

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 2339

5 By: Representative Thyer
6 By: Senator B. Johnson
7
8

For An Act To Be Entitled

10 AN ACT AUTHORIZING THE ARKANSAS NATURAL RESOURCES
11 COMMISSION TO ISSUE GENERAL OBLIGATION BONDS TO
12 FINANCE AND REFINANCE THE DEVELOPMENT OF WATER,
13 WASTE DISPOSAL, POLLUTION CONTROL, ABATEMENT AND
14 PREVENTION, DRAINAGE, IRRIGATION, FLOOD CONTROL,
15 AND WETLANDS AND AQUATIC RESOURCES PROJECTS TO
16 SERVE THE CITIZENS OF THE STATE OF ARKANSAS, IN
17 TOTAL PRINCIPAL AMOUNT NOT TO EXCEED THREE
18 HUNDRED MILLION DOLLARS (\$300,000,000) WITH NO
19 MORE THAN ONE HUNDRED MILLION DOLLARS
20 (\$100,000,000) OF THE GENERAL OBLIGATION BONDS TO
21 BE ISSUED TO FINANCE AND REFINANCE THE
22 DEVELOPMENT OF IRRIGATION FACILITIES, IN SERIES
23 FROM TIME TO TIME IN PRINCIPAL AMOUNTS NOT TO
24 EXCEED, WITHOUT PRIOR APPROVAL OF THE GENERAL
25 ASSEMBLY, SIXTY MILLION DOLLARS (\$60,000,000) IN
26 ANY FISCAL BIENNIUM; SUBMITTING THE QUESTION OF
27 ISSUANCE OF BONDS AT THE 2008 GENERAL ELECTION OR
28 A SPECIAL ELECTION CALLED FOR THAT PURPOSE;
29 PRESCRIBING OTHER MATTERS RELATING THERETO; AND
30 FOR OTHER PURPOSES.

Subtitle

31
32 TO AUTHORIZE THE ARKANSAS NATURAL
33 RESOURCES COMMISSION TO ISSUE GENERAL
34 OBLIGATION BONDS FOR THE DEVELOPMENT OF
35 WATER, WASTE DISPOSAL, POLLUTION
36



CONTROL, ABATEMENT AND PREVENTION, AND
OTHER PURPOSES.

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

SECTION 1. Arkansas Code Title 15, Chapter 20, is amended to add an
additional subchapter as follows:

15-20-1201. Title.

This subchapter shall be known and may be cited as the "Arkansas Water,
Waste Disposal, and Pollution Abatement Facilities Financing Act of 2007".

15-20-1202. Definitions.

As used in this subchapter:

(1) "Aquatic resources" means ecological functions, services,
and values provided by the waters of the United States that are subject to
compensatory mitigation pursuant to Department of the Army permits under
Section 404 of the Clean Water Act and Sections 9 and 10 of the Rivers and
Harbors Act, or other federal law requiring mitigation;

(2) "Bonds" means any bonds, notes, interim certificates, or
other evidences of indebtedness;

(3) "Debt service" means principal, interest, redemption
premiums, if any, and trustee's fees, paying agent's fees, dissemination
agent's fees, and like servicing fees relative to a bond;

(4) "Develop" means to plan, design, construct, acquire by
purchase or by eminent domain, own, operate, rehabilitate, lease as lessor or
lessee, enter into lease-purchase agreements with respect to, lend, make
grants in respect of, or install or equip any lands, buildings, improvements,
machinery, equipment, or other properties of whatever nature, real, personal,
or mixed;

(5) "Drainage" means the removal or diversion of water from
lands through natural or artificial means;

(6) "Federal Deposit Insurance Corporation" means the Federal
Deposit Insurance Corporation or its successor that insures commercial banks;

(7) "Flood control" means:

(A) Drainage, levee, and flood prevention improvements for

1 protection from water-induced damages;

2 (B) Adjustments in land use and facilities designed to
 3 reduce flood damage from overflow or backwater due to major storms; and

4 (C) Facilities designed to collect, contain, or convey
 5 water within natural watercourses or other waterways;

6 (8) "General revenues of the state" means the revenues described
 7 and enumerated in § 19-6-201 of the Revenue Classification Law of Arkansas, §
 8 19-6-101 et seq., or in any successor law;

9 (9) "Irrigation" means the production or transportation of water
 10 for agricultural uses through artificial or natural conveyances for watering
 11 of crops or other agricultural products;

12 (10) "Local entity" means any nonprofit corporation or any
 13 county, municipality, conservation district, improvement district, drainage
 14 district, irrigation district, levee district, regional water distribution
 15 district, public facilities board, public water authority, rural development
 16 authority, solid waste authority, regional wastewater treatment district,
 17 regional solid waste management district, rural water association, or school
 18 district in the state or any agency or instrumentality of any of the
 19 foregoing, or any agency or instrumentality of the state, including the
 20 Arkansas Natural Resources Commission;

