

State of Arkansas

As Engrossed: S3/17/25

95th General Assembly

## A Bill

Regular Session, 2025

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



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

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

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

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

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

23  
24 SECTION 3. Arkansas Code § 4-35-202(a), concerning the authority and  
25 procedure to convert to a water authority under the Water Authority Act, is  
26 amended to read as follows:

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

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

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

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

11 ~~(2)(3)~~ Articles of conversion and reconstitution ~~which~~ that  
12 shall be signed by a majority of the water authority's proposed initial board  
13 of directors and which shall state and include the following information:

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

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

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

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

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

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

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

31 ~~(3)(4)~~ A copy of the water authority's proposed bylaws along  
32 with any other information which the proposed initial board of directors of  
33 the water authority may deem necessary and appropriate;

34 ~~(4)(5)~~ A statement and certification from the Secretary of State  
35 that the proposed name of the water authority is not identical to that of any  
36 other water authority in the state or so nearly similar as to lead to

1 confusion and uncertainty;

2 ~~(5)~~(6) The filing and review fee that the commission may  
3 designate and determine from time to time; and

4 ~~(6)~~(7) Any other information and documents which the commission  
5 may designate and require.

6  
7 SECTION 4. Arkansas Code § 4-35-203(a)(2), concerning the effect of  
8 formation of a water authority and the filing with the Secretary of State  
9 under the Water Authority Act, is amended to read as follows:

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

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

26  
27 SECTION 5. Arkansas Code § 4-35-203(b)(2), concerning the effect of  
28 formation of a water authority and the filing with the Secretary of State  
29 under the Water Authority Act, is amended to read as follows:

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

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

1 articles of constitution or articles of conversion and reconstitution with  
2 the Secretary of State that expressly states that the qualified corporation  
3 shall continue its corporate or governmental existence.  
4

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

9 (c) Upon receipt of a certificate of existence from the commission  
10 under § 4-35-203(a)(1), the water authority shall be deemed to have complied  
11 with all requirements of this subchapter relating to the proper formation or  
12 conversion and reconstitution of a water authority, including without  
13 limitation all requirements of § 4-35-202.  
14

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

18 (3) The commission may deposit loans made to and bonds, notes,  
19 and other evidences of indebtedness issued by local governmental entities and  
20 other owners of environmental projects in accordance with the Clean Water  
21 Act, 33 U.S.C. § 1251 et seq., as existing on January 1, 2025, to finance or  
22 refinance the planning, design, acquisition, construction, expansion,  
23 equipping, rehabilitation, or consolidation of wastewater systems, water  
24 systems, solid and hazardous waste facilities, recycling facilities, nonpoint  
25 source management facilities, wetlands conservation and management  
26 facilities, and other environmental projects or parts of environmental  
27 projects into the Construction Assistance Revolving Loan Fund.  
28

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

32 (8) "Owner" means the owner or prospective owner, whether public  
33 or private, of an environmental project, excluding any federal agencies;  
34

35 /s/Hester

36 **APPROVED: 4/17/25**