

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: H3/10/97

A Bill

ACT 960 OF 1997
HOUSE BILL 1907

5 *By: Representatives Simmons, Courtway, Fletcher, Baker, and Northcutt*
6
7

For An Act To Be Entitled

9 "TO AMEND THE WATER, SEWER & SOLID WASTE MANAGEMENT
10 SYSTEMS FINANCE ACT OF 1975 TO INCREASE THE LEVEL OF
11 FUNDING THAT CAN BE PROVIDED UNDER THE ACT, SIMPLIFY AND
12 STREAMLINE THE APPLICATION PROCESS, TO CLARIFY THE TERMS
13 AND CONDITIONS UNDER WHICH FINANCIAL ASSISTANCE CAN BE
14 PROVIDED; AND FOR OTHER PURPOSES."

Subtitle

16 "TO AMEND THE WATER, SEWER & SOLID WASTE
17 MANAGEMENT SYSTEMS FINANCE ACT OF 1975."
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19

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

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

23 "§ 14-230-102. Definitions.

24 As used in this chapter, unless the context otherwise requires:

25 (1) Eligible applicant means a city, a town, a county, a regional water
26 district, a special improvement district, a public facilities board, a rural
27 development authority, a rural waterworks facilities board including boards
28 and commissions thereof, other public entity, or a nonprofit corporation which
29 provides water, sewer, or solid waste services to one (1) or more cities,
30 towns, or counties;

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

1 ~~designation of an eligible applicant with special needs;~~

2 ~~(3) (2) Commission means the Arkansas Soil and Water Conservation~~
3 ~~Commission; .~~

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

7

8 SECTION 2. Arkansas Code § 14-230-105(b) is amended to read as follows:

9 "~~(b) The Commission shall not pay for more than fifty percent (50%) of~~
10 may provide financial assistance up to the total project cost for water,
11 sewer, or solid waste management systems projects under this chapter."

12

13 SECTION 3. Arkansas Code § 14-230-106(b) is amended to read as follows:

14 "~~(b)(1) Final award~~ Award of a loan or grant ~~shall~~ may be made
15 contingent upon ~~actual~~ the receipt of the federal, or other state or other
16 financial assistance for which an eligible applicant has applied.

17 (2) ~~Final award~~ Award of a loan or grant ~~for supplemental purposes~~
18 ~~shall~~ may be made contingent upon the eligible applicant providing additional
19 local actual receipt of the federal or other state financial assistance or
20 upon the eligible applicant's final appropriation of funds for water, sewer,
21 or solid waste management systems."

22

23 SECTION 4. Arkansas Code § 14-230-106(c) is amended to read as follows:

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

31 (c) Award of a loan or grant may be made contingent upon (1) the funds
32 provided being the last to be used, (2) the eligible applicant establishing
33 and a maintaining depreciation, debt service or other reserves, or (3) any
34 reasonable condition established by the Commission."

35

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

1 "§ 14-230-107. Applications for grants.

2 (a) The Commission shall promulgate such rules, regulations, and forms as are
3 needed for the efficient administration of the chapter.

4 ~~(b) All applications~~ Applications shall be submitted ~~concurrently~~ to
5 the Commission ~~to the appropriate regional planning and development district.~~

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

12 (c)(1) The Commission shall consider the merits of the application and,
13 in accordance with the criteria for selection and the available funds, make a
14 final determination concerning the disposition of the application.

15 (2) The director of the Commission shall, within ten (10) days,
16 notify the applicant of the final action of the Commission in accepting,
17 modifying, or rejecting the application.

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

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

35 ~~(2) The director of the commission shall, within ten (10) days,~~
36 ~~notify the applicant, the regional planning and development district, the~~

1 ~~Arkansas Department of Pollution Control and Ecology, the Arkansas Department~~
2 ~~of Health of the final action of the commission in accepting, modifying, or~~
3 ~~rejecting the application."~~

4

5 SECTION 6. Arkansas Code § 14-230-108 is amended to read as follows:

6 "§ 14-230-108. Criteria for selection of loan and grant recipients.

7 In selecting the recipients for loans and grants authorized in this
8 chapter, the following factors shall be taken into consideration by the
9 Commission:

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

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

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

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

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

27 (6) The funds necessary to amortize the initial cost and provide for the
28 successful operation and maintenance of the project, including depreciation."

29

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

31 "§ 14-230-109. Revolving Fund.

32 (a) A special fund, entitled the Water, Sewer and Solid Waste Systems
33 Revolving Fund, is created to provide a depository for funds which may be
34 appropriated or otherwise secured ~~for the purposes of matching or~~
35 ~~supplementing federal and state grants and loans as provided in this chapter.~~

36 (b) The revolving fund shall be used to provide low-interest loans or

1 grants to an eligible applicant for the purposes established in this chapter.
2 Funds from the repayment of loans made under this chapter shall return to the
3 revolving fund and shall be ~~reloaned~~ reused in a manner which is consistent
4 with the purposes of this chapter.

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

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

14 (e)(1) The Commission is ~~further~~ authorized to use ~~up to ten percent~~
15 ~~(10%) of the amount of funds made available under this chapter for emergency~~
16 ~~loans or grants to an eligible applicant.~~ require partial or complete
17 repayment of grants plus the payment of interest accumulated on the sum
18 granted if the operation of a water, sewer, or solid waste management system
19 constructed with the assistance of such grants produces an income which
20 exceeds the sum necessary to repay the federal, state, or other loans for
21 construction of the system and the expenses of operating the system.

22 (2) The ~~emergency provisions provided by this chapter shall not be~~
23 ~~subject to A 14-230-105.~~ terms and conditions of possible repayment of grants
24 shall be specified and agreed to in writing prior to the disbursement of the
25 grant.

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

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

34 ~~(g) No grant or loan may be made under this act for any project if the~~
35 ~~awarding of the grant or loan will result in a corresponding loss of federal~~
36 ~~funds."~~

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SECTION 8. 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 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

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

SECTION 11. EMERGENCY. It is found and determined by the General Assembly of the State of Arkansas that there is an immediate need for financial assistance for water, sewer, and solid waste management systems that cannot be met under current laws; and that this act will enable the people of Arkansas to proceed with numerous projects which are delayed for a lack of money. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.

/s/Rep. Simmons et al

APPROVED:3-31-97