21 (11) "Nationally recognized rating agency" means Moody's
 22 Investors Service, Inc., Standard & Poor's, Fitch Ratings, or any other
 23 nationally recognized rating agency approved by the State Investing Office;

24 (12) "Person" means any local entity or any individual,
 25 corporation, trust, limited liability company, or partnership;

26 (13) "Pollution abatement" means the reduction, prevention,
 27 recycling, control, or elimination by appropriate methods of contamination or
 28 pollution, or other alteration of the physical, chemical, or biological
 29 properties, of any land or waters of the state, or of such discharge of any
 30 liquid, gaseous, or solid substance as will or is likely to create a nuisance
 31 or render any land or waters of the state harmful or detrimental or injurious
 32 to public health, safety, or the welfare of individuals, to domestic,
 33 commercial, industrial, agricultural, recreational, or other legitimate
 34 beneficial uses, or to livestock, wild animals, birds, fish or other aquatic
 35 life;

36 (14) "Prior Act" means Acts 1997, No. 607, as now or hereafter

1 amended;

2 (15) "Program" means the water, waste disposal, and pollution
3 abatement facilities development program of the Arkansas Natural Resources
4 Commission under which the commission will fund loans or grants to local
5 entities or persons;

6 (16)(A) "Project" or "projects" means any lands, buildings,
7 improvements, machinery, equipment, or other property, real, personal, or
8 mixed, or any combination thereof and programs using such property, developed
9 in pursuance of the purposes of this subchapter, including without
10 limitation:

11 (i) The production, impoundment, treatment, and
12 transportation of water;

13 (ii) The collection, treatment, and disposition of
14 waste;

15 (iii) Pollution abatement programs;

16 (iv) Drainage or flood control facilities;

17 (v) Irrigation facilities; and

18 (vi) The preservation and development of wetlands
19 and aquatic resources.

20 (B) "Project" or "projects" includes projects for:

21 (i) Agricultural, administrative, research,
22 residential, recreational, commercial, or industrial purposes;

23 (ii) The use and benefit of local entities, the
24 commission, and other persons; and

25 (iii) Facilities and improvements that are
26 necessary, ancillary, or related to a project;

27 (17) "Project costs" means all or any part of the administrative
28 costs of the commission in connection with the program and the costs of
29 developing any project, costs incidental or appropriate thereto, including
30 without limitation all costs to the commission associated with the
31 development or operation of any project in a supervisory capacity, and costs
32 incidental or appropriate to the financing thereof, including without
33 limitation capitalized interest, costs of issuance of and appropriate
34 reserves for the bonds, loan or commitment fees, loan or grant administration
35 fees, and costs for engineering, legal, and other administrative and
36 consultant services;

1 (18) "State Investing Office" means the Treasurer of State for
2 the investment of any funds established on the books of the State Treasury,
3 and the commission for the investment of any funds held outside the State
4 Treasury;

5 (19) "Water" means any waters of the state, including surface
6 water and ground water;

7 (20) "Waste" means a liquid or solid produced as an undesirable
8 by-product of any activity; and

9 (21) "Wetlands" means land that:

10 (A) Has a predominance of hydric soils;

11 (B) Is inundated or saturated by surface water or ground
12 water at a frequency and duration sufficient to support a prevalence of
13 hydrophytic vegetation typically adapted for life in saturated soil
14 conditions; and

15 (C) Under normal circumstances supports a prevalence of
16 the vegetation.

17
18 15-20-1203. Authority to issue bonds.

19 (a)(1) The Arkansas Natural Resources Commission is hereby authorized
20 to issue bonds of the State of Arkansas to be known as State of Arkansas
21 Water, Waste Disposal, and Pollution Abatement Facilities General Obligation
22 bonds, in total principal amount not to exceed three hundred million dollars
23 (\$300,000,000), for the purposes of this subsection.

24 (2) However, no more than one hundred million dollars
25 (\$100,000,000) of bonds shall be issued to finance projects for irrigation
26 facilities.

27 (3) The bonds may be issued in one (1) or more series as
28 required under this subchapter.

29 (b) Unless the General Assembly authorizes a greater principal amount
30 to be issued during a fiscal biennium, the total principal amount of bonds to
31 be issued during any fiscal biennium shall not exceed sixty million dollars
32 (\$60,000,000).

33 (c)(1) Before any bonds may be issued during a fiscal biennium, the
34 commission shall submit to the Governor a written plan:

35 (A) Setting forth criteria to be used by the commission in
36 choosing the projects to be financed with the proceeds derived from the sale

1 of the bonds, or the programs for which funds may be provided by the
 2 commission to finance projects, or both; and

3 (B) Requesting authorization for the projected maximum
 4 principal amount of bonds required to be issued in the fiscal biennium.

