

20 (3) The bonds shall be denominated in the currency of the United
 21 States.

22 (4) The bonds shall have all the qualities of and shall be
 23 deemed to be negotiable instruments under the laws of the state, subject to
 24 provisions as to registration.

25 (5) The authorizing resolution may contain any other terms,
 26 covenants, and conditions that the commission deems reasonable and desirable,
 27 including, without limitation:

28 (A) Those pertaining to the maintenance of various funds
 29 and reserves;

30 (B) The nature and extent of any security for payment of
 31 the bonds;

32 (C) The custody and application of proceeds of the bonds;

33 (D) The collection and disposition of revenues;

34 (E) The investing for authorized purposes; and

35 (F) The rights, duties, and obligations of the commission
 36 and the holders and registered owners of the bonds.

1 (b)(1) The authorizing resolution may provide for the execution of a
 2 trust indenture between the commission and any financial institution within
 3 or without the state.

4 (2) The trust indenture may contain any terms, covenants, and
 5 conditions that are deemed desirable by the commission, including, without
 6 limitation:

7 (A) Those pertaining to the maintenance of various funds
 8 and reserves;

9 (B) The nature and extent of any security for the payment
 10 of the bonds;

11 (C) The custody and application of proceeds of the bonds;

12 (D) The collection and disposition of revenues;

13 (E) The investing and reinvesting of any moneys during
 14 periods not needed for authorized purposes; and

15 (F) The rights, duties, and obligations of the commission
 16 and the holders and registered owners of the bonds.

17 (c) Any authorizing resolution and trust indenture relating to the
 18 issuance and security of the bonds shall constitute a contract between the
 19 commission and registered owners of the bonds, which contract and all
 20 covenants, agreements, and obligations therein shall be promptly performed in
 21 strict compliance with the terms and provisions of the contract, and the
 22 covenants, agreements, and obligations of the commission may be enforced by
 23 mandamus or other appropriate proceeding at law or in equity.

24
 25 15-22-1306. Bonds - Sales.

26 (a) The bonds may be sold in a manner, either at public or private
 27 sale, and upon terms that the Arkansas Soil and Water Conservation Commission
 28 shall determine to be reasonable and expedient for effectuating the purposes
 29 for which the bonds are issued.

30 (b) The bonds may be sold at a price the commission may accept,
 31 including sale at discount.

32
 33 15-22-1307. Bonds - Signature - Seal.

34 (a) The bonds shall be executed by manual or facsimile signature of
 35 the chair of the Arkansas Soil and Water Conservation Commission and the
 36 manual or facsimile signature of the executive director of the commission or

1 any other director or officer authorized to do so by resolution of the
2 commission.

3 (b) If the officers whose signatures appear on the bonds shall cease
4 to be officers before delivery of the bonds, their signatures, nevertheless,
5 shall be valid and sufficient for all purposes.

6 (c) Each bond shall be impressed or imprinted with the seal of the
7 commission.

8

9 15-22-1308. Bonds - Issuance - Payment.

10 (a) The face of each bond shall plainly state that the bond has been
11 issued under this subchapter, that the bonds are obligations only of the
12 Arkansas Soil and Water Conservation Commission, and that the bonds do not
13 constitute an indebtedness of the state or an indebtedness for which the
14 faith and credit of the state or any of its revenues are pledged or an
15 indebtedness secured by lien on or a security interest in any property of the
16 state.

17 (b) The payment of the principal of, redemption premium, if any, and
18 interest on and the trustee's and paying agent's fees in connection with the
19 bonds may be secured by a lien on:

20 (1) All or any part of the Construction Assistance Revolving
21 Loan Fund, the Safe Drinking Water Fund, the Arkansas Water Development Fund,
22 the Water, Sewer, and Solid Waste Systems Revolving Fund, or the Arkansas
23 Water Resources Cost Share Revolving Fund;

24 (2) Or pledge of bonds, notes, or other evidences of
25 indebtedness owned or acquired by the commission and the commission's
26 interest in any revenue derived from the bonds, notes, or other evidences of
27 indebtedness; or

28 (3) Or pledge of any collateral security held or received by the
29 commission, including, without limitation, facilities or projects financed
30 with proceeds of the commission's bonds.

