

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/5/09
A Bill

HOUSE BILL 1644

5 By: Representative Davenport
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO AUTHORIZE ADDITIONAL FORMS OF
10 SUBSIDIZATION WITH MONEYS IN THE DRINKING WATER
11 STATE REVOLVING LOAN FUND ACCOUNT; AND FOR OTHER
12 PURPOSES.
13

14 **Subtitle**

15 TO AUTHORIZE ADDITIONAL FORMS OF
16 SUBSIDIZATION WITH MONEYS IN THE
17 DRINKING WATER STATE REVOLVING LOAN FUND
18 ACCOUNT.
19
20

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

23 SECTION 1. Arkansas Code § 15-22-1101 is amended to read as follows:
24 15-22-1101. Definitions.

25 As used in this subchapter:

26 (1) "Administrative Account" means the "Drinking Water State
27 Administrative Account" established by this subchapter within the Safe
28 Drinking Water Fund;

29 (2) "Authority" means the Arkansas Development Finance Authority
30 or ~~any~~ a successor agency or commission of the state;

31 (3) "Commission" means the ~~Arkansas Soil and Water Conservation~~
32 ~~Commission~~ Arkansas Natural Resources Commission or ~~any~~ a successor agency or
33 commission of the state;

34 (4) "Department" means the Department of Health or ~~any~~ a
35 successor agency of the state;

36 (5) "Fund" means the "Safe Drinking Water Fund" established by



1 this subchapter;

2 (6) "Owner" means the owner or prospective owner of a water
3 system, excluding any federal agencies;

4 (7) "Revolving loan account" means the "Drinking Water State
5 Revolving Loan Fund Account" established by this subchapter within the fund;

6 (8) "Safe Drinking Water Act" means the Safe Drinking Water Act
7 Amendments of 1996 and its subsequent amendments or successor provisions;

8 (9) "Set Aside Account" means the "Drinking Water State Set
9 Aside Account" established by this subchapter within the fund;

10 (10) "State" means the State of Arkansas;

11 (11) "State Grants Account" means the "Drinking Water State
12 Grants Account" established by this subchapter within the fund; and

13 (12)(A) "Water system" means a public water system within the
14 meaning of the Safe Drinking Water Act.

15 (B) The water system may be owned publicly or privately
16 and shall include particularly, without limitation,;

17 (i) ~~distribution~~ Distribution and transmission
18 lines,;

19 (ii) ~~storage~~ Storage, production, pumping and
20 treatment facilities,;

21 (iii) ~~impoundments~~ Impoundments,;

22 (iv) ~~reservoirs~~ Reservoirs,;

23 (v) ~~wells~~ Wells,;

24 (vi) ~~source~~ Source water protection,;

25 (vii) ~~land~~ Land,;

26 (viii) ~~rights-of-way~~ Rights-of-way,; and

27 (ix) ~~conservation~~ Conservation easements.

28

29 SECTION 2. Arkansas Code § 15-22-1102(a) and (b), concerning creation
30 of and terms and conditions for expenditures from the "Safe Drinking Water
31 Fund, are amended to read as follows:

32 (a)(1) There is established on the books of the ~~Arkansas Soil and~~
33 ~~Water Conservation Commission~~ Arkansas Natural Resources Commission a special
34 restricted fund to be known as the "Safe Drinking Water Fund", which shall be
35 maintained in perpetuity and administered by the commission and the
36 Department of Health under this subchapter for the purposes stated in this

1 subchapter.

2 (2) The following shall be deposited into the fund:

3 (A) Grants from the federal government or its agencies
4 allotted to the state for capitalization of the fund;

5 (B) State matching grants when required;

6 (C) Proceeds of bonds issued by the commission or the
7 Arkansas Development Finance Authority for capitalization of the fund;

8 (D) Principal, interest, and premiums on loans provided;
9 and

10 (E) Bonds, notes, and other evidences of indebtedness
11 purchased with moneys in the fund.

12 (3) The commission may deposit ~~proceeds from~~ proceeds from loans, made to and
13 bonds, notes, and other evidences of indebtedness issued by owners to finance
14 or refinance the planning, design, acquisition, construction, expansion,
15 equipping, rehabilitation, or consolidation of water systems or parts of
16 water systems ~~in~~ into the fund.