5 (2) Upon receipt of the written plan, the Governor shall:

6 (A) Confer with the Chief Fiscal Officer of the State
 7 concerning whether the annual amount of general revenue funds required to be
 8 set aside from the General Revenues of the State under the Revenue
 9 Stabilization Law of Arkansas, § 19-5-101 et seq., for payment of debt
 10 service requirements in connection with the bonds during either year of the
 11 fiscal biennium in which the bonds are to be issued would require moneys from
 12 the General Revenues of the State that would work undue hardship upon any
 13 agency or program supported from the General Revenues of the State under the
 14 provisions of the Revenue Stabilization Law of Arkansas, § 19-5-101 et seq.;
 15 and

16 (B) Upon compliance with subdivision (c)(2)(A) of this
 17 section, obtain the advice of:

18 (i) The Joint Budget Committee if the General
 19 Assembly is in session; or

20 (ii) The Legislative Council if the General Assembly
 21 is not in session.

22 (d)(1) If the Governor deems it to be in the public interest, he or
 23 she by proclamation shall authorize the commission to proceed with the
 24 issuance of the bonds in one (1) or more series up to the maximum principal
 25 amount for the fiscal biennium approved by the Governor.

26 (2)(A) If the Governor refuses to give his or her approval for
 27 the issuance of the bonds by declining to issue a proclamation approving the
 28 issuance, he or she shall promptly notify the commission in writing and the
 29 bonds shall not be issued.

30 (B) The commission may resubmit a request to the Governor
 31 for the approval of the issuance of the bonds.

32 (C) The issue as resubmitted to the Governor shall be
 33 dealt with in the same manner as provided for the initial request for
 34 authority to issue the bonds.

35
 36 15-20-1204. Terms and characteristics of bonds.

1 (a) The bonds shall be issued in series in amounts sufficient to
 2 finance or refinance all or any part of project costs with the respective
 3 series to be designated in alphabetical order, by the year in which issued,
 4 or both.

5 (b)(1) Each series of bonds shall have the date as the Arkansas
 6 Natural Resources Commission determines and shall mature or be subject to
 7 mandatory sinking fund redemption as determined by the commission, over a
 8 period ending not later than thirty-five (35) years after the date of the
 9 bonds of each series.

10 (2) Pending the issuance of bonds under this subchapter, the
 11 commission may issue temporary notes maturing not more than five (5) years
 12 from the date of issuance to be exchanged for or paid from the proceeds of
 13 bonds when the bonds are issued.

14 (c)(1) Each series of bonds shall bear interest whether or not subject
 15 to federal income taxation at the rate or rates accepted by the commission.

16 (2) Interest shall be payable at such times as the commission
 17 shall determine.

18 (d) The Commission shall determine:

19 (1) The form of the bonds;

20 (2) The denomination of the bonds;

21 (3) Whether the bonds may be exchanged for bonds of another form
 22 or denomination bearing the same rate of interest and date of maturity;

23 (4) Whether the bonds may be payable within or without the
 24 state;

25 (5) Whether the bonds may be subject to redemption prior to
 26 maturity, including:

27 (A) The manner of redemption; and

28 (B) The redemption prices; and

29 (6) Any other terms and conditions of the bonds.

30 (e) The bonds shall have all the qualities of negotiable instruments
 31 or securities under the laws of the state, subject to the provision for
 32 registration of ownership.

33
 34 15-20-1205. Purpose of bonds.

35 Bonds issued under this subchapter shall be issued to finance on a
 36 temporary or permanent basis or to refinance and develop one (1) or more

1 projects, and the proceeds of the bonds shall be applied to the payment of
 2 project costs and the costs and expenses of issuance of the bonds, or in
 3 connection with a project refinancing, the repayment of indebtedness incurred
 4 to pay project costs, or for refunding of bonds as provided in § 15-20-1213.

5
 6 15-20-1206. Resolutions and trust indentures.

7 (a)(1) The bonds shall be authorized by resolution of the Arkansas
 8 Natural Resources Commission.

9 (2) Each resolution shall contain the terms, covenants, and
 10 conditions deemed desirable for the bonds, including without limitation
 11 conditions pertaining to:

12 (A) The establishment and maintenance of funds and
 13 accounts;

14 (B) The deposit and investment of revenues and of bond
 15 proceeds; and

16 (C) The rights and obligations of the state, its officers
 17 and officials, the commission, and the registered owners of the bonds.

18 (3) The resolution of the commission may provide for the
 19 execution and delivery by the commission of one (1) or more trust indentures
 20 with one (1) or more banks or trust companies located within or without the
 21 state, containing any of the terms, covenants, and conditions stated in
 22 subdivision (a)(2) of this section.

23 (4) A trust indenture shall be binding upon the state and its
 24 agencies, officers, and officials to the extent set forth in this subchapter.

25 (b) Any resolution or trust indenture adopted or executed under this
 26 section shall provide that power is reserved to:

27 (1) Apply to the payment of debt service on the bonds issued or
 28 secured under all or any part of the revenues that may be derived from any
 29 project financed by the bonds or financed by the commission in some other
 30 manner; and

31 (2) To the extent of revenues that the commission elects to
 32 apply to debt service, to release from any requirement of the resolution or
 33 trust indenture other revenues and resources of the state, including without
 34 limitation the General Revenues of the State required to be transferred under
 35 § 15-20-1211.

