

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

HOUSE BILL 1987

4  
5 By: Representative Napper  
6  
7

## For An Act To Be Entitled

9 "AN ACT RELATIVE TO STORM WATER MANAGEMENT BY  
10 MUNICIPALITIES SUBJECT TO THE REGULATIONS FOR STORM  
11 WATER DISCHARGES OF THE ENVIRONMENTAL PROTECTION  
12 AGENCY; AUTHORIZING LOCAL GOVERNMENTS TO REGULATE  
13 STORM WATER DISCHARGES; TO ESTABLISH A SYSTEM OF  
14 DRAINAGE AND FLOOD CONTROL FACILITIES; TO FIX AND  
15 REQUIRE THE PAYMENT OF FEES FOR THE PRIVILEGE OF  
16 DISCHARGING STORM WATER; AND FOR OTHER PURPOSES."

## Subtitle

17  
18 "STORM WATER MANAGEMENT ACT."  
19  
20  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Short Title. This Act shall be known as the "Storm Water  
25 Management Act".  
26

27 SECTION 2. Construction. This Act, being necessary for the public  
28 health, safety, and welfare, shall be liberally construed to effectuate the  
29 purpose of it.  
30

31 SECTION 3. Legislative purpose. (a) It is legislatively determined that  
32 it may be desirable for cities of the first class within this state to  
33 regulate storm water discharge to protect water quality.

34 (b) The purpose of this Act is to facilitate compliance with the Water  
35 Quality Act of 1977 by municipalities which are affected by environmental  
36 protection agency storm water regulations, particularly those arising from §

1 405 of the Water Quality Act of 1987, as amended, and § 402 of the Clean Water  
 2 Act of 1977, as amended, regulating storm water discharges to protect water  
 3 quality. This Act shall enable municipalities to regulate such discharges, to  
 4 establish a system of drainage facilities, and to fix and require payment of  
 5 fees for the privilege of discharging storm water. This Act shall also enable  
 6 municipalities to construct and operate a system of drainage facilities for  
 7 storm water management and flood control.

8  
 9 SECTION 4. Definitions. As used in this act, unless the context  
 10 otherwise requires:

11 (1) "Construction" means the erection, building, acquisition,  
 12 alteration, reconstruction, improvement, or extension of storm water  
 13 facilities; preliminary planning to determine the economic and engineering  
 14 feasibility of storm water facilities; the engineering, architectural, legal,  
 15 fiscal and economic investigations and studies, surveys, designs, plans,  
 16 working drawings, specifications, procedures, and other action necessary in  
 17 the construction of storm water facilities; and the inspection and supervision  
 18 of the construction of storm water facilities;

19 (2) "Contaminant" means any physical, chemical, biological, or  
 20 radiological substance or matter in water;

21 (3) "Municipality" means any incorporated city empowered to provide  
 22 storm water facilities;

23 (4) "Person" means any and all persons, natural or artificial, including  
 24 any individual, firm or association and any municipal or private corporation  
 25 organized or existing under the laws of this or any other state or country;

26 (5) "Storm water" means storm water runoff, snow melt runoff, surface  
 27 runoff, and drainage;

28 (6) "Storm water facilities" means the drainage structures, conduits,  
 29 sewers, and all device appurtenances by means of which storm water is  
 30 collected, transported, pumped, treated or disposed of;

31 (7) "Surface water" means waters upon the surface of the earth in bounds  
 32 created naturally or artificially including, but not limited to, streams,  
 33 other water courses, lakes and reservoirs; and

34 (8) "Works" means the structures and property as provided in Section 5.

35  
 36 SECTION 5. Authorization of storm water facilities or flood control

1 improvements by municipality. The governing body of any municipality may  
2 authorize the construction, extension, enlargement, or acquisition of  
3 necessary storm water facilities or flood control improvements within its  
4 corporate boundaries. The improvements may include, but are not limited to,  
5 the extension, enlargement, construction, or acquisition of storm water  
6 facilities or flood control improvements; the widening, straightening, or  
7 relocating of streams, surface waters, or water courses; and the acquisition,  
8 extension, enlargement, construction, and maintenance of any works necessary  
9 to regulate the quantity or quality of water for the protection of streams,  
10 water courses, surface waters, life, and property; provided that the  
11 municipality obtains all applicable permits and complies with all applicable  
12 state and federal laws.

