

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 458 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 1645

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 CONSTRUCTION
11 ASSISTANCE REVOLVING LOAN FUND; AND FOR OTHER
12 PURPOSES.
13

Subtitle

15 AUTHORIZE ADDITIONAL FORMS OF
16 SUBSIDIZATION WITH MONEYS IN THE
17 CONSTRUCTION ASSISTANCE REVOLVING LOAN
18 FUND.
19
20

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

23 SECTION 1. Arkansas Code § 15-5-901 and 15-5-902 are amended to read
24 as follows:

25 15-5-901. Fund – Establishment – Uses – Accounts.

26 (a)(1)(A) There is established on the books of the ~~Arkansas Soil and~~
27 ~~Water Conservation Commission~~ Arkansas Natural Resources Commission a special
28 restricted fund to be known as the “Construction Assistance Revolving Loan
29 Fund”.

30 (B) The fund shall be maintained in perpetuity and
31 administered by the commission for the purposes stated in this ~~section~~
32 subchapter.

33 (2) Grants from the federal government or its agencies allotted
34 to the state for capitalization of the fund, state matching grants when
35 required, proceeds of bonds issued by the commission or the Arkansas



1 Development Finance Authority for ~~such a purpose, and~~ capitalization of the
2 fund, principal, interest, and premiums on loans provided, and bonds, notes,
3 and other evidences of indebtedness purchased with moneys in the fund shall
4 be deposited into the fund.

5 (3) The commission may deposit loans, made to and bonds, notes,
6 and other evidences of indebtedness issued by local governmental entities and
7 other owners of environmental projects to finance or refinance the planning,
8 design, acquisition, construction, expansion, equipping, rehabilitation, or
9 consolidation of wastewater ~~system projects~~ systems, water systems, solid and
10 hazardous waste facilities, recycling facilities, nonpoint source management
11 facilities, wetlands conservation and management facilities, and other
12 environmental projects or parts of environmental projects in the fund.

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

16 (1) To provide loans for the planning, design, acquisition,
17 construction, expansion, equipping, rehabilitation, consolidation, or
18 refinancing of wastewater systems, water systems, solid and hazardous waste
19 facilities, recycling facilities, nonpoint source management facilities,
20 wetlands conservation and management facilities, and other environmental
21 projects or parts of environmental projects ~~in the fund~~;

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

28 (3) To purchase bonds, notes, or other evidences of indebtedness
29 issued by local governmental entities to finance or refinance the planning,
30 design, acquisition, construction, expansion, equipping, rehabilitation, or
31 consolidation of wastewater ~~system projects~~ systems, water systems, solid and
32 hazardous waste facilities, recycling facilities, nonpoint source management
33 facilities, wetlands conservation and management facilities, and other
34 environmental projects or parts of environmental projects;

35 (4) To fund other wastewater system programs, water system
36 programs, solid and hazardous waste facilities programs, recycling programs,

1 nonpoint source management facilities, wetlands conservation and management
2 facilities, and other environmental programs that the federal or state
3 government may allow in the future;

4 (5) To fund the administrative expenses of the commission
5 relating to the responsibilities and requirements of this subchapter and the
6 federal environmental acts as defined in § 15-5-909;

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

9 (7) To provide loans to prospective and actual purchasers of
10 abandoned industrial, commercial, or agricultural sites for assessments,
11 investigations, and remedial actions pursuant to § 8-7-1101;

12 (8) To pay the principal of and premium, if any, and interest on
13 and to pay costs incurred in connection with bonds issued by the commission
14 or the authority, if proceeds of the bonds are deposited in the Construction
15 Assistance Revolving Loan Fund Account;

16 (9) To make grants or loans to the Safe Drinking Water Fund
17 established by § 15-22-1102 in ~~such amounts as may be~~ approved by the
18 commission, consistent with applicable federal law; ~~or~~