36

15-20-1207. Form of bond – Signatures.

(a) Each bond shall:

(1) Be signed with the manual or facsimile signatures of the Governor, the Chairman of the Arkansas Natural Resources Commission, and the Treasurer of State; and

(2) Have affixed, imprinted, or lithographed on the bond the Great Seal of the State of Arkansas.

(b) Interest coupons attached to the bonds, if any, shall be signed with the facsimile signature of the Treasurer of State.

(c) Delivery of the bonds and coupons so executed shall be valid notwithstanding any change in persons holding such offices occurring after the bonds have been executed.

15-20-1208. Sale of bonds.

(a) The bonds may be sold:

(1) Either at public or private sale in a manner and upon such terms as the Arkansas Natural Resources Commission determines to be reasonable and expedient for the purposes for which the commission was created; and

(2) At the price the commission determines acceptable, including sale at a discount.

(b) The commission may employ administrative agents, fiscal agents, underwriters, architects, accountants, engineers, and legal counsel and may pay them reasonable compensation from the proceeds of the bonds.

(c) The fees of any trustee or paying agent as well as the costs of publication of notices and of printing of the bonds, official statements, and other documents relating to the sale of the bonds, the fees of any rating agency, and other reasonable costs of issuing and selling the bonds incurred by the commission may be paid from the proceeds of the bonds.

15-20-1209. Proceeds of bonds.

(a) The proceeds from the sale of the bonds, together with all revenues derived by the Arkansas Natural Resources Commission from any project financed or refinanced under this subchapter and appropriated, allocated, or otherwise set aside by the commission for the payment of the bonds and from any other project and appropriated, allocated, or otherwise

1 set aside by the commission for the payment of the bonds, shall be deposited
 2 by the recipient thereof, as received, into trust funds either established in
 3 the State Treasury, or into accounts established outside the State Treasury
 4 in the name of the commission, to accomplish the purposes of this subchapter,
 5 in amounts or portions as set forth in the resolution or trust indenture
 6 authorizing or securing the bonds issued to finance or refinance the
 7 development of projects.

8 (b)(1) There is established as a trust fund in the State Treasury an
 9 account designated as the Water, Waste Disposal, and Pollution Abatement
 10 Facilities Financing Act of 2007 Bond Fund that is being created to provide
 11 for payment of all or a part of the debt service in connection with bonds
 12 issued under this subchapter.

13 (2)(A) The Treasurer of State shall establish separate accounts
 14 and subaccounts within the fund to correspond to the applicable series of
 15 bonds.

16 (B) In addition, there may be created in the State
 17 Treasury such other funds, accounts, or subaccounts as the commission may
 18 determine to be necessary to accomplish the purposes of this subchapter.

19 (c)(1) All procedures and methods for the application of proceeds of
 20 any series of bonds to the financing or refinancing of project costs shall be
 21 set forth in writing.

22 (2) The writings shall be maintained as a part of the records of
 23 the commission.

24 (3) The procedures and methods may include without limitation:

25 (1) Development of projects to be owned, operated, and
 26 maintained by the commission;

27 (2) Grants to local entities and the commission;

28 (3) Loans to local entities or persons or the purchase of
 29 bonds or other general or special obligation debt of local entities;

30 (4) Development of projects to be leased to or operated by
 31 local entities;

32 (5) Development of projects to be purchased at one (1)
 33 time or by installment purchase by local entities;

34 (6) Establishment of funds including revolving funds for
 35 the lending of money to persons to be repaid into the funds for the
 36 development of projects;

1 (7) Matching of proceeds of bonds with moneys provided by
 2 local entity or other persons;

3 (8) Matching of moneys provided pursuant to other laws,
 4 including § 15-22-501 et seq.; the Arkansas Water Resources Cost Share
 5 Finance Act, § 15-22-801 et seq.; § 14-230-101 et seq.; and § 15-22-1101 et
 6 seq.; and

7 (9) Establishment of funds to refund or refinance bonds
 8 issued under this subchapter, bonds issued under the Prior Act, and the bonds
 9 or other debt of local entities that were incurred for the purpose of paying
 10 project costs.

11 (d) Any arrangements undertaken pursuant to subsection (c) of this
 12 section whereby a local entity will administer funds composed in whole or in
 13 part of proceeds of bonds shall include provision for the auditing no less
 14 than annually of the funds.