13  
14 SECTION 6. Extent of Authority. This Act shall, without reference to  
15 any other statute, be deemed full authority for the construction, acquisition,  
16 improvement, equipment, maintenance, operation, and repair of the works  
17 provided for in this Act and for the issuance and sale of the bonds authorized  
18 by this Act and shall be construed as an additional and alternative method for  
19 them and for the financing of them.

20  
21 SECTION 7. Authority to own.

22 (a) A municipality shall have authority to:

23 (1) Acquire, by gift, grant, purchase, condemnation, or  
24 otherwise, all necessary lands, rights of way, and property within the  
25 corporate limits of the city; and

26 (2) Issue revenue bonds to pay the cost of these works and  
27 property.

28 (b) No obligation shall be incurred by the municipality in the  
29 construction or acquisition except such as is payable solely from the funds  
30 provided under the authority of this Act.

31  
32 SECTION 8. Municipal authority. (a) In order to protect the public  
33 health, municipalities authorized to provide storm water and flood control  
34 facilities by this Act are authorized by appropriate ordinance or resolution  
35 to:

36 (1) Exercise general regulation over the planning, location,

1 construction, and operation and maintenance over storm water facilities in the  
 2 municipality, whether owned and operated by the municipality or not;

3 (2) Adopt any rules and regulations deemed necessary to accomplish  
 4 the purposes of this act including the adoption of a system of fees for  
 5 services;

6 (3) Establish standards to regulate the quality and quantity of  
 7 storm water discharged and to assist the Arkansas Department of Environmental  
 8 Quality in regulating storm water contaminants.

9 (b) Municipalities may only exercise the authority granted by the  
 10 provisions of subsection (a) in a manner consistent with all requirements of  
 11 state and federal laws that apply to such activities.

12  
 13 SECTION 9. Enforcement of ordinance.

14 The Arkansas Department of Environmental Quality with assistance by the  
 15 municipality will regulate and enforce the release of contaminants.

16  
 17 SECTION 10. Facilities user's fee.

18 (a) All municipalities constructing, operating, or maintaining storm  
 19 water or flood control facilities are authorized to establish, by ordinance, a  
 20 graduated storm water user's fee which may be assessed and collected from each  
 21 user of the storm water facilities provided by the municipality. These fees  
 22 shall be reasonable in amount and used exclusively by the municipality for  
 23 purposes set forth in this Act. Such a graduated storm water user's fee shall  
 24 be based on actual or estimated use of the storm water or flood control  
 25 facilities of the municipality or both storm water and flood control  
 26 facilities, and each user or user class shall only be required to pay its  
 27 proportionate share of the construction, administration, operation and  
 28 maintenance including replacement costs of such facilities based on the user's  
 29 actual or estimated proportionate contribution to the total storm water runoff  
 30 from all users or user classes. To insure a proportionate distribution of all  
 31 costs to each user or user class, the user's contribution shall be based on  
 32 factors such as the amount of impervious area utilized by the user, the water  
 33 quality of user's storm water runoff or the volume or rate of storm water  
 34 runoff. The fee structure shall provide adjustments for users who construct  
 35 facilities to retain and control the quantity of storm water runoff. Prior to  
 36 establishing or amending such user's fees, the municipality shall advertise

1 its intent to do so by notice published in a newspaper of general circulation  
2 in such municipality at least thirty (30) days in advance of the meeting of  
3 the governing body which shall consider such adoption or amendment.

4 (b) The municipality providing such service is authorized to collect  
5 such storm water facilities fees either by ordinance or by contract with any  
6 public or private corporation, or municipal utilities board, or commission  
7 operating a water, gas, or electric system in the area of the storm water  
8 facilities, or to make contracts with any other city, town, or utility  
9 district to bill and collect storm water fees as a designated item on its  
10 utility. The ordinance or contract may provide for the discontinuance of  
11 utility service to storm water facility users who fail or refuse to pay storm  
12 water facility user charges, including the right not to accept payment of the  
13 utility bill from any user without receiving at the same time payment of any  
14 storm water facility charges owed by such user and not to re-establish utility  
15 services until such time as all past due storm water facility service charges  
16 owed by such user have been paid or the user of the storm water facility has  
17 performed all acts and discharged all obligations required by the ordinances  
18 or resolutions of the municipality, or both.