19 (10) Subject to the provisions of subsection (c) of this section
20 and subject to the approval of the commission, to secure the payment of the
21 principal of and premium, if any, and interest on bonds issued by the
22 commission or the authority, if proceeds of the bonds are deposited into the
23 Drinking Water State Revolving Loan Fund Account established by § 15-22-1102,
24 consistent with applicable federal law;

25 (11) Subject to subsection (c) of this section and the approval
26 of the commission, to pay the principal of and premium, if any, and interest
27 on and to pay costs incurred in connection with bonds issued by the
28 commission or the authority, if proceeds of the bonds are deposited into the
29 Drinking Water State Revolving Loan Fund Account established by § 15-22-1102,
30 consistent with applicable federal law; or

31 (12)(A) To make grants for the planning, design, acquisition,
32 construction, expansion, equipping, rehabilitation, or consolidation of
33 wastewater systems, water systems, solid and hazardous waste facilities,
34 recycling facilities, nonpoint source management facilities, wetlands
35 conservation and management facilities, and other environmental projects or
36 parts of environmental projects.

1 (A) However, grants shall be made only from moneys in the
2 fund provided by the federal government under the Clean Water Act to provide
3 additional subsidization to eligible recipients in the form of forgiveness of
4 principal, negative interest loans, or grants, or any combination of
5 forgiveness of principal, negative interest loans, or grants.

6 (c)(1) There is established a separate account within the fund,
7 designated the "State Grants Account", into which moneys appropriated by the
8 state for deposit into the fund shall be deposited.

9 (2)(A) Moneys in the State Grants Account may be expended for
10 the same purposes as other moneys in the fund.

11 (B) However, moneys in the State Grants Account shall
12 never be pledged to the payment of or as security for any bonds issued by the
13 commission or the authority.

14 (d)(1) There is established a separate account within the fund,
15 designated the "Remedial Action Account", into which moneys identified in §
16 8-7-504(c) and any other moneys as designated by the Director of the Arkansas
17 Department of Environmental Quality shall be deposited.

18 (2) Moneys in the Remedial Action Account may be expended as
19 authorized in § 8-7-1101 and for the same purposes as other moneys in the
20 fund.

21 (e)(1) There is established a separate account within the fund,
22 designated the "Construction Assistance Administrative Account", into which
23 shall be deposited:

24 (A) Moneys provided by the federal government ~~pursuant to~~
25 under the federal environmental acts for the purpose of administering
26 programs funded by the federal environmental acts; and

27 (B) Fees ~~pursuant to~~ under § 15-5-904.

28 (2) Moneys in the Construction Assistance Administrative Account
29 may be expended by the commission for administrative costs of programs funded
30 by the federal environmental acts.

31 (3) Moneys in the Construction Assistance Administrative Account
32 shall never be pledged to the payment of or as security for any bonds issued
33 by the authority or the commission.

34 (f)(1) There is established a separate account within the fund,
35 designated the "Construction Assistance Revolving Loan Fund Account", into
36 which shall be deposited moneys provided by:

1 (A) The federal government ~~pursuant to~~ under the federal
2 environmental acts;

3 (B) Proceeds of bonds issued by the commission or the
4 authority; and

5 (C) Other amounts, excluding state appropriations,
6 received under § 15-5-903 for the purpose of providing financial assistance
7 to local governmental entities and other owners of environmental projects in
8 connection with the planning, design, acquisition, construction, expansion,
9 equipping, or rehabilitation of wastewater systems ~~projects~~, water systems,
10 solid and hazardous waste facilities, recycling facilities, nonpoint source
11 management facilities, wetlands conservation and management facilities, and
12 other environmental projects or parts of environmental projects.

13 (2) Moneys in the Construction Assistance Revolving Loan Fund
14 Account may also be expended for the purposes set forth in subdivisions
15 (b)(1)-(5) and ~~(b)(7)-(10)~~ (b)(7)-(12) of this section.

