

As Engrossed: 3/15/91

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

A Bill

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. "

29
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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (g) The Department is hereby authorized to establish fees for its
34 technical and administrative services in connection with construction or
35 rehabilitation of public wastewater systems financed in whole or in part with

1 moneys in the Fund. Such fees shall be payable in any one or more of the
2 following methods:

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

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

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

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

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

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

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

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

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

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

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

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35 SECTION 5. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect
2 other provisions or applications of the act which can be given effect without
3 the invalid provision or application, and to this end the provisions of this
4 act are declared to be severable.

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

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

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/s/ Mike Wilson

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