19  
20 SECTION 11. Power of eminent domain.

21 (a)(1) Under this Act, every municipality shall have power to condemn  
22 any works to be acquired and any land, rights, easements, franchise, and other  
23 property, real or personal, deemed necessary or convenient for the  
24 construction of any works, or for extensions, improvements, or additions to  
25 them. In this connection, they may have and exercise all the rights, powers,  
26 and privileges of eminent domain granted to municipalities under the laws  
27 relating to them.

28 (2) Title to property condemned shall be taken in the name of the  
29 municipality.

30 (3) Proceedings for such appropriation of property shall be under and  
31 pursuant to the provisions of Arkansas Code §§ 18-15-301 - 18-15-303 and any  
32 acts supplemental to it. However, a municipality shall be under no obligation  
33 to accept and pay for any property condemned or purchased except from the  
34 funds provided pursuant to this Act.

35 (4)(A) In any proceedings to condemn, such orders may be made as may be  
36 just to the municipality and to the owners of the property to be condemned.

1        (B) An undertaking or other security may be required securing the owners  
 2 against any loss or damage to be sustained by reason of the failure of the  
 3 municipality to accept and pay for the property. However, the undertaking or  
 4 security shall impose no liability upon the municipality except such as may be  
 5 paid from funds provided under the authority of this Act.

6        (b) In event of the acquisition by purchase the municipality may obtain  
 7 and exercise an option from the owner of the property for the purchase of it,  
 8 or may enter into a contract for the purchase of it, and the purchase may be  
 9 made upon such terms and conditions, and in such manner, as the committee may  
 10 deem proper.

11        (c) In event of the acquisition of any works already constructed by  
 12 purchase or condemnation, the municipality, at or before the time of the  
 13 adoption of the ordinance described in Section 14 of this Act, shall cause to  
 14 be determined what repairs, replacements, additions, and betterments will be  
 15 necessary in order that the works may be effective for their purpose. An  
 16 estimate of the cost of these improvements shall be included in the estimate  
 17 of cost required by Section 14 of this Act, and improvement shall be made upon  
 18 the acquisition of the works and as a part of the cost of them.

19  
 20        SECTION 12. Acquisition of encumbered property. No property shall be  
 21 acquired under this Act upon which any lien or other encumbrance exists unless  
 22 at the time the property is acquired a sufficient sum of money be deposited in  
 23 trust to pay and redeem the lien or encumbrance in full.

24  
 25        SECTION 13. Contracting with other political subdivisions.

26        (a)(1) Any municipality operating storm water facilities as defined in  
 27 this Act or which, as provided in this Act, has ordered the construction or  
 28 acquisition of such works, in this section called the owner, is authorized to  
 29 contract with one (1) or more other cities, towns, or political subdivisions  
 30 within the state, in this section called the lessee.

31        (2) The lessees are authorized to enter into contracts with the  
 32 owners, for the service of such works to the lessees and their inhabitants,  
 33 but only to the extent of the capacity of the works without impairing the  
 34 usefulness of them to the owners, upon such terms and conditions as may be  
 35 fixed by the municipality and approved by ordinance of the respective  
 36 contracting parties.

1       (b)(1) The lessee shall, by ordinance, have power to establish, change,  
 2 and adjust, so far as will not impair the rights of bondholders, rates and  
 3 charges for the service rendered by the works against the owners of the  
 4 premises served, in the manner provided in Section 24 of this Act for  
 5 establishing, changing, and adjusting rates and charges for the service  
 6 rendered in the municipality where the works are owned and operated, and the  
 7 rates or charges shall be collected and shall be a lien as provided in Section  
 8 24 for rates and charges made by the owner.

9       (2) The necessary appurtenant works for connecting the works of the  
 10 owner with the works of the lessee shall be constructed by the owner or the  
 11 lessee upon such terms and conditions as may be set forth in the contract, and  
 12 the cost, or that part of the cost of them which is to be borne by the owner,  
 13 may be paid as a part of the cost of the works from the proceeds of bonds  
 14 issued under this Act unless otherwise provided by the ordinance or trust  
 15 indenture prior to the issuance of the bonds.