15 (e) The proceeds from the sale of the bonds, together with all
 16 revenues derived by the commission from any project financed or refinanced
 17 under this subchapter or from any other project that are appropriated,
 18 allocated, or otherwise set aside by the commission for the payment of the
 19 bonds, may be invested and reinvested by the State Investing Office in any of
 20 the following:

21 (1) Direct obligations of the United States of America,
 22 including obligations issued or held in book-entry form on the books of the
 23 Department of the Treasury or obligations that are unconditionally guaranteed
 24 as to principal and interest by the United States of America;

25 (2) Bonds, debentures, notes, or other evidences of indebtedness
 26 issued or guaranteed by any agencies of the United States government that are
 27 backed by the full faith and credit of the United States of America;

28 (3) Senior debt obligations issued or guaranteed by agencies of
 29 the United States government that are non-full faith and credit agencies;

30 (4) Money market funds investing exclusively in the investments
 31 described in subdivision (e)(1), (2), or (3) of this section;

32 (5) Certificates of deposit providing for deposits secured at
 33 all times by collateral described in subdivisions (e)(1), (2), or (3) of this
 34 section if:

35 (A) The certificates of deposit are issued by commercial
 36 banks whose deposits are insured by the Federal Deposit Insurance Corporation

1 and whose collateral is held by a third party; and

2 (B) The State Investing Office or its assigns have a
3 perfected first security interest in the collateral;

4 (6) Certificates of deposit, savings accounts, deposit accounts
5 or money market deposits, all of which are fully insured by the Federal
6 Deposit Insurance Corporation;

7 (7) Bonds or notes issued by the state or any municipality,
8 county, or school district, community college district, or regional solid
9 waste management district in the state or any agency or instrumentality of
10 the state;

11 (8) Investment agreements with financial institutions or
12 insurance companies which are rated in one (1) of the two (2) highest rating
13 categories of a nationally recognized rating agency;

14 (9) Repurchase agreements providing for the transfer of
15 securities from a dealer bank or securities firm to the State Investing
16 Office and the transfer of cash from the State Investing Office to the dealer
17 bank or securities firm with an agreement that the dealer bank or securities
18 firm will repay the cash plus a yield to the State Investing Office in
19 exchange for the securities at a specified date if the repurchase agreements
20 satisfy the following criteria:

21 (A) Repurchase agreements must be between the State
22 Investing Office and a dealer bank or securities firm described as follows:

23 (i) Dealers with at least one hundred million
24 dollars (\$100,000,000) in capital; or

25 (ii) Banks whose deposits are insured by the Federal
26 Deposit Insurance Corporation; and

27 (B) The written repurchase agreement contract must include
28 the following:

29 (i) Securities that are acceptable for transfer are
30 those listed in subdivision (e)(1),(2), or (3) of this section;

31 (ii) The term of the repurchase agreement may be up
32 to thirty (30) days;

33 (iii) The collateral must be delivered to the State
34 Investing Office, trustee if the trustee is not supplying the collateral, or
35 to a third party acting as agent for the trustee if the trustee is supplying
36 the collateral, before or at the time of the payment and perfection by

1 possession of certificated securities; and

2 (iv)(a) The securities must be valued weekly,
 3 market-to-market at current market price plus accrued interest.

4 (b) The value of collateral must be equal to
 5 one hundred three percent (103%) of the amount of cash transferred by the
 6 State Investing Office to the dealer bank or security firm under the
 7 repurchase agreement plus accrued interest.

8 (c) If the value of securities held as
 9 collateral declines below one hundred and three percent (103%) of the value
 10 of the cash transferred by the State Investing Office, then additional cash,
 11 acceptable securities, or a combination of cash and securities must be
 12 transferred and held by the State Investing Office; and

13 (10) Any other investment authorized by state law.

14
 15 15-20-1210. Full faith and credit of state pledged to repay bonds.

16 The bonds shall be the direct general obligations of the state for the
 17 payment of debt service on which the full faith and credit of the state are
 18 irrevocably pledged so long as any such bonds are outstanding. The bonds
 19 shall be payable from the general revenues of the state, and the amount of
 20 general revenues of the state as is necessary is and shall remain pledged to
 21 the payment of debt service on the bonds.

22
 23 15-20-1211. Payment of debt service on the bonds.

24 (a)(1) On or before the commencement of each fiscal year, the Chief
 25 Fiscal Officer of the State shall determine the estimated amount required for
 26 payment of all or a part of the debt service on the bonds issued under this
 27 subchapter during the fiscal year and deduct from the estimated moneys to be
 28 available to the Arkansas Natural Resources Commission from other sources to
 29 determine what amount of general revenues of the state will be required.

30 (2) The Chief Fiscal Officer of the State shall certify the
 31 estimated amount to the Treasurer of State.

32 (3) The Treasurer of State shall then make monthly transfers
 33 from the State Apportionment Fund to the Bond Fund of the amount of general
 34 revenues of the state required to pay the maturing debt service on bonds
 35 issued under this subchapter.

36 (b)(1) The obligation to make monthly transfers of general revenues of

1 the state from the State Apportionment Fund to the Bond Fund shall constitute
 2 a first charge against the general revenues of the state prior to all other
 3 uses to which the general revenues of the state are devoted, either under
 4 present law or under any laws that may be enacted in the future.

