

Stricken language would be deleted from and underlined language would be added to present law.
Act 269 of the Regular Session

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: S2/6/17
A Bill

SENATE BILL 255

By: Senator Irvin
By: Representative Davis

For An Act To Be Entitled

*AN ACT TO PLACE THE WAR MEMORIAL STADIUM COMMISSION
UNDER THE AUTHORITY OF THE DEPARTMENT OF PARKS AND
TOURISM; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES.*

Subtitle

*TO PLACE THE WAR MEMORIAL STADIUM
COMMISSION UNDER THE AUTHORITY OF THE
DEPARTMENT OF PARKS AND TOURISM; AND TO
DECLARE AN EMERGENCY.*

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

SECTION 1. DO NOT CODIFY. Transfer of the *War Memorial Stadium*
Commission to the Department of Parks and Tourism.

(a)(1) The *War Memorial Stadium* Commission is transferred to the
Department of Parks and Tourism by a type 2 transfer under § 25-2-105.

(2) For the purposes of this act, the Department of Parks and
Tourism shall be considered a principal department established by Acts 1971,
No. 38.

(b) All authority, powers, duties, functions, records, personnel,
property, unexpended balances of appropriations, allocations, and other
funds, including the functions of budgeting or purchasing of the *War Memorial*
Stadium Commission, are transferred to the Department of Parks and Tourism,
except as specified by this act.

(c) All powers, duties, and functions, including rulemaking,



regulation, and licensing, promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications of the War Memorial Stadium Commission are transferred to the Director of the Department of Parks and Tourism.

(d) The members of the War Memorial Stadium Commission, and their successors, shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to the War Memorial Stadium Commission except as specified in this act.

SECTION 2. Arkansas Code § 15-5-303 is amended to read as follows:

15-5-303. Exclusive issuer of revenue bonds for public facilities.

It is the intention of the General Assembly that the Arkansas Development Finance Authority shall be the exclusive issuer of revenue bonds for public facilities acquired or constructed for the benefit of state agencies, except the Arkansas Student Loan Authority, the respective boards of trustees of state-supported institutions of higher education, the Career Education and Workforce Development Board, the State Board of Finance, ~~the War Memorial Stadium Commission,~~ and the Arkansas Economic Development Council when issuing bonds pursuant to §§ 15-4-604, 15-4-605, and 15-4-608, and the Industrial Development Guaranty Bond Act, § 15-4-701 et seq.

SECTION 3. Arkansas Code § 22-3-1001 is amended to read as follows:

22-3-1001. ~~Stadium~~ War Memorial Stadium Commission – Creation – Members – Meetings.

(a)(1) There is created within the Department of Parks and Tourism a the War Memorial Stadium Commission consisting of eight (8) members to be appointed by the Governor with the advice and consent of the Senate. ~~The commission shall have exclusive jurisdiction for the operation of the stadium known as War Memorial Stadium which shall be for the use of all the schools, colleges, and universities of the state under the supervision of the commission.~~

(2) The department has exclusive jurisdiction for the operation of the stadium in Little Rock, Arkansas, known as "War Memorial Stadium" which shall be for the use of all the schools, colleges, and universities of the state under the supervision of the department.

(b) Each congressional district of the state shall be represented by

membership on the commission, and the other four (4) members shall be from the state at large.

(c) Members of the commission appointed by the Governor under ~~the provisions of~~ this subchapter, in addition to possessing the qualifications of an elector, shall reside in the State of Arkansas.

(d)(1) The Secretary of State shall, within ten (10) days and without charge therefor, furnish a certificate to each individual so appointed by the Governor, whereupon the appointee shall, within fifteen (15) days thereafter, notify the Governor and the Secretary of State, in writing, of his or her acceptance of the appointment.

(2) ~~In the event any appointee shall fail~~ If an appointee fails to give notice of acceptance within the time required, then the appointment ~~shall be~~ is void, and the Governor shall make another appointment.

(e) Each member shall be appointed to a seven-year term commencing on January 15 following the expiration date of the preceding member's term and ending on January 14 of the seventh year following the year in which the term commenced.

(f) Any vacancies arising in the membership of the commission for any reason other than expiration of the terms for which the members were appointed shall be filled by appointment by the Governor, to be thereafter effective until the expiration of such terms.