31 (c) It shall not be necessary to the perfection of the lien and pledge
32 for those purposes that the trustee in connection with the bond issue or the
33 registered owners of the bonds take possession of the bonds, notes, or other
34 evidences of indebtedness or collateral security.

35

36 15-22-1309. Bonds -Effective date of lien of pledge.

1 (a)(1) Any pledge of revenues, moneys, funds, or other property made
2 by the Arkansas Soil and Water Conservation Commission shall be valid and
3 binding from the time the pledge is made.

4 (2) The revenues, moneys, funds, or other property so pledged
5 and received by the commission shall immediately be subject to the lien of
6 the pledge without physical delivery of the revenues, moneys, funds, or other
7 property pledged and received by the commission or further act on the part of
8 the commission.

9 (3) The lien of the pledge shall be valid and binding as against
10 all parties having claims of any kind in tort, contract, or otherwise against
11 the commission, irrespective of whether the parties have notice of the lien
12 of the pledge.

13 (b) Neither the authorizing resolution nor any other instrument by
14 which a pledge is created need be filed or recorded, except in the records of
15 the commission.

16
17 15-22-1310. Bonds - Refunding.

18 (a) Bonds may be issued for the purpose of refunding, either at
19 maturity or in advance of maturity, any bonds issued under this subchapter or
20 any bonds issued by the Arkansas Development Finance Authority to finance the
21 Construction Assistance Revolving Loan Fund or the Safe Drinking Water Fund.

22 (b) The refunding bonds may either be sold or delivered in exchange
23 for the bonds being refunded.

24 (c) If sold, proceeds of the bonds may either be applied to the
25 payment of the bonds being refunded or deposited in trust and there
26 maintained in cash or investments for the retirement of the bonds being
27 refunded, as specified by the Arkansas Soil and Water Conservation Commission
28 and the authorizing resolution or trust indenture securing the refunding
29 bonds.

30 (d) The authorizing resolution or trust indenture securing the
31 refunding bonds may provide that the refunding bonds shall have the same
32 security for their payment as provided for the bonds being refunded.

33 (e) Refunding bonds shall be sold and secured in accordance with the
34 provisions of this subchapter pertaining to the sale and security of bonds.

35
36 15-22-1311. Bonds - Security for public funds.

1 Bonds issued under this subchapter shall be eligible to secure the
 2 deposit of public funds.

3
 4 15-22-1312. Immunity - Commissioners and officers.

5 No commissioner or officer of the Arkansas Soil and Water Conservation
 6 Commission shall be liable personally for any reason arising from the
 7 issuance of bonds under this subchapter unless he or she shall have acted
 8 with a corrupt intent.

9
 10 15-22-1313. Withholding general revenue turnback.

11 (a) Should any city, town, county, or political subdivision receiving
 12 general revenue turnback funds, as defined in the Revenue Stabilization Law,
 13 § 19-5-101 et seq., fail, neglect, or refuse to pay any installment of
 14 principal, interest, or financing fee for a period of more than ninety (90)
 15 days past the due date in accordance with the written instrument for the
 16 repayment of its bonds, notes, or other evidences of indebtedness purchased
 17 by the Arkansas Soil and Water Conservation Commission with proceeds of the
 18 commission's bonds issued under this subchapter may, after notification to
 19 the city, town, county, or political subdivision, certify to the Treasurer of
 20 State, the Auditor of State, and the Chief Fiscal Officer of the State, the
 21 name of the city, town, county, or political subdivision, the amount of
 22 deficiencies ninety (90) days or more past due.

23 (b) Upon certification, the Treasurer of State, the Auditor of State,
 24 and the Chief Fiscal Officer of the State are directed to withhold from the
 25 city's, town's, county's, or other political subdivision's share of general
 26 revenue turnback, as the share is defined in the Revenue Stabilization Law,
 27 § 19-5-101 et seq., as the same may be amended from time to time, the amount
 28 so certified as due the commission and to transfer the amount as directed by
 29 the commission for use as provided by law.