5 (2) However, to the extent other general obligation bonds of the
 6 state have been issued or may subsequently be issued, all general obligation
 7 bonds shall rank on a parity of security with respect to payment from general
 8 revenues of the state.

9 (c) Moneys credited to the Bond Fund shall be used only to pay debt
 10 service on the bonds, either at maturity or upon redemption prior to
 11 maturity, and for such purposes the Treasurer of State is designated
 12 Disbursing Officer to administer such funds in accordance with this
 13 subchapter.

14 (d) Moneys in the Bond Fund over and above the amount necessary to
 15 insure the prompt payment of debt service on the bonds, and the establishment
 16 and maintenance of a reserve fund, if any, may be used for the redemption of
 17 bonds prior to maturity under the provisions pertaining to redemption prior
 18 to maturity, as set forth in the resolution or trust indenture authorizing or
 19 securing the bonds.

20
 21 15-20-1212. Bonds exempt from state, county, and municipal taxes.

22 Bonds and the interest on the bonds issued under this subchapter are
 23 exempt from state, county, and municipal taxes, including income taxes,
 24 inheritance taxes, and property taxes. The bonds shall be eligible to secure
 25 deposits of all public funds and shall be legal for investment of bank funds,
 26 fiduciary funds, insurance company funds, trust funds, and public funds.

27
 28 15-20-1213. Refunding bonds.

29 (a)(1) Bonds may be issued under this subchapter to refund any
 30 outstanding bonds issued under this subchapter or to refund any outstanding
 31 bonds of the Arkansas Natural Resources Commission issued pursuant to the
 32 Prior Act.

33 (2) Bonds issued under this section:

34 (A) Do not require the commission to submit a written plan
 35 to the Governor under § 15-20-1203(c); and

36 (B) Are not subject to the requirements for the approval

1 and proclamation of the Governor under § 15-20-1203(d).

2 (b)(1) The refunding bonds may be either sold for cash or delivered in
 3 exchange for the outstanding obligations.

4 (2) If sold for cash, the proceeds may be applied to the payment
 5 of the obligations refunded or may be deposited in irrevocable trust for the
 6 retirement of the outstanding obligations either at maturity or on an
 7 authorized redemption date.

8 (c)(1) Refunding bonds shall in all respects be authorized, issued,
 9 and secured as provided for the bonds being refunded and shall have all the
 10 attributes of the refunded bonds.

11 (2) To the extent that the refunding bonds are not in a greater
 12 principal amount than the outstanding principal amount of the bonds being
 13 refunded, the principal amount of the refunding bonds shall not be subject to
 14 the limit of three hundred million dollar (\$300,000,000) set forth in § 15-
 15 20-1203(a) or the limit of sixty million dollar (\$60,000,000) set forth in §
 16 15-20-1203(b).

17 (d) The resolution or trust indenture under which the refunding bonds
 18 are issued shall provide that any refunding bonds shall have the same
 19 priority of payment as the obligations refunded.

20
 21 15-20-1214. Additional powers of the Arkansas Natural Resources
 22 Commission.

23 In addition to powers conferred under other laws, the Arkansas Natural
 24 Resources Commission may take appropriate action to carry out the purposes of
 25 this subchapter, including the power to:

- 26 (1) Develop projects;
- 27 (2) Operate and maintain projects;
- 28 (3) Acquire absolute title to and use for any purpose and at any
 29 place, water stored in any reservoir or other impoundment;
- 30 (4) Acquire, collect, impound, store, transport, distribute,
 31 sell, furnish, and dispose of water to any person at any place;
- 32 (5) Purify, treat, and process water;
- 33 (6) Assist local entities in the preparation of their premises
 34 for the use of water furnished by the commission and to construct upon their
 35 premises project properties of any kind and in connection therewith to
 36 receive, acquire, endorse, pledge, hypothecate, and dispose of notes, bonds,

1 and other evidences of indebtedness;

2 (7) Use the bed of any watercourse without adversely affecting
3 existing riparian rights, any highway or any right-of-way, easement or other
4 similar property rights, or any tax forfeited land owned or held by the state
5 or by any political subdivision of the state;

6 (8) Provide loans and grants from bond proceeds or project
7 revenues to local entities and to authorize local entities to make loans to
8 other persons for payment of project costs in order for the local entity
9 receiving the funds to develop a project;

10 (9) Purchase with bonds proceeds or project revenues bonds or
11 notes from a local entity in order to provide funds for payment of project
12 costs in order for the local entity receiving the funds to develop a project
13 and to enter into note and bond purchase agreements in connection therewith;

14 (10) Appropriate amounts from bond proceeds to satisfy state
15 matching requirements for federal grants, subsidies, and revolving loan funds
16 established by the Congress of the United States for the purpose of
17 facilitating water, waste disposal, pollution control, abatement and
18 prevention, drainage, irrigation, flood control, and wetlands and aquatic
19 resources projects;