(g) Before entering upon their respective duties, each member of the commission shall take, subscribe, and file in the office of the Secretary of State an oath to support the ~~Constitution of the~~ United States Constitution and the ~~Constitution of the State of~~ Arkansas Constitution and to faithfully perform the duties of the office upon which he or she is about to enter and that he or she will not be or become interested, either directly or indirectly, in any contract made by the department concerning the commission.

(h)(1) ~~Any~~ A member of the commission who ~~shall violate~~ violates his or her oath of office ~~shall be~~ is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500) or by imprisonment for not less than six (6) months, or by both such fine and imprisonment.

(2) ~~Any member who shall have thus~~ A member who has been convicted of a misdemeanor ~~shall be~~ is ineligible for continued membership on the commission, and any contract so entered into shall be null and void.

(i) The Governor shall designate a member of the commission as ~~its chair~~ Chair of the War Memorial Stadium Commission, and the member so designated shall serve as chair at the pleasure of the Governor with advice from the Director of the Department of Parks and Tourism.

(j)(1) All meetings of the commission shall be held on call by the chair with the consent of the director, or by any four (4) or more members with the consent of the director, on advance notice to each member and at such place as in each instance may suit the commission's and the director's convenience. ~~All meetings shall be open to the public, and complete records of the proceedings shall be kept.~~

(2) All meetings under subdivision (j)(1) of this section shall be open to the public, and complete records of the proceedings shall be kept.

(k)(1) A quorum for the transaction of business at any meeting shall consist of not fewer than four (4) members, and ~~such a quorum shall have~~ has the power to act for the commission by an affirmative vote of a majority ~~thereof~~ of the quorum, except that the affirmative vote of not fewer than four (4) members ~~shall be requisite~~ is required for the adoption of any motion or resolution involving the expenditure of funds.

(2) An action agreed to by the commission under subdivision (k)(1) of this section is subject to the approval of the director.

SECTION 4. Arkansas Code § 22-3-1002 is amended to read as follows:

22-3-1002. Powers and duties ~~of Stadium Commission~~ generally.

(a)(1) The Stadium Commission shall have and be Department of Parks and Tourism has and is subject to the powers and duties conferred or imposed upon ~~it~~ the department by this subchapter concerning the War Memorial Stadium Commission.

(2) and for the purpose of regulating its own procedure, and carrying out its powers and duties, it The department shall have the authority to may make, amend, and enforce all necessary or desirable rules ~~or regulations~~ not inconsistent with law to regulate the commission's procedure, powers, and duties. ~~Subject to the applicable limitations provided in this subchapter, the commission shall:~~

(b) Subject to the applicable limitations provided in this subchapter, the department shall:

(1) Have exclusive jurisdiction for the government of the

~~stadium~~ War Memorial Stadium;

(2) Purchase, lease, or rent any real property, or acquire any real property by the exercise of its right of eminent domain, that right being vested in the ~~commission~~ department;

(3) Purchase, lease, or rent any corporeal or personal property;

(4) Receive bequests or donations of any real, corporeal, or personal property;

(5) Sell, barter, lease, or rent any real, corporeal, or personal property or convert into money any property ~~which~~ that cannot be used in the form received;

(6) Fix the amount of admissions, fees, commissions, concessions, rents, and other charges to be collected by the ~~commission~~ department for the use of the ~~stadium~~ War Memorial Stadium for athletic or other events;

(7) Establish accounts in one (1) or more banks and thereafter, from time to time, make deposits in and withdrawals from these accounts;

(8) Contract and be contracted with;

(9) Exercise such police powers within the bounds of any real property owned or controlled by it as may be necessary to abate nuisances and otherwise keep the peace; and

(10) Take such other action, not inconsistent with law, as it may deem necessary or desirable to carry out the intent and purposes of this subchapter.