16       (3) The income received by the owner under any such contract, if so  
 17 provided in the ordinance or trust indenture, shall be deemed to be a part of  
 18 the revenues of the works as defined in this act and shall be applied as  
 19 provided in this act for the application of such revenues.

20  
 21       SECTION 14. Enactment of ordinance before construction or acquisition.  
 22 Before any municipality shall construct or acquire any works under this act,  
 23 the municipal council shall enact ordinances which shall:

24       (1) Set forth:

25               (A) A brief and general description of the works proposed to be  
 26 constructed or purchased; and

27               (B) If the works are to be constructed, a reference to the  
 28 preliminary report or plans and specifications which shall theretofore have  
 29 been prepared and filed with the municipal clerk or recorder by an engineer  
 30 chosen by such council;

31       (2) Set forth:

32               (A) The cost of the works estimated by the engineer chosen as  
 33 prescribed; or

34               (B) The purchase price if the works are to be purchased;

35       (3) Order the construction or acquisition of the works, in which  
 36 connection the ordinance will recite that the terms of the construction or

1 acquisition, so far as they are not set out in the ordinance, will thereafter  
 2 be fixed by the municipality;

3 (4) State the city department to have charge of the works and the  
 4 construction or acquisition of them;

5 (5) Direct that revenue bonds of the municipality shall be issued  
 6 pursuant to this Act in such an amount as may be found necessary to pay the  
 7 cost of the works; and

8 (6) Contain such other provisions as may be necessary in the premises.

9  
 10 SECTION 15. Cost of works. The cost of works under this act shall be  
 11 deemed to include:

12 (1) The cost of acquisition or construction of them;

13 (2) The cost of all property, rights, easements, and franchises deemed  
 14 necessary or convenient for them and for the improvements determined upon as  
 15 provided in Section 11 of this act;

16 (3) Interest upon bonds prior to and during construction or acquisition  
 17 and for six (6) months after completion of construction or of acquisition of  
 18 the improvements mentioned;

19 (4) Engineering and legal expenses;

20 (5) Expense for estimates of cost and of revenues;

21 (6) Expense for plans, specifications, and surveys;

22 (7) Other expenses necessary or incident to determining the feasibility  
 23 or practicability of the enterprise;

24 (8) Administrative expense; and

25 (9) Such other expenses as may be necessary or incident to the financing  
 26 authorized in this act and the construction or acquisition of the works and  
 27 the placing of the works in operation and the maintenance and performance of  
 28 the things required in this act or permitted in connection with any of it.

29  
 30 SECTION 16. Issuance of revenue bonds and notes generally.

31 (a)(1) Nothing contained in this Act shall be so construed as to  
 32 authorize or permit any municipality to make any contract or to incur any  
 33 obligation of any kind or nature except such as shall be payable solely from  
 34 the funds provided under the authority of this Act.

35 (2)(A)(i) Funds for the payment of the entire cost of the works and for  
 36 the payment of any extraordinary expenses or liabilities arising from the



1 ownership, operation and maintenance of the works including, without  
2 limitation, liabilities to customers of the works relating to rates charged by  
3 the municipality for use of the works shall be provided by funds derived from  
4 the operation of the works, by funds of the municipality appropriated for that  
5 purpose, and by the issuance of municipal revenue bonds, the principal and  
6 interest of which shall be payable solely from the special fund provided in  
7 Section 22 for payment.

8 (ii) The bonds shall not, in any respect, be a corporate  
9 indebtedness of the municipality within the meaning of any statutory or  
10 constitutional limitations on them.

11 (B) All the details of the bonds shall be determined by ordinance of  
12 the municipality or in a trust indenture between the municipality and a  
13 corporate trustee.

14 (b)(1)(A) Any municipality owning or operating a storm water system,  
15 however constructed or acquired, and desiring to construct improvements and  
16 betterments to it, may borrow money to be used for these purposes, to  
17 refinance or retire existing indebtedness related to the storm water system,  
18 or to provide funds for preliminary expense prior to the issuance of revenue  
19 bonds or to provide interim financing pending receipt of federal or state  
20 grant-in-aid of loan disbursements.

21 (B) Such a loan shall be evidenced by revenue promissory notes as  
22 set out in this section.

23 (2) The money so borrowed shall be deposited in a revenue note fund and  
24 shall be used solely for the purposes authorized in this section.