16 (g) The commission may establish and maintain additional accounts
17 within the fund or subaccounts within the accounts established ~~in~~ by this
18 section.

19 (h) The commission shall maintain the fund at the authority or at one
20 (1) or more financial institutions within or without the state.

21
22 15-5-902. Fund – Administration.

23 (a)(1) The Construction Assistance Revolving Loan Fund shall be
24 administered by the ~~Arkansas Soil and Water Conservation Commission~~ Arkansas
25 Natural Resources Commission.

26 (2) The commission ~~is authorized to~~ may establish procedures and
27 adopt ~~regulations as may be~~ rules required to administer the fund and
28 programs financed, in whole or in part, with moneys in the fund in accordance
29 with federal or state law providing for:

30 (A) Wastewater systems, water systems, solid and hazardous
31 waste facilities, recycling facilities, nonpoint source management
32 facilities, wetlands conservation and management facilities, and other
33 environmental projects; and

34 (B) Assessments, investigations, and remedial actions with
35 respect to abandoned industrial, commercial, or agricultural sites,
36 including, without limitation, the federal environmental acts.

1 (b) The commission ~~is authorized to~~ may enter into contracts and other
2 agreements in connection with the operation of the fund, including, ~~but not~~
3 ~~limited to,~~ without limitation contracts and agreements with federal
4 agencies, local governmental entities, the Arkansas Development Finance
5 Authority, the Arkansas Department of Environmental Quality, and other
6 persons to the extent necessary or convenient for the implementation of the
7 fund and programs financed, in whole or in part, with moneys in the fund.

8 (c) The commission shall maintain full authority for the operation of
9 the fund in accordance with applicable federal and state law, including
10 withdrawals necessary to achieve the intended purposes of the fund.

11 (d) To the extent that moneys ~~received from~~ provided by the federal
12 government under the federal environmental acts and nonappropriated state
13 matches do not designate the account into which the moneys shall be
14 deposited, the moneys shall be deposited into the accounts within the fund
15 designated by the commission.

16 (e) The commission shall execute capitalization grant agreements on
17 behalf of the state in order to obtain funds under the Clean Water Act.

18
19 SECTION 3. Arkansas Code § 15-5-903(a), concerning grants for the
20 Construction Assistance Revolving Loan Fund, is amended to read as follows:

21 (a) ~~The Arkansas Soil and Water Conservation Commission~~ Arkansas
22 Natural Resources Commission and the Arkansas Development Finance Authority
23 as agent for the commission are authorized to accept grants for the use of
24 the Construction Assistance Revolving Loan Fund from any state or federal
25 agencies, municipalities, corporations, foundations, individual donors, or
26 authorities, specifically including, ~~but not limited to,~~ without limitation
27 appropriations from the State Treasury as heretofore or hereafter provided.

28
29 SECTION 4. Arkansas Code § 15-5-904 is amended to read as follows:
30 15-5-904. Fees for technical and administrative services.

31 (a)(1) ~~The Arkansas Soil and Water Conservation Commission is~~
32 authorized to Arkansas Natural Resources Commission may establish and collect
33 fees for its technical and administrative services in connection with the
34 planning, design, acquisition, construction, expansion, equipping, or
35 rehabilitation of wastewater systems, water systems, solid and hazardous
36 waste facilities, recycling facilities, nonpoint source management

1 facilities, wetlands conservation and management facilities, and other
2 environmental projects or parts of environmental projects and in connection
3 with assessments, investigations, and remedial actions with respect to
4 abandoned industrial, commercial, or agricultural sites, financed in whole or
5 in part with moneys in the Construction Assistance Revolving Loan Fund.

6 (2) The authority granted in this section shall be supplemental
7 to the authority granted to the commission under other laws to establish and
8 collect fees for its services.