17 (b) Moneys in the fund shall be expended in a manner consistent with
18 the terms and conditions of applicable federal and state capitalization
19 grants and may be used:

20 (1) To provide loans for the planning, design, acquisition,
21 construction, expansion, equipping, rehabilitation, consolidation, or
22 refinancing of water systems or parts of water systems;

23 (2) Subject to subsections (c)-(e) of this section and subject
24 to the approval of the commission, to secure the payment of the principal of
25 and premium, if any, and interest on and to pay costs incurred in connection
26 with bonds issued by the commission or the authority if proceeds of the bonds
27 are deposited into the Drinking Water State Revolving Loan Fund Account;

28 (3) To pay the principal of and premium, if any, and interest on
29 and to pay costs incurred in connection with bonds issued by the commission
30 or the authority if proceeds of the bonds are deposited ~~in~~ into the Drinking
31 Water State Revolving Loan Fund Account;

32 (4) To purchase bonds, notes, or other evidences of indebtedness
33 issued by owners to finance or refinance the planning, design, acquisition,
34 construction, expansion, equipping, rehabilitation, or consolidation of water
35 systems or parts of water systems;

36 (5) To fund other water system programs that the federal or

1 state government may allow in the future;

2 (6) To fund the administrative expenses of the commission
3 relating to the responsibilities and requirements of this subchapter and the
4 Safe Drinking Water Act;

5 (7) To fund technical assistance for water systems, assistance
6 to state programs such as the public water system supervisory, source water
7 protection, capacity development, health effects studies, unregulated
8 contaminant monitoring, small system technical assistance, operation and
9 training certification programs, and other purposes permitted by the Safe
10 Drinking Water Act;

11 (8) To provide for any other expenditures consistent with
12 applicable federal and state law;

13 (9) To make grants or loans to the Construction Assistance
14 Revolving Loan Fund established ~~in~~ by § 15-5-901, in amounts approved by the
15 commission, consistent with applicable federal law; ~~or~~

16 (10) Subject to ~~the provisions of~~ subsections (c)-(e) of this
17 section and subject to the approval of the commission, to secure the payment
18 of the principal of and premium, if any, and interest on bonds issued by the
19 commission or the authority if proceeds of the bonds are deposited into the
20 Construction Assistance Revolving Loan Fund established ~~in~~ by § 15-5-901,
21 consistent with applicable federal law;

22 (11) Subject to subsections (c)-(e) of this section and subject
23 to the approval of the commission, to pay the principal of and premium, if
24 any, and interest on and to pay costs incurred in connection with bonds
25 issued by the commission or the authority if proceeds of the bonds are
26 deposited into the Construction Assistance Revolving Loan Fund established by
27 § 15-5-901, consistent with applicable federal law; or

28 (12)(A) To make grants for the planning, design, acquisition,
29 construction, expansion, equipping, rehabilitation, consolidation, or
30 refinancing of water systems or parts of water systems.

31 (B) However, grants may be made only from moneys in the
32 fund provided by the federal government under the Safe Drinking Water Act to
33 provide additional subsidization to eligible recipients in the form of
34 forgiveness of principal, negative interest loans, or grants or any
35 combination of principal, negative interest loans, or grants.

36

1 SECTION 3. Arkansas Code § 15-22-1102(f)(2), concerning creation of
2 and terms and conditions for expenditures from the "Safe Drinking Water Fund,
3 is amended to read as follows:

4 (2) Moneys in the Drinking Water State Revolving Loan Fund Account may
5 also be expended for the purposes set forth in subdivisions (b)(1)-(5), and
6 ~~(b)(8)-(10)~~ (b)(8)-(12) of this section.

7
8 SECTION 4. Arkansas Code § 15-22-1103(a)(1), concerning administration
9 of the Safe Drinking Water Fund, is amended to read as follows:

10 (a)(1) Except for the Drinking Water State Set Aside Account, the Safe
11 Drinking Water Fund shall be administered by the ~~Arkansas Soil and Water~~
12 ~~Conservation Commission~~ Arkansas Natural Resources Commission, and the
13 commission ~~is authorized to~~ may establish procedures and adopt ~~regulations~~
14 rules as may be required to administer the fund and programs financed in
15 whole or in part with moneys in the fund in accordance with federal or state
16 law providing for water systems, including particularly, without limitation,
17 the Safe Drinking Water Act.

18
19 SECTION 5. Arkansas Code § 15-22-1103(c), concerning administration of
20 the Safe Drinking Water Fund, is amended to read as follows:

21 (c) To the extent moneys ~~received from~~ provided by the federal
22 government under the Safe Drinking Water Act and nonappropriated state
23 matches do not designate the account into which those moneys shall be
24 deposited, the moneys shall be deposited into the accounts within the fund as
25 designated by the commission.