20 (11) Appropriate amounts from bond proceeds for the matching of
21 moneys provided pursuant to other laws, including without limitation, § 15-
22 22-501 et seq., the Arkansas Water Resources Cost Share Finance Act, § 15-22-
23 801 et seq., § 14-230-101 et seq., § 15-22-1101 et seq., and § 15-5-901 et
24 seq.;

25 (12) Construct or cause to be constructed, lease as lessee,
26 lease as lessor, and in any manner acquire, own, hold, maintain, operate,
27 sell, dispose of, exchange, mortgage, or lend with respect to all or any part
28 of any project;

29 (13) Acquire, own, hold, use, exercise, sell, mortgage, pledge,
30 hypothecate, and in any manner to dispose of franchises, rights, privileges,
31 licenses, rights-of-way, and easements necessary, useful, or appropriate for
32 the exercise of the powers or implementation of the purposes set forth in
33 this subchapter;

34 (14) Sell and convey, mortgage, pledge, lease as lessor, enter
35 into lease-purchase agreements with respect to, and otherwise dispose of all
36 or any part of any project or other properties, tangible or intangible,

1 including without limitation franchises, rights, privileges, licenses,
2 rights-of-way, and easements;

3 (15) Have and exercise the right of eminent domain for the
4 purpose of acquiring the fee title, an easement, a right-of-way, or any other
5 interest or estate in lands for projects or portions of projects, by the
6 procedure now provided for condemnation by municipal corporations, § 18-15-
7 401 et seq.;

8 (16) Make or accept gifts or grants of moneys, services,
9 franchises, rights, privileges, licenses, rights-of-way, easements, or other
10 property, real or personal or mixed;

11 (17) Make any contract necessary or convenient for the exercise
12 of the powers or implementation of the purposes of this subchapter;

13 (18) Fix, regulate, and collect rates, fees, rents, or other
14 charges for making any loan or commitment under this subchapter, for
15 performing accounting and loan servicing duties relating to such loans and
16 for the use of any properties or services furnished by the commission, and
17 with respect thereto the commission shall not be subject to the jurisdiction
18 or control of the Arkansas Public Service Commission;

19 (19) Require audits of all accounts related to construction,
20 operation, or maintenance of any project funded by this subchapter;

21 (20) Take reasonable actions necessary to ensure that debt
22 service requirements are met;

23 (21) Refinance loans made by the commission from whatever source
24 to local entities in order to develop a project;

25 (22) Provide loans from bond proceeds or project revenues to
26 local entities to refinance indebtedness of the local entity incurred to
27 develop a project;

28 (23) Procure insurance, letters of credit, or other credit
29 enhancement for the bonds;

30 (24) Administer the program;

31 (25) Purchase with bond proceeds or project revenues bonds or
32 notes from a local entity in order to provide funds to refinance indebtedness
33 incurred by a local entity to develop a project; and

34 (26) Take any other action appropriate to accomplish the
35 purposes of this subchapter.

36

1 15-20-1215. No impairment of bond obligations.

2 (a) This subchapter constitutes a contract between the state and the
3 registered owners of all bonds issued under this subchapter.

4 (b) The contract shall never be impaired, and any violation of its
5 terms whether under purported legislative authority or otherwise shall be
6 enjoined by the courts at the suit of any bondholder or any taxpayer.

7 (c) In like suit against the Arkansas Natural Resources Commission,
8 the Treasurer of State, or other appropriate agency, officer, or official of
9 the state, the courts shall prevent a diversion of any revenues pledged
10 hereunder and shall compel the restoration of diverted revenues by injunction
11 or mandamus.

12 (d) Without limiting any other appropriate remedy at law or in equity,
13 a bondholder may by an appropriate action including without limitation
14 injunction or mandamus compel the performance of all covenants and
15 obligations of the state, its officers and officials, under this subchapter.

16
17 15-20-1216. No obligations until bonds issued.

18 This subchapter shall not create any right of any character unless the
19 first series of bonds authorized by this subchapter has been sold and
20 delivered.

21
22 15-20-1217. No impairment of outstanding bonds.

23 The issuance of bonds authorized by this subchapter shall not impair or
24 affect any outstanding bonds of the Arkansas Natural Resources Commission
25 issued pursuant to the Prior Act.

26
27 12-20-1218. Election.

28 (a)(1) Bonds shall not be issued under this subchapter except with the
29 consent of a majority of the qualified electors of the state voting on the
30 question in substantially the form described in this section at the 2008
31 General Election unless the Governor, by proclamation, calls a special
32 election before the 2008 General Election.

33 (2) If the question is presented at the 2008 General Election,
34 notice thereof shall be published by the Secretary of State by one (1)
35 insertion in a newspaper of general circulation in the state at least sixty
36 (60) days prior to the general election, and notice thereof shall be mailed

1 to each county board of election commissioners and the sheriff of each county
 2 at least sixty (60) days prior to the general election.

