

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/5/09
A Bill

HOUSE BILL 1645

5 By: Representative Davenport
6
7

8 **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

14 **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
36 Development Finance Authority ~~for such a purpose, and~~ capitalization of the



1 fund, principal, interest, and premiums on loans provided, and bonds, notes,
2 and other evidences of indebtedness purchased with moneys in the fund shall
3 be deposited into the fund.

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

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

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

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

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

34 (4) To fund other wastewater system programs, water system
35 programs, solid and hazardous waste facilities programs, recycling programs,
36 nonpoint source management facilities, wetlands conservation and management

1 facilities, and other environmental programs that the federal or state
2 government may allow in the future;

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

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

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

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

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

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

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

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

36 (A) However, grants shall be made only from moneys in the

1 fund provided by the federal government under the Clean Water Act to provide
2 additional subsidization to eligible recipients in the form of forgiveness of
3 principal, negative interest loans, or grants, or any combination of
4 forgiveness of principal, negative interest loans, or grants.

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

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

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

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

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

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

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

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

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

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

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

36 (A) The federal government ~~pursuant to~~ under the federal

1 environmental acts;

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

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

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

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

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

20

21 15-5-902. Fund – Administration.

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

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

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

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

36 (b) The commission ~~is authorized to~~ may enter into contracts and other

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

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

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

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

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

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

28 SECTION 4. Arkansas Code § 15-5-904 is amended to read as follows:

29 15-5-904. Fees for technical and administrative services.

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

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

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

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

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

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

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

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

24
 25 SECTION 5. Arkansas Code § 15-5-905(a), concerning federal grants
 26 deposited into the Construction Assistance Revolving Loan Fund, is amended to
 27 read as follows:

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

33
 34 SECTION 6. Arkansas Code § 15-5-906(a) and (b), concerning security
 35 for bonds regarding construction assistance revolving loans, is amended to
 36 read as follows:

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

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

26
27 SECTION 7. Arkansas Code § 15-5-907 is amended to read as follows:

28 15-5-907. Substitution of loans -- Forgiveness of principal.

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

1 authorized by this subchapter.

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

11
12 SECTION 8. Arkansas Code § 15-5-908(a) concerning withholding general
13 revenue turnback, is amended to read as follows:

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

27
28 SECTION 9. Arkansas Code § 15-5-909, concerning definitions regarding
29 construction assistance revolving loans, is amended to read as follows:

30 15-5-909. Definitions.

31 As used in this subchapter:

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

35 (2) "Authority" means the Arkansas Development Finance Authority
36 or any successor agency or commission of the state;

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

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

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

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

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

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

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

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

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

21
22 SECTION 10. Arkansas Code Title 15, Chapter 5, Subchapter 9 is amended
23 to add an additional section to read as follows:

24 15-5-910. Interest rates on loans.

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

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

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

5
6 SECTION 11. EMERGENCY CLAUSE. It is found and determined by the
7 General Assembly of the State of Arkansas that the United States Government
8 has enacted legislation to provide states with emergency assistance in the
9 face of national economic crisis; and this act is immediately necessary to
10 allow the state to timely meet the requirements of the federal stimulus act.
11 Therefore, an emergency is declared to exist and this act being immediately
12 necessary for the preservation of the public peace, health, and safety shall
13 become effective on:

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

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

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

20
21 /s/ Davenport
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36