

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: S3/7/97 S3/11/97

A Bill

ACT 691 OF 1997
SENATE BILL 619

5 *By: Joint Budget Committee*
6
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For An Act To Be Entitled

9 "AN ACT TO ADD SUBCHAPTER 8 TO TITLE 8, CHAPTER 5, OF THE
10 ARKANSAS CODE OF 1987, ANNOTATED, REGARDING THE
11 ESTABLISHMENT OF A REVOLVING LOAN FUND TO ENCOURAGE
12 INVESTMENTS IN POLLUTION CONTROL AND PREVENTION
13 TECHNOLOGIES IN ARKANSAS; TO APPROPRIATE AND TRANSFER
14 FUNDS FROM THE GENERAL IMPROVEMENT FUND TO THE SMALL
15 BUSINESS REVOLVING LOAN FUND; TO DECLARE AN EMERGENCY; AND
16 FOR OTHER PURPOSES."

Subtitle

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19 "TO CREATE A REVOLVING LOAN FUND FOR
20 POLLUTION CONTROL AND PREVENTION
21 TECHNOLOGIES IN ARKANSAS AND TO TRANSFER
22 MONEY FROM THE GENERAL IMPROVEMENT FUND
23 TO THE REVOLVING LOAN FUND."
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Chapter 5 of Title 8 of the Arkansas Code of 1987,
28 Annotated, is amended to add a new Subchapter 8 to read as follows:
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§SUBCHAPTER 8 - SMALL BUSINESS REVOLVING LOAN FUND

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31
32 8-5-801. Title.

33 This subchapter may be called the §Small Business Revolving Loan Fund
34 for Pollution Control and Prevention Technologies Act.
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36 8-5-802. Purpose.

1 It is the purpose of this subchapter to authorize the Arkansas
2 Department of Pollution Control and Ecology to establish and administer a
3 revolving loan fund to encourage the investment in pollution control and
4 prevention technologies in Arkansas. The fund will promote sustainable
5 economic development in Arkansas by establishing a publicly capitalized
6 revolving loan fund to make loans to small businesses for projects to meet
7 regulatory mandates in pollution control or to adopt pollution prevention
8 technologies.

9

10 8-5-803. Definitions.

11 (1) Department means the Department of Pollution Control and Ecology;

12 (2) Commission means the Arkansas Pollution Control and Ecology

13 Commission;

14 (3) Director means the executive head and active administrator of the
15 Department of Pollution Control and Ecology;

16 (4) Mandated environmental control~~s~~ means any change in a commercial
17 process that is required by federal or state environmental law or duly adopted
18 regulation; and

19 (5) ~~P~~Pollution prevention~~s~~ means reducing or eliminating the generation
20 of pollutants and waste at the source. As used herein, the term shall be
21 expanded to also include process modifications and equipment acquisitions
22 which promote the recovery and reuse of pollutants. Specifically excluded
23 from this definition of eligible activities are investments in waste treatment
24 processes or equipment unless such treatment involves the recovery and reuse
25 of pollutants. Pollution prevention may also include the acquisition and
26 installation of capital equipment, a process change, or a combination of
27 capital equipment and process change.

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29 8-5-804. Eligible Activities.

30 (a) Moneys deposited in the Small Business Revolving Loan Fund within
31 the Department of Pollution Control and Ecology may be:

32 (1) Loaned to eligible participants to pay direct costs of
33 projects which are designed to correct or avoid violations of federal or state
34 environmental regulations and have received a certificate of need from the
35 Department; or

36 (2) Expended to pay costs incurred by the Department to provide

1 management of lending activities.

2 (b) It is the purpose of this subchapter to authorize the Arkansas
3 Department of Pollution Control and Ecology to establish and administer a
4 revolving loan fund to encourage the investment in pollution control and
5 prevention technologies in Arkansas. Such a fund will promote sustainable
6 economic development in Arkansas by establishing a publicly capitalized
7 revolving loan fund to make loans to small businesses for projects to meet
8 regulatory mandates in pollution control or to adopt pollution prevention
9 technologies. Operating expenses associated with proofing a process change or
10 equipment modification would be an eligible loan activity.

11

12 8-5-805. Eligible Participants.

13 Any business concern operating within the State of Arkansas which meets
14 the criteria of a person, corporation, partnership, or other business
15 organization and which:

16 (1) Employs one-hundred (100) or fewer individuals, including both
17 full-time and part-time employees, through direct hiring or contract,
18 including affiliates and subsidiaries, at the time an application for a loan
19 is received by the Department; and

20 (2) Provides proof of profitable operations for two of the three
21 most recent tax years. The applicant's federal income tax returns for the
22 last three years must be submitted as proof of profitability for this program.

23 8-5-806. Terms of the Revolving Loan.