30
 31 SECTION 2. Arkansas Code §§ 15-22-508 through 15-22-510 are repealed.
 32 ~~15-22-508. Revenue bonds generally.~~

33 ~~(a)(1) The Arkansas Soil and Water Conservation Commission is~~
 34 ~~authorized from time to time to issue revenue bonds to secure the payment of~~
 35 ~~any water development project cost approved by the General Assembly.~~

36 ~~(2)(A) The bond issue shall not exceed the total amount approved~~

1 by the General Assembly and shall be negotiable instruments but shall not
 2 constitute an indebtedness of the commission or of the State of Arkansas
 3 within the meaning of any constitutional or statutory limitation.

4 (B) This fact shall be so stated on the face of each bond.

5 (3) It shall also be stated on the face of each bond that it is
 6 issued under the provisions of this subchapter.

7 (b)(1)(A) The revenue bonds as may be authorized by the General
 8 Assembly shall be further authorized by resolution of the commission and
 9 shall be executed by the presiding officer and the Secretary of the Arkansas
 10 Soil and Water Conservation Commission.

11 (B) In case any of the officers whose signatures appear on
 12 the bonds or coupons shall cease to be such officers before the delivery of
 13 such bonds or coupons, the signatures shall nevertheless be valid and
 14 sufficient for all purposes.

15 (2) The bonds may be issued in one (1) or more series, may bear
 16 such date or dates, may mature at such time or times not exceeding fifty (50)
 17 years from their respective dates, may bear interest at such rate or rates
 18 not exceeding six percent (6%) per annum, may be in such form, may be
 19 executed in such manner, may be payable in such medium of payment, at such
 20 place or places, may be subject to such terms of redemption, and may contain
 21 such terms, covenants, and conditions as the resolution may provide.

22 (3) Priorities between successive issues may be controlled by
 23 the resolution.

24 (c)(1) The bonds may be sold for less than par, but in no event shall
 25 the commission be required to pay more than six percent (6%) interest on the
 26 amount received, computed with relation to the absolute maturity of the bonds
 27 in accordance with the Standard Tables of Bond Values.

28 (2) The bonds may be converted into an issue bearing a lower
 29 rate or rates of interest, but only on the condition that the commission
 30 receive no less and pay no more than it would receive and pay if the bonds
 31 were not converted and subject to the approval of the commission.

32 (3) The validity of the bonds shall not be dependent upon or
 33 affected by the validity or regularity of any proceedings relating to the
 34 acquisition, purchase, construction, reconstruction, improvement, betterment,
 35 or extension of the properties for which the bonds are issued.

36

~~15-22-509. Eligibility to invest in bonds.~~

~~The State Board of Finance may invest state funds in bonds issued under the provisions of this subchapter. Any bank, trust, or insurance company organized or authorized to do business under the laws of the State of Arkansas may invest its capital, surplus, and reserves in bonds issued under the provisions of this subchapter.~~

~~15-22-510. Default.~~

~~It may be provided in the resolution authorizing the issuance of the bonds that, in the event of a default in the payment of principal and interest on the bonds or in the performance of any agreement or covenant contained in the resolution, the holders of a specified percentage of the outstanding bonds, or a trustee acting in their behalf, may:~~

~~(1) Declare the principal of all bonds due and payable; and~~

~~(2) Institute and maintain a mandamus or other suit, action, or proceeding at law or in equity to enforce all rights of the holders of the bonds.~~

SECTION 3. Arkansas Code § 15-22-512 and 15-22-513 are amended to read as follows:

15-22-512. Tax exemptions for commission property ~~and interest on bonds.~~

All of the property controlled and operated by the Arkansas Soil and Water Conservation Commission ~~and the interest on all bonds issued hereunder~~ shall be exempt from taxation by the State of Arkansas or by any municipal corporation, county, or other political subdivision or taxing district of the state.

15-22-513. Use of appropriated funds.

(a) Appropriated funds for the maintenance of the Arkansas Soil and Water Conservation Commission, in addition to being available for use in the operation of the commission, for current water development project costs, and for such other and additional purposes as provided for by law may be used in the discretion of the commission for meeting the debt service requirements of outstanding revenue bonds issued ~~hereunder~~ by the commission, including the retirement thereof in advance of maturity by call or purchase on tender.