25 (3) The notes evidencing the loan shall be authorized by the legislative  
26 body of the municipality and shall be due in not exceeding five (5) years from  
27 date and shall bear interest at such rate or rates as provided in the  
28 ordinance authorizing their issuance.

29 (4)(A) The note or notes shall be payable solely from the revenues  
30 derived from the storm water system and shall not, in any event, constitute an  
31 indebtedness of the municipality within the meaning of the constitutional  
32 provisions or limitations.

33 (B) It shall be plainly stated on the face of each note that the  
34 same has been issued under the provisions of this act and that it does not  
35 constitute an indebtedness of the municipality within any constitutional or  
36 statutory limitations.

1       (5)(A) It shall be no objection to the subsequent issue of any revenue  
2 bonds that a portion of the proceeds received from the sale of the revenue  
3 bonds is to be used to retire the indebtedness permitted by this section.

4       (B) If the proceeds of the bonds are so used, then the improvements  
5 constructed or purchased with the proceeds of the loan authorized by this  
6 section shall be considered to be a portion of improvements constructed or  
7 purchased with the revenue bonds subsequently issued.

8  
9       SECTION 17. Terms, execution, and sale of bonds.

10       (a)(1) Revenue bonds issued under this act shall bear interest at such  
11 rate or rates, payable annually or at shorter intervals, and shall mature at  
12 such time or times as may be determined by ordinance.

13       (2) The bonds may be made redeemable before maturity, at the option of  
14 the municipality, under such terms and conditions as may be fixed by the  
15 ordinance authorizing the issuance of the bonds.

16       (3) The principal and interest of the bonds may be made payable in any  
17 lawful medium.

18       (4) The ordinance or trust indenture shall determine the form of the  
19 bonds, and shall fix the denomination or denominations of the bonds and the  
20 place or places of payment of the principal and interest of them, which may be  
21 at any bank or trust company within or without the state.

22       (5) The bonds shall contain a statement on their face that the  
23 municipality shall not be obligated to pay them or the interest on them except  
24 from the special fund provided from the net revenues of the works.

25       (6) All such bonds shall be, shall have, and are declared to have all  
26 the qualities and incidents of negotiable instruments under the negotiable  
27 instruments laws of the state.

28       (7)(A) The bonds shall be exempt from all taxation, state, county, and  
29 municipal.

30       (B) This exemption shall include income taxation and inheritance  
31 taxation, as well as all forms of property taxation.

32       (b) Bonds shall be executed by the manual or facsimile signatures of the  
33 mayor and city clerk.

34       (c)(1) The bonds shall be sold by the municipality in such a manner as  
35 may be determined to be for the best interests of the municipality and subject  
36 to the approval of the municipal council.

1           (2) Any surplus of bond proceeds over and above the cost of the  
2 works shall be paid into the sinking fund provided for in Section 22.

3           (3) If the proceeds of the bonds, by error or calculation or  
4 otherwise, shall be less than the cost of the works, additional bonds may in  
5 like manner, be issued to provide the amount of the deficit and, unless  
6 otherwise provided in the ordinance authorizing the issuance of the bonds  
7 first issued or in the trust indenture executed in connection with them, shall  
8 be deemed to be the same issue as the antecedent bonds, secured by a lien of  
9 equal rank and in all other respects upon a parity with them.

10           (4) Prior to the preparation of the definitive bonds, temporary  
11 bonds may, under like restrictions, be issued with or without coupons,  
12 exchangeable for definitive bonds upon the issuance of the latter.

13  
14           SECTION 18. Additional bonds authorized.

15           (a) The municipal council may provide by the ordinance authorizing the  
16 issuance of the bonds, or in the trust indenture executed in connection with  
17 it, that additional bonds may thereafter be authorized and issued, at one time  
18 or from time to time, under such limitations and restrictions as may be set  
19 forth in the ordinance or trust indenture, for the purpose of extending,  
20 improving, or bettering the works authorized under this Act when deemed  
21 necessary in the public interest.