SECTION 5. Arkansas Code § 22-3-1003 is repealed:

~~22-3-1003. Secretary of Stadium Commission.~~

~~(a) The Chair of the Stadium Commission, by and with the advice and consent of the other members, shall appoint the Secretary of the Stadium Commission, but the secretary shall have no vote on questions coming before the Stadium Commission.~~

~~(b) The secretary of the commission shall be its disbursing agent and executive officer and shall administer the provisions of this subchapter and the rules, regulations, and orders established thereunder.~~

~~(c) The commission may, by resolution duly adopted, delegate to the secretary any of the powers or duties vested in or imposed upon it by this subchapter, and until such resolution shall subsequently have been modified~~

~~or rescinded, such delegated powers and duties may be exercised by the secretary in the name of the commission.~~

~~(d) The secretary shall receive as compensation for his or her services such salary as may, from time to time, be fixed by the commission, and, in fixing the amount of the salary, the commission shall take into consideration the responsibilities of the office and the amount of time required in the secretary's performance of his or her official duties.~~

~~(e)(1) The secretary shall furnish bond to the State of Arkansas in such amount as shall be fixed by the commission.~~

~~(2) The bond shall be executed by the secretary, as principal, and with a corporate guaranty or indemnity company, as surety, and shall be conditioned that the secretary will faithfully perform the duties of his or her office and properly account for all funds received and disbursed by him or her.~~

~~(3) The premium on the bond shall be a proper charge against the funds under the control of the commission.~~

SECTION 6. Arkansas Code § 22-3-1004 is repealed.

~~22-3-1004. Financing authority of Stadium Commission.~~

~~(a) The Stadium Commission is authorized and empowered to enter into the necessary contracts for the borrowing of all funds that it may determine will be required in connection with the financing of the stadium, including architectural, engineering, legal, and other expenses incidental to the construction and to the issuance of the bonds authorized by this subchapter.~~

~~(b) For the purpose of obtaining loans or carrying out any conditions imposed by the original purchaser of the bonds authorized by this subchapter, the commission may execute such documents and enter into such agreements not contrary to this subchapter or any other law as it may deem necessary or proper in connection with this subchapter, including, but without limiting the generality of the foregoing, any agreements relating to:~~

~~(1) The fixing and imposing of minimum charges for admissions, fees, concessions, rents, and other charges to be collected by the commission for the use of the stadium for athletic or other events and the maximum percentage of admissions to athletic games to be given the contesting colleges or schools;~~

~~(2) The priority of the lien of the bonds on the net revenues~~

~~derived from the stadium; and~~

~~(3) The banks in which the revenues derived from the stadium and the proceeds of the bonds are deposited.~~

SECTION 7. Arkansas Code § 22-3-1005 is repealed.

~~22-3-1005. Bonds—Issuance and terms.~~

~~(a) In evidence of any loan of funds, the Stadium Commission is authorized and empowered to issue its negotiable registered bonds.~~

~~(b)(1) The bonds shall be payable at such time or times and at such place or places, shall be in such form and denominations, may be subject to such terms of redemption, with or without a premium, shall bear interest payable at such rate or rates, and shall be sold for such price and in such manner, as the commission by resolution shall determine.~~

~~(2) The bonds shall not:~~

~~(A) Bear interest at a rate in excess of the maximum authorized by Arkansas Constitution, Amendment 89; or~~

~~(B) Be sold at a price that would represent a cost to the commission over the life of the bonds in excess of the maximum interest rate authorized by Arkansas Constitution, Amendment 89.~~

~~(3) The bonds shall contain a statement on their face that the commission will not be obligated to pay the bonds with interest thereon except from the net revenues derived from the operation of the stadium. All of the moneys received by the commission from the state pursuant to the City-County Tourist Meeting and Entertainment Facilities Assistance Law, § 14-171-201 et seq., shall be deemed to be revenues derived from the operation of the stadium.~~

~~(4) The bonds shall have all the qualities and incidents of negotiable instruments under the negotiable instruments laws of this state.~~

SECTION 8. Arkansas Code § 22-3-1006 is repealed.

~~22-3-1006. Bonds—Execution.~~

~~The bonds shall be executed by manual or facsimile signature of the Chair of the Stadium Commission and the Secretary of the Stadium Commission, and in the event that any of the officers whose signatures appear on the bonds shall have ceased to be officers before delivery, their signatures shall, nevertheless, be valid and sufficient for all purposes the same as if they had remained in office until delivery.~~

SECTION 9. Arkansas Code § 22-3-1007 is repealed.