9 (b) The fees shall be payable in any one (1) or more of the following
10 methods:

11 (1) From proceeds of loans, bonds, notes, or other evidences of
12 indebtedness of a local governmental entity or other owner of an
13 environmental project purchased from moneys in the fund;

14 (2) From proceeds of bonds issued by the commission or the
15 Arkansas Development Finance Authority in connection with the fund; or

16 (3) From periodic payments due *on the* loans, bonds, notes, or
17 other evidences of indebtedness of a local governmental entity or other owner
18 of an environmental project purchased with moneys in the fund.

19 (c) If requested by the Arkansas Natural Resources Commission, the
20 Arkansas Development Finance Authority will collect the fees from the local
21 governmental entities or other environmental project owners receiving
22 financial assistance from the Construction Assistance Revolving Loan Fund and
23 deposit the fees into the Construction Assistance Administrative Account
24 within five (5) days after each periodic payment is made.

25
26 SECTION 5. Arkansas Code § 15-5-905(a), concerning federal grants
27 deposited into the Construction Assistance Revolving Loan Fund, is amended to
28 read as follows:

29 (a) ~~The Arkansas Soil and Water Conservation Commission~~ Arkansas
30 Natural Resources Commission and the Arkansas Development Finance Authority
31 ~~are authorized to~~ may accept moneys for deposit into the Construction
32 Assistance Revolving Loan Fund from allocations from the Treasurer of State
33 ~~as provided in~~ under this section.

34
35 SECTION 6. Arkansas Code § 15-5-906(a) and (b), concerning security
36 for bonds regarding construction assistance revolving loans, is amended to

1 read as follows:

2 (a) ~~The Arkansas Soil and Water Conservation Commission~~ Arkansas
3 Natural Resources Commission and, with the approval of the commission, the
4 Arkansas Development Finance Authority ~~are authorized to~~ may use the moneys
5 in the Construction Assistance Revolving Loan Fund, excluding the State
6 Grants Account, and use the assets acquired with moneys in the fund to secure
7 the payment of the principal of and premium, if any, and interest on bonds
8 issued by the commission or the authority if the proceeds of the bonds are
9 deposited into the Construction Assistance Revolving Loan Fund Account and
10 pay the principal of and premium, if any, and interest on and pay costs
11 incurred in connection with bonds issued by the commission or the authority
12 if proceeds of the bonds are deposited into the Construction Assistance
13 Revolving Loan Fund Account.

14 (b) ~~The Subject to § 15-5-901(c), the~~ commission and, with the
15 approval of the commission, the authority ~~are authorized to~~ may pledge the
16 Construction Assistance Revolving Loan Fund Account, excluding the State
17 Grants Account, and pledge the assets acquired with moneys in the
18 Construction Assistance Revolving Loan Fund Account to secure the payment of
19 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 Drinking Water State Revolving Loan Fund Account established by § 15-22-1102,
22 consistent with applicable federal law and pay the principal of and premium,
23 if any, and interest on and costs incurred in connection with bonds issued by
24 the commission or the authority if proceeds of the bonds are deposited into
25 the Drinking Water State Revolving Loan Fund Account established by § 15-22-
26 1101, consistent with applicable federal law.

27

28 SECTION 7. Arkansas Code § 15-5-907 is amended to read as follows:

29 15-5-907. Substitution of loans -- Forgiveness of principal.

30 (a) ~~The Arkansas Soil and Water Conservation Commission~~ Arkansas
31 Natural Resources Commission may remove any loan, bond, note, or other
32 evidence of indebtedness purchased with moneys in the Construction Assistance
33 Revolving Loan Fund Account from the ~~Construction Assistance Revolving Loan~~
34 ~~Fund Account~~ account and substitute another loan, bond, note, or other
35 evidence of indebtedness not then in default as to payment of any installment
36 of principal, interest, or financing fee and having an equal or greater

1 outstanding principal balance, made by the commission for a purpose
2 authorized by this subchapter.