22           (b) Unless otherwise provided in the ordinance or in the trust indenture  
23 executed pursuant to it, the additional bonds will be secured and be payable  
24 from the revenues of the works equally with all other bonds issued pursuant to  
25 the ordinance, without preference or distinction between any one (1) bond and  
26 any other bond by reason of priority of issuance or otherwise. However, any  
27 provisions of the ordinance or trust indenture subordinating the lien of  
28 subsequent issues, or otherwise regulating the priorities as between  
29 successive issues, will be controlling.

30  
31           SECTION 19. Issuance of additional bonds. Nothing contained in this Act  
32 shall prevent the issuance of additional bonds, from time to time, if the  
33 bonds shall be authorized by law. However, all such additional bonds shall be  
34 subordinate to bonds issued pursuant to Sections 16 through 18 of this act in  
35 respect to the application of revenues to such additional bonds unless the  
36 additional bonds consist of revenue bonds issued under this act, the issuance

1 of which was expressly authorized in the ordinance or indenture governing  
2 prior bonds of similar character. In this event, the additional bonds and such  
3 prior bonds will have a parity of lien unless the governing ordinance or  
4 indenture shall provide to the contrary.

5  
6 SECTION 20. Securing of bonds by trust indenture.

7 (a)(1) In the discretion of the municipal council, bonds issued under  
8 this act may be secured by a trust indenture by and between the municipality  
9 and a corporate trustee, which may be any domestic or nonresident trust  
10 company or bank having the powers of a trust company.

11 (2) The trust indenture may convey or mortgage the works or any part of  
12 it.

13 (b) The ordinance authorizing the revenue bonds and fixing the details  
14 of it may provide that the trust indenture may contain such provisions for  
15 protecting and enforcing the rights and remedies of the bondholders as may be  
16 reasonable and proper, not in violation of law, including covenants setting  
17 forth the duties of the municipality in relation to the construction or  
18 acquisition of the works and the improvement, operation, repair, maintenance,  
19 and insurance of them, and the custody, safeguarding, and application of all  
20 moneys, and may provide that the works shall be contracted for, constructed,  
21 and paid for under the supervision and approval of consulting engineers  
22 employed or designated by the municipality.

23 (c) The indenture may set forth the rights and remedies of the  
24 bondholders or the trustee, restricting the individual right of action of  
25 bondholders as is customary in trust indentures securing bonds and debentures  
26 of corporations.

27 (d) Except as otherwise provided in this Act, the council may provide by  
28 ordinance, or in the trust indenture, for the payment of the proceeds of sale  
29 of the bonds and the revenues of the works to such officer, board, or  
30 depository as it may determine for the custody of them and for the method of  
31 disbursement of them, with such safeguards and restrictions as it may  
32 determine.

33  
34 SECTION 21. Enforcement of rights by bondholders or trustee.

35 (a)(1) Any holder of any bonds issued under this act, and the trustee,  
36 if any, except to the extent the rights given in this act may be restricted by

1 the ordinance authorizing issuance of the bonds or by the trust indenture, may  
 2 either, at law or in equity, by suit, action, mandamus, or other proceeding,  
 3 protect and enforce any and all rights granted under this act or under the  
 4 ordinance or trust indenture.

5 (2) The trustee may enforce and compel performance of all duties  
 6 required by this Act or by the ordinance or trust indenture to be performed by  
 7 the municipality issuing the bonds, including the making and collecting of  
 8 reasonable and sufficient charges and rates for service rendered by the works.

9 (b) If there is any failure to pay the principal or interest of any of  
 10 the bonds on the date named for payment, any court having jurisdiction of the  
 11 action may appoint a receiver to administer the works on behalf of the  
 12 municipality and the bondholders or trustee, except as so restricted, with  
 13 power to charge and collect, or by mandatory injunction or otherwise, to cause  
 14 to be charged and collected, rates sufficient to provide for the payment of  
 15 the expenses of operation, repair and maintenance and also to pay any bonds  
 16 and interest outstanding and to apply the revenue in conformity with this act  
 17 and the ordinance or trust indenture.

18  
 19 SECTION 22. Sinking fund to pay bonds and interest.

20 (a)(1) At or before the issuance of any bonds under this act, the  
 21 municipality shall, by ordinance, create a sinking fund for the payment of  
 22 bonds and the interest on them and the payment of the charges of banks or  
 23 trust companies for making payment of the bonds or interest and shall set  
 24 aside and pledge a sufficient amount of the net revenues of the works, meaning  
 25 the revenues of the works remaining after the payment of the reasonable  
 26 expense of operation, repair and maintenance.