26
27 SECTION 6. Arkansas Code § 15-22-1104(a)(2), concerning administration
28 of the Drinking Water State Set Aside Account, is amended to read as follows:

29 (2) The department ~~is authorized to~~ may establish procedures and adopt
30 ~~regulations as may be~~ rules required to administer the account and programs
31 financed in whole or in part with moneys in the account in accordance with
32 federal or state law providing for water systems, including, without
33 limitation, the Safe Drinking Water Act, and to enter into contracts and
34 other agreements in connection with the operation of the account, including,
35 ~~but not limited to,~~ without limitation contracts and agreements with federal
36 agencies, the Arkansas Development Finance Authority, the ~~Arkansas Soil and~~

1 ~~Water Conservation Commission~~ Arkansas Natural Resources Commission, and
2 other parties to the extent necessary or convenient for the implementation of
3 the Safe Drinking Water Fund and programs financed in whole or in part with
4 moneys in the fund.

5
6 SECTION 7. Arkansas Code § 15-22-1105(a), concerning the authority of
7 the Arkansas Natural Resources Commission to accept grants, is amended to
8 read as follows:

9 (a) ~~The Arkansas Soil and Water Conservation Commission~~ Arkansas
10 Natural Resources Commission and the Arkansas Development Finance Authority
11 as agent for the commission ~~are authorized to~~ may accept grants for the use
12 of the Safe Drinking Water Fund from any state or federal agencies,
13 municipalities, corporations, foundations, individual ~~donees~~ donors, or
14 authorities, specifically including, ~~but not limited to,~~ without limitation
15 appropriations from the State Treasury as heretofore or hereafter provided.

16
17 SECTION 8. Arkansas Code §§ 15-22-1106 and 15-22-1107 are amended to
18 read as follows:

19 15-22-1106. Fees for services provided by commission.

20 (a)(1) ~~The Arkansas Soil and Water Conservation Commission is~~
21 ~~authorized to~~ Arkansas Natural Resources Commission may establish and collect
22 fees for its technical and administrative services in connection with the
23 planning, design, acquisition, construction, expansion, equipping, or
24 rehabilitation of water systems or parts of water systems financed in whole
25 or in part with moneys in the Safe Drinking Water Fund.

26 (2) The authority granted in this section ~~shall be~~ is
27 supplemental to the authority granted to the commission under other laws to
28 establish fees for its services.

29 (b) The fees shall be payable in any one (1) or more of the following
30 methods from:

31 (1) Proceeds of loans, bonds, notes, or other evidences of
32 indebtedness of an owner purchased from moneys in the fund;

33 (2) Proceeds of bonds issued by the commission or the Arkansas
34 Development Finance Authority in connection with the fund; or

35 (3) Periodic payments due on the loans, bonds, notes, or other
36 evidences of indebtedness of an owner purchased with moneys in the fund.

1
2 15-22-1107. Collection of fees.

3 ~~The~~ If requested by the Arkansas Natural Resources Commission, the
4 Arkansas Development Finance Authority ~~is authorized, if requested by the~~
5 ~~Arkansas Soil and Water Conservation Commission, to~~ shall collect the fees
6 from the owners receiving financial assistance from the Safe Drinking Water
7 Fund and to deposit the fees into the Drinking Water State Administrative
8 Account within five (5) days after each periodic payment is made.

9
10 SECTION 9. Arkansas Code § 15-22-1108(b), concerning federal grants
11 deposited into the Safe Drinking Water Fund, is amended to read as follows:

12 (b) ~~The Arkansas Soil and Water Conservation Commission~~ Arkansas
13 Natural Resources Commission and the Arkansas Development Finance Authority
14 ~~are authorized to~~ may accept moneys for deposit into the fund from
15 allocations from the Treasurer of State as provided in this section.

16
17 SECTION 10. Arkansas Code § 15-22-1109 is amended to read as follows:

18 15-22-1109. Use of Drinking Water State Revolving Loan Fund Account.

19 (a) ~~The Arkansas Soil and Water Conservation Commission~~ Arkansas
20 Natural Resources Commission and with the approval of the commission the
21 Arkansas Development Finance Authority ~~are authorized to~~ may use the moneys
22 in the Drinking Water State Revolving Loan Fund Account excluding the
23 Drinking Water State Grants Account and the assets acquired with moneys in
24 the Drinking Water State Revolving Loan Fund Account to secure the payment of
25 the principal of and premium, if any, and interest on bonds issued by the
26 commission or the authority if proceeds of the bonds are deposited into the
27 Drinking Water State Revolving Loan Fund Account and pay the principal of and
28 premium, if any, and interest on and to pay costs incurred in connection with
29 bonds issued by the commission or the authority if proceeds of the bonds are
30 deposited into the Drinking Water State Revolving Loan Fund Account.