3 (3) If a special election is called by the Governor, the
 4 proclamation of the special election shall be made at least sixty (60) days
 5 prior to the date fixed by the proclamation for the election, and notice of
 6 the special election shall be given by publication of the proclamation for
 7 one (1) insertion in one (1) newspaper of general circulation published in
 8 each county in the state not less than thirty (30) days prior to the date of
 9 the special election.

10 (4) If there is no newspaper regularly published in a county,
 11 the proclamation may be published in any newspaper having a general
 12 circulation in the county.

13 (b) In the case of the notice or proclamation for the election, it
 14 shall not be necessary to publish this subchapter in its entirety, but the
 15 notice or proclamation shall state that it is issued to submit to the people
 16 substantially the following question:

17 "Shall the Arkansas Natural Resources Commission be authorized to issue
 18 General Obligation bonds under the authority of the Arkansas Water, Waste
 19 Disposal and Pollution Abatement Facilities Financing Act of 2007, for the
 20 financing and refinancing of the development of water, waste disposal, water
 21 pollution control, abatement and prevention, drainage, irrigation, flood
 22 control, and wetlands and aquatic resources projects to serve the citizens of
 23 the State of Arkansas, in total principal amount not to exceed Three Hundred
 24 Million Dollars (\$300,000,000), with no more than One Hundred Million Dollars
 25 (\$100,000,000) of such bonds to be issued to finance and refinance the
 26 development of irrigation facilities, in series from time to time in
 27 principal amounts not to exceed, without prior approval of the General
 28 Assembly, Sixty Million Dollars (\$60,000,000) in any fiscal biennium, which
 29 bonds shall be secured by a pledge of the full faith and credit of the State
 30 of Arkansas?"

31 (c) Whether the question is presented at a special election or at the
 32 2008 General Election, the title of this subchapter shall be the ballot
 33 title, and there shall be printed on the ballot the proposition as stated
 34 above and the following:

35 "FOR Issuance of State of Arkansas Water, Waste Disposal, and Pollution
 36 Abatement Facilities General Obligation bonds

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AGAINST Issuance of State of Arkansas Water, Waste Disposal, and Pollution Abatement Facilities General Obligation bonds _____"

(d)(1) The county boards of election commissioners of the several counties of the state shall hold and conduct the election, and each board may take action with respect to the appointment of election officials and other matters as the law requires.

(2) The vote shall be canvassed and the result declared in each county by the county boards of election commissioners.

(3) Within ten (10) days after the date of the election the results shall be certified by the county boards of election commissioners to the Secretary of State who shall tabulate all returns received by him or her and certify to the Governor the total vote for and against the proposition submitted under this section.

(e) The result of the election shall be proclaimed by the Governor by publication one (1) time in a newspaper published in the City of Little Rock, Arkansas, and the results as proclaimed shall be conclusive unless attacked in the courts within thirty (30) days after the date of the publication.

12-20-1219. Effect of election.

(a) If a majority of the qualified electors voting on the question vote for the issuance of the bonds, the commission shall proceed with the sale and the issuance of the bonds as provided in this subchapter.

(b) If a majority of the qualified electors voting on the question vote against the issuance of the bonds, the bonds authorized by this subchapter shall not be sold or issued, and this subchapter shall be of no further effect.

15-20-1220. No waiver of previous authority to issue bonds.

This subchapter shall not constitute a waiver of the authority to issue bonds under the Prior Act or any other legislation authorizing the issuance of bonds for similar purposes.

15-20-1221. Severability.

If, for any reason, any section or provision of this subchapter shall be held to be unconstitutional or invalid for any reason, such holding shall

1 not effect the remainder of this subchapter, but this subchapter, insofar as
2 it is not in conflict with the Constitution of the State or the Constitution
3 of the United States, shall be permitted to stand, and the various provisions
4 of this subchapter are hereby declared to be severable for that purpose.

5
6 15-20-1222. Cases involving bonds.

7 A case involving the validity of this subchapter or involving the bonds
8 issued under this subchapter shall be deemed of public interest and shall be
9 advanced by all courts and heard as a preferred cause, and all appeals from
10 judgments or decrees rendered in such cases shall be taken within thirty (30)
11 days after rendition of the judgment or decree.

12
13 12-20-1223. Construction of subchapter.

14 (a) This subchapter shall be liberally construed to accomplish its
15 purposes. This subchapter shall constitute the sole authority necessary to
16 accomplish the purposes hereof, and to this end it shall not be necessary
17 that the provisions of other laws pertaining to the development of public
18 facilities and properties and the financing thereof be complied with.

19 (b) This subchapter shall be interpreted to supplement existing laws
20 conferring rights and powers upon the Arkansas Natural Resources Commission,
21 and the rights and powers set forth in this subchapter shall be regarded as
22 alternate methods for the accomplishment of the purposes of this subchapter.

23 (c) Nothing set forth in this subchapter repeals or reduces the powers
24 conferred by the Prior Act.

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