27 (2)(A) This amount shall be paid by the municipality into the sinking  
 28 fund at intervals to be determined by ordinance prior to issuance of the  
 29 bonds, for:

30 (i) The principal and interest upon the bonds as required by the  
 31 trust indenture;

32 (ii) The necessary fiscal agency charges for paying bonds and  
 33 interest;

34 (iii) A debt service reserve fund.

35 (B) Required payments shall constitute a first charge upon all the net  
 36 revenues of the works.

1       (b)(1) Prior to the issuance of the bonds, the municipality, by  
2 ordinance, may be given the right to use or direct the trustee to use the  
3 sinking fund, or any part of it, in the purchase of any of the outstanding  
4 bonds payable from it at the market price of them but not exceeding the price,  
5 if any, at which they shall, in the same year, be payable or redeemable, and  
6 all bonds redeemed or purchased shall be canceled and shall not again be  
7 issued.

8       (2) After the payments into the sinking fund as required in this  
9 section, the municipality, at any time, in its discretion, may transfer all,  
10 or any part, of the balance of the net revenues after reserving an amount  
11 deemed by the municipality sufficient for operation, repair, and maintenance  
12 for an ensuing period of not less than twelve (12) months and for  
13 depreciation, into the sinking fund or into a fund for extensions,  
14 betterments, and additions to the works.

15  
16       SECTION 23. Allocations of funds from bonds and revenues.

17       (a)(1)(A) Any specified portion of the proceeds of an issue of bonds  
18 authorized under this act may be allocated by the municipal council to any  
19 particular project, or to new construction, as distinguished from the purchase  
20 of works already constructed, or vice versa.

21       (B)(i) After such allocation, the designated portion of the proceeds of  
22 the bond issue shall be kept separate and apart from the remaining proceeds  
23 and shall be held by the municipality in trust for the performance of the  
24 purposes specified, and none other.

25       (ii) The diversion of the funds to any other purpose may be  
26 enjoined on the suit of the trustee under the indenture securing the bonds, or  
27 on the suit of any of the bondholders, or on the suit of any person whose  
28 property, under the ordinance of the council, is to be served by the proposed  
29 works.

30       (2) In making the allocation, the council will be controlled by the  
31 engineer's estimate of cost referred to in the initial ordinance.

32       (b)(1)(A) In the event of such allocation or proceeds, the bonds  
33 themselves may be similarly and correspondingly segregated and allocated to  
34 the respective purposes of the issue.

35       (B) Bonds segregated and allocated to one purpose, from the standpoint  
36 of legality and in all other respects, shall be deemed to have been issued to

1 finance such purpose, and that alone.

2 (2)(A) Notwithstanding such allocation and segregation, all bonds of the  
3 entire issue, unless the initial ordinance and the indenture securing the  
4 bonds shall provide to the contrary, will be secured ratably and equally by  
5 the revenues of the entire and aggregate works financed by the bond issue.

6 (B) Unless the ordinance and indenture shall so specifically provide,  
7 the allocation of bond proceeds or segregation of bonds mentioned will never  
8 have the effect of allocating the revenues from any particular portion of the  
9 authorized works exclusively to any particular bonds.

10  
11 SECTION 24. Rates and charges for services - Lien.

12 (a)(1) The council of the municipality shall have power, and it shall be  
13 its duty, by ordinance to establish and maintain just and equitable rates or  
14 charges for the use of and the service rendered by the works, to be paid by  
15 various classes of users or property served of the storm water drainage system  
16 of the municipality.

17 (2) The council may change and readjust the rates or charges from time  
18 to time to such extent as will not render insecure the rights of the holders  
19 of revenue bonds or violate any sinking fund agreement, or other lawful  
20 agreement, with such bondholders.

21 (b) The rates or charges shall be sufficient in each year for the  
22 payment of the proper and reasonable expense of operation, repair,  
23 replacements, and maintenance of the works and for the payment of the sums  
24 required in this Act to be paid into the sinking fund.

25 (c) Revenues collected pursuant to this section shall be deemed the  
26 revenues of the works.

27 (d)(1)(A) No rates or charges shall be established until after a public  
28 hearing, at which all the users of the works and owners of property served or  
29 to be served by them and others interested shall have opportunity to be heard  
30 concerning the proposed rates or charges.

