

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.

Act 457 of the Regular Session

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

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

Subtitle

14 TO AUTHORIZE ADDITIONAL FORMS OF
15 SUBSIDIZATION WITH MONEYS IN THE
16 DRINKING WATER STATE REVOLVING LOAN FUND
17 ACCOUNT.
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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~~ 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~~ a successor agency or
33 commission of the state;

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



1 (5) "Fund" means the "Safe Drinking Water Fund" established by
2 this subchapter;

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

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

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

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

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

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

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

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

18 (i) ~~distribution~~ Distribution and transmission
19 lines;

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

22 (iii) ~~impoundments~~ Impoundments;

23 (iv) ~~reservoirs~~ Reservoirs;

24 (v) ~~wells~~ Wells;

25 (vi) ~~source~~ Source water protection;

26 (vii) ~~land~~ Land;

27 (viii) ~~rights-of-way~~ Rights-of-way; and

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

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

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

1 Department of Health under this subchapter for the purposes stated in this
2 subchapter.

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

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

6 (B) State matching grants when required;

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

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

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

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

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

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

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

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

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

1 (5) To fund other water system programs that the federal or
2 state government may allow in the future;

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

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

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

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

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

23 (11) Subject to subsections (c)-(e) of this section and subject
24 to the approval of the commission, to pay the principal of and premium, if
25 any, and interest on and to pay costs incurred in connection with bonds
26 issued by the commission or the authority if proceeds of the bonds are
27 deposited into the Construction Assistance Revolving Loan Fund established by
28 § 15-5-901, consistent with applicable federal law; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 15-22-1106. Fees for services provided by commission.

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

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

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

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

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

36 (3) Periodic payments due on the loans, bonds, notes, or other

1 evidences of indebtedness of an owner purchased with moneys in the fund.

2
3 15-22-1107. Collection of fees.

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

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

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

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

19 15-22-1109. Use of Drinking Water State Revolving Loan Fund Account.

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

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

1 principal of and premium, if any, and interest on bonds issued by the
2 commission or the authority if proceeds of the bonds are deposited into the
3 Construction Assistance Revolving Loan Fund under § 15-5-901 et seq.,
4 consistent with applicable federal law and pay the principal of and premium,
5 if any, and interest on and to pay costs incurred in connection with bonds
6 issued by the commission or the authority if proceeds of the bonds are
7 deposited into the Construction Assistance Revolving Loan Fund under §15-5-
8 901 et seq., consistent with applicable federal law.

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

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

25
26 SECTION 12. Arkansas Code § 15-22-1111 is amended to read as follows:
27 15-22-1111. Substitution of loans.

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

36 (b)(1) The commission may forgive principal of loans made and bonds,

1 notes, and other evidences of indebtedness purchased with moneys in the
2 Drinking Water State Revolving Loan Fund Account.

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

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

12 15-22-1112. Interest rates on loans.

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

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

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

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

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

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

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

/s/ Davenport

APPROVED: 3/18/2009