3 (b) The commission may forgive principal of loans made and bonds,
4 notes, and other evidences of indebtedness purchased with moneys in the
5 Construction Assistance Revolving Loan Fund, provided that principal may be
6 forgiven only for loans made and bonds, notes, and other evidences of
7 indebtedness purchased with moneys in the fund provided by the federal
8 government under the Clean Water Act for the purpose of providing additional
9 subsidization to eligible recipients in the form of forgiveness of principal,
10 negative interest loans, or grants or any combination of principal, negative
11 interest loans, or grants.

12
13 SECTION 8. Arkansas Code § 15-5-908(a) concerning withholding general
14 revenue turnback, is amended to read as follows:

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

28
29 SECTION 9. Arkansas Code § 15-5-909, concerning definitions regarding
30 construction assistance revolving loans, is amended to read as follows:

31 15-5-909. Definitions.

32 As used in this subchapter:

33 (1) "Administrative account" means the Construction Assistance
34 Administrative Account established by this subchapter within the Construction
35 Assistance Revolving Loan Fund;

36 (2) "Authority" means the Arkansas Development Finance Authority

1 or any successor agency or commission of the state;

2 (3) "Clean Water Act" means the Federal Water Pollution Control
3 Act of 1972, as amended by the Federal Water Quality Act of 1987;

4 (4) "Commission" means the ~~Arkansas Soil and Water Conservation~~
5 ~~Commission~~ Arkansas Natural Resources Commission or ~~its~~ a successor agency or
6 commission of the state;

7 (5) "Department" means the Arkansas Department of Environmental
8 Quality or ~~its~~ a successor agency of the state;

9 (6) "Federal environmental acts" means the Clean Water Act, the
10 Safe Drinking Water Act, the Resource Conservation and Recovery Act, the
11 Clean Air Act, and the Comprehensive Environmental Response, Compensation,
12 and Liability Act;

13 (7) "Fund" means the Construction Assistance Revolving Loan Fund
14 established by this subchapter;

15 (8) "Owner" means the owner or prospective owner of an
16 environmental project, excluding any federal agencies;

17 (9) "Revolving loan account" means the Construction Assistance
18 Revolving Loan Fund Account established by this subchapter within the fund;

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

20 (11) "State Grants Account" means the State Grants Account
21 established by this subchapter within the fund.

22
23 SECTION 10. Arkansas Code Title 15, Chapter 5, Subchapter 9 is amended
24 to add an additional section to read as follows:

25 15-5-910. Interest rates on loans.

26 (a) The loans made and bonds, notes, and other evidences of
27 indebtedness purchased with moneys in the Construction Assistance State
28 Revolving Loan Fund shall bear interest at rates of interest, including
29 without limitation negative rates of interest, established by the Arkansas
30 Natural Resources Commission.

31 (b) However, the commission may establish negative rates of interest
32 only for loans made and bonds, notes, and other evidences of indebtedness
33 purchased with moneys in the fund provided by the federal government under
34 the Clean Water Act for the purpose of providing additional subsidization to
35 eligible recipients in the form of forgiveness of principal, negative
36 interest loans, or grants or any combination of principal, negative interest

1 loans, or grants.

2 (c) Notwithstanding any other provision of law, loans, bonds, notes,
3 and other evidences of indebtedness issued by Owners may bear interest at a
4 negative rate if they are purchased with moneys in the Construction
5 Assistance State Revolving Loan Fund.

6
7 SECTION 11. EMERGENCY CLAUSE. It is found and determined by the
8 General Assembly of the State of Arkansas that the United States Government
9 has enacted legislation to provide states with emergency assistance in the
10 face of national economic crisis; and this act is immediately necessary to
11 allow the state to timely meet the requirements of the federal stimulus act.
12 Therefore, an emergency is declared to exist and this act being immediately
13 necessary for the preservation of the public peace, health, and safety shall
14 become effective on:

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

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

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

21
22 /s/ Davenport

23
24 APPROVED: 3/18/2009