~~22-3-1007. Bonds—Pledge of revenues—Restrictions.~~

~~(a) The bonds and interest thereon shall be payable solely from and secured by a pledge only of the net revenues, or any part of such revenues, derived from the operation of the stadium and which remain after there has been set aside each month a sufficient amount for the reasonable expenses of operation and maintenance of the stadium and its depreciation and after a proper percentage of the admissions to athletic games and other events is given to the participants therein or the organizers thereof. All of the moneys received by the Stadium Commission from the state pursuant to the City-County Tourist Meeting and Entertainment Facilities Assistance Law, § 14-171-201 et seq., shall be deemed to be revenues derived from the operation of the stadium.~~

~~(b) The pledge may be contained in the resolution authorizing the issuance of the bonds or in a trust indenture.~~

~~(c) The bonds shall be considered as obligations only of the commission, and in no event shall they ever be considered a debt for which the faith and credit of the State of Arkansas or any of its revenues are pledged; however, this shall not be construed as preventing the commission from applying toward the payment of the bonds any funds received from sources other than the revenues derived from the operation of the stadium.~~

~~(d) No member of the commission shall be personally liable on the bonds or for any damages sustained by anyone in connection with the contracts for loans or the construction of the stadium unless it shall be made to appear that he or she has acted with a corrupt intent.~~

SECTION 10. Arkansas Code § 22-3-1010 is amended to read as follows:

22-3-1010. Audit of accounts – Reports.

An audit of the records and accounts of the Department of Parks and Tourism concerning the War Memorial Stadium Commission shall be made each year, and a copy of the report shall be filed with the Legislative Council, the Governor, and the Chief Fiscal Officer of the State.

SECTION 11. Arkansas Code § 22-3-1011 is amended to read as follows:

22-3-1011. Establishment by ~~Stadium Commission~~ the Department of Parks

and Tourism of bank accounts – Deposits and withdrawals – Preaudit.

(a) The Director of the Department of Parks and Tourism on behalf of the War Memorial Stadium Commission may, ~~by resolution duly adopted,~~ open accounts in ~~its~~ the name of the Department of Parks and Tourism in one (1) or more banks and deposit ~~therein~~ into those bank accounts all moneys received from the sale of ~~its~~ the Department of Parks and Tourism's bonds and from admissions, fees, concessions, rents, and other charges collected for the use of the ~~stadium~~ War Memorial Stadium or from any other source.

(b) *From the bank accounts, the Department of Parks and Tourism on behalf of the commission may withdraw funds for payment of the following:*

- (1) Cost of the construction of ~~the stadium~~ War Memorial Stadium;*
- ~~*(2) Principal of and interest on any bonds that may be issued by it under authority of this subchapter;*~~
- ~~*(3) Expenses of ~~its~~ the commission's members;*~~
- ~~*(4) Salary and expenses of the Secretary of the Stadium Commission;*~~
- ~~*(5) Salaries of ~~its~~ a custodian, groundskeepers, and such other personnel as ~~it~~ the Department of Parks and Tourism may employ;*~~
- ~~*(6) Insurance premiums for fire, lightning, and tornado insurance;*~~
- ~~*(7) Such other items of reasonable expense as, in ~~its~~ the opinion of the Department of Parks and Tourism's opinion with advice from the commission, may be required to maintain and operate ~~the stadium~~ War Memorial Stadium; and*~~
- ~~*(8) Amounts paid contesting colleges or schools.*~~

(c)(1) All withdrawals of funds in the bank accounts shall be made by use of voucher-checks, the form of which shall be prescribed by the Director of the Department of Finance and Administration. ~~All voucher checks so drawn shall be subject to preaudit by the director.~~

(2) All voucher-checks so drawn are subject to preaudit by the Director of the Department of Finance and Administration.

SECTION 12. Arkansas Code § 24-4-727(e), concerning Stadium Commission employees under the Arkansas Public Employees' Retirement System, is amended to read as follows:

(e) The Department of Parks and Tourism on behalf of the commission shall pay into the fund such sums of money as are necessary to match the contributions of its employees in the same form and manner as other public employers and shall be subject to all the provisions of this chapter, to the same extent as other public employers.

SECTION 13. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Department of Parks and Tourism is well-positioned to oversee and promote War Memorial Stadium; that the transfer of War Memorial Stadium to the Department of Parks and Tourism promotes efficiency; and that this act is immediately necessary in order to ensure a timely transition to minimize any adverse impact on upcoming events to be held at War Memorial Stadium. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

/s/ Irvin

APPROVED: 02/22/2017