31 (B) After introduction of the ordinance fixing the rates or charges, and  
32 before the ordinance is finally enacted, notice of the hearing, setting forth  
33 the proposed schedule of the rates or charges, shall be given by one (1)  
34 publication in a newspaper published in the municipality if there is such a  
35 newspaper, but otherwise in a newspaper having general circulation in the  
36 municipality, at least ten (10) days before the date fixed in the notice for

1 the hearing, which may be adjourned from time to time.

2 (2) After the hearing the ordinance establishing rates or charges,  
3 either as originally introduced or as modified and amended, shall be passed  
4 and put into effect.

5 (e) A copy of the schedule of the rates and charges established shall be  
6 kept on file in the office of the city department having charge of the  
7 operation of the works, and also in the office of the municipal clerk or  
8 recorder and shall be open to inspection by all parties interested.

9 (f)(1) The rates or charges so established for any class of users or  
10 property served shall be extended to cover any additional premises thereafter  
11 served which fall within the same class, without the necessity of any hearing  
12 or notice.

13 (2)(A) Any change or readjustment of the rates or charges may be made in  
14 the same manner as the rates or charges were originally established as  
15 provided in this section.

16 (B) If the change or readjustment is made substantially pro rata as to  
17 all classes of service, no hearing or notice shall be required.

18 (g) The aggregate of the rates or charges shall always be sufficient for  
19 the expense of operation, repair and maintenance and for the sinking fund  
20 payments.

21 (h) All such rates or charges if not paid when due shall constitute a  
22 lien upon the premises served by such works; said charges to constitute a lien  
23 upon the fee title to the land and permanent improvements, even though the  
24 occupant receiving the benefit of the service for which the rate or charge is  
25 due has merely a leasehold interest (or other lesser state) in the premises.

26 (i) If any service rate or charge established shall not be paid within  
27 thirty (30) days after it is due, the amount of it, together with a penalty of  
28 ten percent (10%) and a reasonable attorney's fee, may be recovered by the  
29 municipality in a chancery suit, filed in the chancery court of the county  
30 where the works, or the greater part of them, shall be located, in the name of  
31 the municipality or in the name of the trustee under the indenture securing  
32 the revenue bonds, or in the name of the bondholders, to such extent as their  
33 right to sue in their own name may be permitted under the trust indenture.

34  
35 SECTION 25. Service payments by municipalities.

36 (a) A municipality shall be subject to the same charges and rates



1 established as provided in Section 24, or to charges and rates established in  
2 harmony with them, for service rendered the municipality and shall pay the  
3 rates or charges when due from corporate funds.

4 (b) The payments shall be deemed to be a part of the revenues of the  
5 works as defined in this act and shall be applied as provided in this act for  
6 the application of such revenues.

7  
8 SECTION 26. Powers in addition to other municipal powers. The powers  
9 conferred by this Act are in addition and supplemental to the powers conferred  
10 by any other law.

11  
12 SECTION 27. Permit conditions for discharges. Municipalities shall  
13 provide discharge limits for storm water discharges associated with industrial  
14 activities that are consistent with any permits issued pursuant to the  
15 National Pollution Discharge Elimination System (NPDES), unless the  
16 municipality is not in compliance with applicable provisions of the NPDES  
17 permits issued to them for storm water, at which time the municipality can  
18 request more restrictive discharge limits from Arkansas Department of  
19 Environmental Quality.

20  
21 SECTION 28. Water quality regulation authority not limited by this Act.  
22 Nothing herein shall be construed to limit the power or authority of the  
23 Arkansas Department of Environmental Quality and the Arkansas Pollution  
24 Control and Ecology Commission with respect to regulation of the waters of  
25 Arkansas.

26  
27 SECTION 29. The provisions of this act shall apply only to  
28 municipalities with a population of one hundred thousand (100,000) or more  
29 that are required to comply with Environmental Protection Agency storm water  
30 discharge limits.

31  
32 SECTION 30. All provisions of this Act of a general and permanent nature  
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
34 Revision Commission shall incorporate the same in the Code.

35  
36 SECTION 31. 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 32. All laws and parts of law in conflict with this Act are  
7 hereby repealed.

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