

Stricken language would be deleted from and underlined language would be added to present law.
Act 736 of the Regular Session

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: S3/17/25

A Bill

SENATE BILL 420

By: Senator Hester

By: Representatives Beaty Jr., L. Johnson

For An Act To Be Entitled

AN ACT TO EXPAND ELIGIBILITY FOR WATER DEVELOPMENT
STATE PROGRAMS; TO AMEND THE WATER AUTHORITY ACT; TO
AMEND THE USES OF THE CONSTRUCTION ASSISTANCE
REVOLVING LOAN FUND; AND FOR OTHER PURPOSES.

Subtitle

TO EXPAND ELIGIBILITY FOR WATER
DEVELOPMENT STATE PROGRAMS; TO AMEND THE
WATER AUTHORITY ACT; AND TO AMEND THE
USES OF THE CONSTRUCTION ASSISTANCE
REVOLVING LOAN FUND.

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

SECTION 1. Arkansas Code § 4-35-101 is amended to read as follows:

4-35-101. Legislative intent.

It is the intent of the General Assembly to provide a means by which a ~~nonprofit corporation~~ qualified corporation involved in the sale, transmission, and distribution of potable water to members of the general public and commercial, industrial, and other users may form or convert its entity status ~~from that of a body corporate to that of a public body politic and governmental entity, thereby allowing the entity the opportunity to access the tax exempt capital markets and assuring the State of Arkansas and the customers of the entity of the lowest water rates possible~~ to be a water authority.

SECTION 2. Arkansas Code § 4-35-103(7), concerning the definition of



"qualified corporation" within the Water Authority Act, is amended to read as follows:

(7)(A) "Qualified corporation" means:

(i) any A nonprofit corporation originally formed pursuant to under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq., the Arkansas Nonprofit Corporation Act, § 4-28-201 et seq., or a predecessor statute, which among other things that provides, distributes, transmits, treats, pumps, or stores raw or potable water to or for the benefit of members of the general public and commercial, industrial, and other users or which that proposes to accomplish, develop, or construct any of the foregoing; or

(ii) Any governmental entity, municipal nonprofit entity, municipal authority, governmental authority, investor-owned water or wastewater utility, improvement district, or rural development authority that provides, distributes, transmits, treats, pumps, or stores raw or potable water to or for the benefit of members of the general public and commercial, industrial, and other users that proposes to accomplish, develop, or construct any of the foregoing.

(B) ~~A qualified corporation~~ "Qualified corporation" includes ~~a nonprofit corporation~~ an entity described under subdivision (7)(A)(i) and (ii) of this section that constructs, expands, operates, or maintains a wastewater project or wastewater treatment plant;

SECTION 3. Arkansas Code § 4-35-202(a), concerning the authority and procedure to convert to a water authority under the Water Authority Act, is amended to read as follows:

(a) Whenever a qualified corporation desires to convert to and become reconstituted as a water authority under ~~and pursuant to~~ this chapter, the qualified corporation shall present to and file with the Arkansas Natural Resources Commission:

(1) A resolution adopted by the ~~board of directors~~ governing body of the qualified corporation and, if the qualified corporation has members, the members of the qualified corporation, which evidences the desire of the qualified corporation to convert to and become reconstituted as a water authority ~~and which shall additionally certify that the qualified corporation;~~

~~(A) Was initially formed as a nonprofit corporation;~~
~~(B) Does not have the ability to directly access the tax-exempt capital markets other than through a conduit issuer; and~~
~~(C) Desires to realize interest rate savings as a result of its conversion to and reconstitution as a water authority pursuant to this chapter~~

(2) If the qualified corporation is a public facilities board, an ordinance adopted by the governing body of the county or municipality that formed the public facilities board approving the conversion and reconstitution of the public facilities board into a water authority;

~~(2)~~(3) Articles of conversion and reconstitution ~~which~~ that shall be signed by a majority of the water authority's proposed initial board of directors and which shall state and include the following information:

(A) The name of the water authority, which shall include the words "public water authority", it being understood that the water authority may adopt a fictitious operational name upon written request to and approval by the commission and the Secretary of State;

(B) The location of the water authority's principal office;

(C) The number of directors of the water authority, which number shall be at least five (5) and shall be subject to change as provided in this chapter or in the water authority's bylaws;

(D) The names and addresses of the proposed initial board of directors of the water authority;

(E) The name and address of the agent for service of process of the water authority;

(F) The proposed geographic service area over which the water authority will have jurisdiction; and

(G) Any other matters that the proposed initial board of directors of the water authority may deem necessary and appropriate;

~~(3)~~(4) A copy of the water authority's proposed bylaws along with any other information which the proposed initial board of directors of the water authority may deem necessary and appropriate;

~~(4)~~(5) A statement and certification from the Secretary of State that the proposed name of the water authority is not identical to that of any other water authority in the state or so nearly similar as to lead to

confusion and uncertainty;

~~(5)~~(6) The filing and review fee that the commission may designate and determine from time to time; and

~~(6)~~(7) Any other information and documents which the commission may designate and require.

SECTION 4. Arkansas Code § 4-35-203(a)(2), concerning the effect of formation of a water authority and the filing with the Secretary of State under the Water Authority Act, is amended to read as follows:

(2)(A) Contemporaneously therewith, with respect to a conversion, the qualified corporation shall cease to exist and all assets and liabilities of every nature, including, without limitation, all real property, personal property, contractual obligations, lending obligations outstanding, rights afforded borrowers of federal and state funds, and other tangible and intangible assets and liabilities of every nature, without need for further action or approval by any third party, shall be vested in and shall accrue to the benefit of the water authority, unless the articles of conversion and reconstitution filed with the Secretary of State expressly state that the qualified corporation shall continue its corporate or governmental existence and that certain specified assets and liabilities of the qualified corporation shall remain with the qualified corporation.

(B) A governmental entity that is converted and reconstituted as a water authority under this chapter is not required to comply with other laws or procedures regarding transfer of property by governmental entities.

SECTION 5. Arkansas Code § 4-35-203(b)(2), concerning the effect of formation of a water authority and the filing with the Secretary of State under the Water Authority Act, is amended to read as follows:

(2)(A) Except as provided in subdivision (b)(2)(B) of this section, filing ~~Filing~~ a copy of the articles of constitution or articles of conversion and reconstitution, as accepted and approved by the commission, with the Secretary of State shall serve to terminate and dissolve the previous corporate existence of the qualified corporation, effective as of the date of the issuance of the certificate of existence.

(B) A qualified corporation may file a copy of the

articles of constitution or articles of conversion and reconstitution with the Secretary of State that expressly states that the qualified corporation shall continue its corporate or governmental existence.

SECTION 6. Arkansas Code § 4-35-203, concerning the effect of formation of a water authority and the filing with the Secretary of State under the Water Authority Act, is amended to add an additional subsection to read as follows:

(c) Upon receipt of a certificate of existence from the commission under § 4-35-203(a)(1), the water authority shall be deemed to have complied with all requirements of this subchapter relating to the proper formation or conversion and reconstitution of a water authority, including without limitation all requirements of § 4-35-202.

SECTION 7. Arkansas Code § 15-5-901(a)(3), concerning the establishment and uses of the Construction Assistance Revolving Loan Fund, is amended to read as follows:

(3) The commission may deposit loans made to and bonds, notes, and other evidences of indebtedness issued by local governmental entities and other owners of environmental projects in accordance with the Clean Water Act, 33 U.S.C. § 1251 et seq., as existing on January 1, 2025, to finance or refinance the planning, design, acquisition, construction, expansion, equipping, rehabilitation, or consolidation of wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects into the Construction Assistance Revolving Loan Fund.

SECTION 8. Arkansas Code § 15-5-909(8), concerning the definition of "owner" regarding the Construction Assistance Revolving Loan Fund, is amended to read as follows:

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

/s/Hester

APPROVED: 4/17/25