

State of Arkansas  
94th General Assembly  
Regular Session, 2023

As Engrossed: S3/29/23  
**A Bill**

SENATE BILL 478

By: Senator J. Dismang  
By: Representative Eaves

### For An Act To Be Entitled

AN ACT CONCERNING FUNDING AND INCENTIVES FOR CERTAIN WATERWAYS SYSTEMS, PROGRAMS, AND INVESTMENTS; TO AMEND THE ARKANSAS PORT, INTERMODAL, AND WATERWAY DEVELOPMENT GRANT PROGRAM; TO PROVIDE ADDITIONAL FUNDING FOR THE ARKANSAS PORT, INTERMODAL, AND WATERWAY DEVELOPMENT GRANT PROGRAM FUND; TO CREATE IN INVESTMENT TAX CREDIT FOR CAPITAL IMPROVEMENTS RELATING TO WATER TRANSPORTATION IN THE STATE; AND FOR OTHER PURPOSES.

### Subtitle

*TO PROVIDE ADDITIONAL FUNDING FOR THE ARKANSAS PORT, INTERMODAL, AND WATERWAY DEVELOPMENT GRANT PROGRAM FUND; AND TO CREATE A WATERWAYS INVESTMENT INCOME TAX CREDIT.*

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

SECTION 1. Arkansas Code § 15-23-205(a), concerning the Arkansas Port, Intermodal, and Waterway Development Grant Program, is amended to read as follows:

(a)~~(1)~~ The Arkansas Waterways Commission shall establish and administer the Arkansas Port, Intermodal, and Waterway Development Grant Program that shall be used for one (1) or more of the following purposes: ~~to~~  
(1) To provide financial assistance to port authorities and



intermodal authorities for the purpose of funding port development projects, including without limitation the construction, improvement, capital facility rehabilitation, and expansion of a public port facility, including without limitation an intermodal facility and a maritime-related industrial park infrastructure development-;

(2) Wharves To construct, install, or repair wharves, cargo handling equipment, utilities, railroads, primary access roads, and buildings that are an integral part of a port development project ~~are also eligible for funding under this section;~~ and

(3) To share in the expense of United States Army Corps of Engineers navigation enhancements, improvements, and emergency assistance projects.

SECTION 2. Arkansas Code § 15-23-205(c), concerning the Arkansas Port, Intermodal, and Waterway Development Grant Program, is amended to read as follows:

(c)(1) An Arkansas public port authority or intermodal authority may apply for funding of a port development project under the program.

(2) The Director of the Arkansas Waterways Commission shall provide the commission with the following information for any proposed projects under subdivision (a)(3) of this section:

(A) A description;

(B) Preliminary designs;

(C) Cost estimates;

(D) Cost-sharing percentages between the program and the United State Army Corps of Engineers; and

(E) Any other information or documentation required by the commission.

(3) The Chief Fiscal Officer of the State shall notify the commission when funding is available for the program.

SECTION 3. Arkansas Code § 26-26-1616(d)(2), concerning the disposition of ad valorem taxes and penalties collected from water transportation companies, is amended to read as follows:

(2) Any taxes and penalties collected in excess of two million five hundred fifty thousand dollars (\$2,550,000) each calendar year shall be

~~deposited as follows:~~

~~(A) Seventy percent (70%) shall be credited to the Arkansas River Navigation System Fund; and~~

~~(B) Thirty percent (30%) shall be credited to the Arkansas Port, Intermodal, and Waterway Development Grant Program Fund to be used exclusively for the purposes stated in § 15-23-205.~~

SECTION 4. Arkansas Code Title 26, Chapter 51, Subchapter 5, is amended to add an additional section to read as follows:

26-51-517. Waterways investment tax credit.

(a) There is allowed an income tax credit against the income tax imposed by this chapter in the amount stated in subsection (b) of this section for the cost of making capital improvements to a facility or property related to using water transportation in the state, including without limitation the construction, improvement, capital facility rehabilitation, and expansion of a waterway facility and the construction or improvement of rail or road access to a waterway facility, on or after January 1, 2024, and on or before December 31, 2025.

(b)(1) Except as otherwise provided in this subsection, the tax credit allowed under subsection (a) of this section shall not exceed three million dollars (\$3,000,000) for a taxpayer that makes the capital improvements to a facility or property related to using water transportation in the state.

(2) The amount of the tax credit that a taxpayer may claim each year is limited to a maximum of ten percent (10%) of the total tax credit for which the taxpayer is eligible.

(3) The total cumulative amount of tax credits for all taxpayers under this section in a tax year shall:

(A) Not exceed two million five hundred thousand dollars (\$2,500,000); and

(B) Be issued on a first-come, first served basis.

(4) A tax credit allowed under this section shall be issued only after the Secretary of the Department of Commerce has determined, based on the information provided by the applicant for a tax credit under this section, that the taxpayer's capital investment in a facility or property related to using water transportation in the state will provide an economic benefit to the state that will likely be equal to or greater than the amount

of the tax credit allowed under this section.

(c) Any unused income tax credit that cannot be claimed in a tax year because of the limit stated in subdivision (b)(2) of this section may be carried forward for nine (9) consecutive tax years following the tax year in which the income tax credit was earned.

(d) A taxpayer is not eligible for the credit allowed under this section if the taxpayer has received funds under the Arkansas Port, Intermodal, and Waterway Development Grant Program.

(e) The Secretary of the Department of Finance and Administration shall:

(1) Promulgate rules to implement this section;

(2) Review the overall economic impact of this section on or before December 31, 2030, and again on or before December 31, 2035; and

(3) Report his or her findings under subdivision (e)(2) of this section to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee within thirty (30) days of completing the required review.

SECTION 5. EFFECTIVE DATE. Section 4 of this act is effective for tax years beginning on or after January 1, 2024.

*/s/J. Dismang*

**APPROVED: 4/13/23**