31 (b) ~~The~~ Subject to § 15-22-1102(c)-(e), the commission and with the
32 approval of the commission the authority ~~are authorized to~~ may pledge the
33 Drinking Water State Revolving Loan Fund Account excluding the Drinking Water
34 State Grants Account and pledge the assets acquired with moneys in the
35 Drinking Water State Revolving Loan Fund Account to secure the payment of the
36 principal of and premium, if any, and interest on bonds issued by the

1 commission or the authority if proceeds of the bonds are deposited into the
2 Construction Assistance Revolving Loan Fund under § 15-5-901 et seq.,
3 consistent with applicable federal law and pay the principal of and premium,
4 if any, and interest on and to pay costs incurred in connection with bonds
5 issued by the commission or the authority if proceeds of the bonds are
6 deposited into the Construction Assistance Revolving Loan Fund under §15-5-
7 901 et seq., consistent with applicable federal law.

8
9 SECTION 11. Arkansas Code § 15-22-1110, concerning withholding of
10 general revenue turnbacks, is amended to read as follows:

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 with moneys in the Drinking Water State Revolving Loan Fund Account, the
18 ~~Arkansas Soil and Water Conservation Commission~~ Arkansas Natural Resources
19 Commission after notification to the city, town, county, or political
20 subdivision may certify to the Treasurer of State, the Auditor of State, and
21 the Chief Fiscal Officer of the State the name of the city, town, county, or
22 political subdivision and the amount of deficiencies ninety (90) days or more
23 past due.

24
25 SECTION 12. Arkansas Code § 15-22-1111 is amended to read as follows:
26 15-22-1111. Substitution of loans.

27 (a) ~~The Arkansas Soil and Water Conservation Commission~~ Arkansas
28 Natural Resources Commission may remove any loan, bond, note, or other
29 evidence of indebtedness purchased with moneys in the Drinking Water State
30 Revolving Loan Fund Account from that account and substitute another loan,
31 bond, note, or other evidence of indebtedness not then in default as to
32 payment of any installment of principal, interest, or financing fee, and
33 having an equal or greater outstanding principal balance, made by the
34 commission for a purpose authorized by this subchapter.

35 (b)(1) The commission may forgive principal of loans made and bonds,
36 notes, and other evidences of indebtedness purchased with moneys in the

1 Drinking Water State Revolving Loan Fund Account.

2 (2) However, principal may be forgiven only for loans made and
3 bonds, notes, and other evidences of indebtedness purchased with moneys in
4 the account provided by the federal government under the Safe Drinking Water
5 Act to provide additional subsidization to eligible recipients in the form of
6 forgiveness of principal, negative interest loans, or grants or any
7 combination of principal, negative interest loans, or grants.

8
9 SECTION 13. Arkansas Code Title 15, Chapter 22, Subchapter 11 is
10 amended to add an additional section to read as follows:

11 15-22-1112. Interest rates on loans.

12 (a) The loans made and bonds, notes, and other evidences of
13 indebtedness purchased with moneys in the Drinking Water State Revolving Loan
14 Fund Account shall bear interest at rates of interest, including without
15 limitation negative rates of interest, established by the Arkansas Natural
16 Resources Commission.

17 (b) However, the commission may establish negative rates of interest
18 only for loans made and bonds, notes, and other evidences of indebtedness
19 purchased with moneys in the account provided by the federal government under
20 the Safe Drinking Water Act to provide additional subsidization to eligible
21 recipients in the form of forgiveness of principal, negative interest loans,
22 or grants or any combination of these.

23 (c) Notwithstanding any other provision of law, loans, bonds, notes,
24 and other evidences of indebtedness issued by Owners may bear interest at a
25 negative rate if they are purchased with moneys in the Drinking Water State
26 Revolving Loan Fund Account.

27
28 SECTION 14. EMERGENCY CLAUSE. It is found and determined by the
29 General Assembly of the State of Arkansas that the United States Government
30 has enacted legislation to provide states with emergency assistance in the
31 face of national economic crisis; and this act is immediately necessary to
32 allow the state to timely meet the requirements of the federal stimulus act.
33 Therefore, an emergency is declared to exist and this act being immediately
34 necessary for the preservation of the public peace, health, and safety shall
35 become effective on:

36 (1) The date of its approval by the Governor;

1 (2) If the bill is neither approved nor vetoed by the Governor,
2 the expiration of the period of time during which the Governor may veto the
3 bill; or

4 (3) If the bill is vetoed by the Governor and the veto is
5 overridden, the date the last house overrides the veto.

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/s/ Davenport