24 (a) The maximum loanable amount shall be \$10,000 per mandated pollution
25 control project and \$15,000 per pollution prevention project. The maximum
26 allowable amount to be loaned shall not exceed \$25,000 per any individual
27 company;

28 (b) The maximum term of the loan shall be 5 years per mandated pollution
29 control project and 10 years per pollution prevention project;

30 (c) The interest rate will be established by the Department of Pollution
31 Control and Ecology at or below market rate. The interest rate will be fixed
32 for the term of each loan at the rate that is in effect when the loan
33 application is received or when the loan is closed, whichever is lower.

34 (d) The borrower shall be required to make level monthly amortizing
35 payments to retire the debt by the end of the loan term. Loan principal may
36 be repaid in-part or in-full at any time without penalty.

1 (e) The loan will be secured by the borrower's promissory note. No
2 pledge of collateral will be required.

3

4 8-5-807. Small Business Revolving Loan Fund.

5 (a) There is created within the Arkansas Department of Pollution Control
6 and Ecology a revolving fund which shall be designated the Small Business
7 Revolving Loan Fund into which shall be transferred or deposited the moneys to
8 be provided by law for the fund, to be used as a revolving fund by the
9 Department of Pollution and Control and Ecology for making loans to eligible
10 participants to pay direct costs of projects which are designed to correct or
11 avoid violations of federal or state environmental regulations and have
12 received a certificate of need from the Department or to pay costs incurred by
13 the Department to provide management of lending activities.

14 (b) The Commission may, by regulation, establish a reasonable rate of
15 interest to be charged on loans made from the revolving fund.

16 *(c) There is hereby established on the books of the Treasurer of State,*
17 *Auditor of State, and Chief Fiscal Officer of the State, a fund to be known as*
18 *the Small Business Revolving Loan Fund. This fund shall consist of the*
19 *following:*

20 (1) all funds transferred from the General Improvement Fund to be
21 otherwise provided for by law for the fund;

22 (2) all moneys received by the Arkansas Department of Pollution
23 Control and Ecology upon repayment of loans made from the furnishing of funds
24 for loans under the program created by this subchapter;

25 (3) Interest earned upon any money in the fund; and

26 (4) All sums recovered upon by the fund for losses to the fund or
27 for loan losses under the loan program created herein and all other moneys
28 received for the fund from any source.

29 (d) Subject to the provisions of this subchapter, the Department is
30 vested with full power, authority, and jurisdiction over the fund, including
31 all moneys and property or securities belonging thereto. The Department may
32 invest the fund in direct general obligations of the United States, in
33 certificates of deposit or savings accounts in an amount not to exceed the
34 capital funds, represented by capital, surplus, and undivided profits in
35 financial institutions located in Arkansas that are insured by an agency of
36 the federal government and in repurchase agreements which are collateralized

1 by direct general obligations of the United States or by bonds, notes,
2 debentures, participation certificates, or other obligations issued by an
3 agency of the United States, the principal and interest of which are
4 guaranteed by the agency or the United States.

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6 8-5-808. Administration of the Program.

7 The Department of Pollution Control and Ecology will manage the program
8 through its Small Business Assistance Program. The Small Business Assistance
9 Program is authorized to delegate the management of this fund. The Department
10 shall retain the power to issue Certificates of Need for eligible projects and
11 shall not delegate such authority."

12

13 *SECTION 2. APPROPRIATIONS. There is hereby appropriated to the*
14 *Department of Pollution Control and Ecology, to be payable from the Small*
15 *Business Revolving Loan Fund, from funds received from the General Improvement*
16 *Fund or its successor fund or fund account from time to time, the following:*

17 *(A) For providing loans to eligible participants to pay direct costs of*
18 *projects designed to correct or avoid violations of federal or state*
19 *environmental regulations or to pay costs incurred by the Department to*
20 *provide management of lending activities, the sum of\$3,500,000.*

21

22 *SECTION 3. All provisions of this act of general and permanent nature*
23 *are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code*
24 *Revision Commission shall incorporate the same in the Code.*

25

26 *SECTION 4. If any provisions of this act or the application thereof to*
27 *any person or circumstance is held invalid, the invalidity shall not affect*
28 *other provisions or applications of the act which can be given effect without*
29 *the invalid provisions or application, and to this end the provisions of this*
30 *act are declared to be severable.*

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32 *SECTION 5. All laws and parts of laws in conflict with this act are*
33 *hereby repealed.*

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35 *SECTION 6. EMERGENCY. It is hereby found and determined by the Eighty-*
36 *First General Assembly, that the Constitution of the State of Arkansas*

1 prohibits the appropriation of funds for more than a two (2) year period; that
2 the effectiveness of this Act on July 1, 1997 is essential to the operation of
3 the agency for which the appropriations in this Act are provided, and that in
4 the event of an extension of the Regular Session, the delay in the effective
5 date of this Act beyond July 1, 1997 could work irreparable harm upon the
6 proper administration and provision of essential governmental programs.
7 Therefore, an emergency is hereby declared to exist and this Act being
8 necessary for the immediate preservation of the public peace, health and
9 safety shall be in full force and effect from and after July 1, 1997.

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/s/Mahony

APPROVED:3-19-97