

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1825

By: Representative Davis

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS AMENDMENT 82 IMPLEMENTATION ACT; TO CLARIFY DEFINITIONS USED UNDER THE ARKANSAS AMENDMENT 82 IMPLEMENTATION ACT; TO SPECIFY THAT THE FIVE PERCENT (5%) LIMITATION ON BONDING AMENDMENT 82 PROJECTS IS BASED ON GENERAL REVENUES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS AMENDMENT 82 IMPLEMENTATION ACT.

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

SECTION 1. Arkansas Code § 15-4-3202(1), concerning the definitions used under the Arkansas Amendment 82 Implementation Act, is amended to read as follows:

(1) "Amendment 82 agreement" means a contract between the state and a sponsor under which the state is to provide Amendment 82 bond financing in exchange for the sponsor's agreeing to make an investment and to locate a new business or substantially expand an existing business in the State of Arkansas in accordance with the requirements of Arkansas Constitution, Amendment 82, and this subchapter. At a minimum, the agreement shall contain the following provisions:

(A) The infrastructure needs or other needs, or both, to be provided by the state in support of the qualified Amendment 82 project and financed under Arkansas Constitution, Amendment 82, and this subchapter;

(B) A description of all other economic incentives to be



provided by the state in connection with the qualified Amendment 82 project;

(C) The commitments of the sponsor, if any, with regard to investment and job creation associated with the qualified Amendment 82 project, including timetables for meeting and maintaining any investment and job creation requirements;

(D) The agreement of the sponsor to make all specified records pertaining to the sponsor's commitments available for annual audit by the Chief Fiscal Officer of the State and, upon request, but no more often than annually, by the Office of Economic and Tax Policy of the Bureau of Legislative Research or a person or entity retained by the office;

(E) Performance benchmarks and economic goals of the qualified Amendment 82 project; and

(F) The penalties to be applied if the sponsor does not satisfy its commitments under the Amendment 82 agreement;

SECTION 2. Arkansas Code § 15-4-3202(10), concerning the definitions used under the Arkansas Amendment 82 Implementation Act, is amended to read as follows:

(10) "~~Gross general~~ General revenues" means the revenues of the state described and enumerated in § 19-6-201 or in any successor law;

SECTION 3. Arkansas Code § 15-4-3202(16), concerning the definitions used under the Arkansas Amendment 82 Implementation Act, is repealed.

~~(16) "Net general revenues" means the amount specified in § 19-5-202(b)(2)(B)(iii), otherwise known as net general revenues of the state available for distribution;~~

SECTION 4. Arkansas Code § 15-4-3202(21), concerning the definitions used under the Arkansas Amendment 82 Implementation Act, is amended to read as follows:

(21) "Project costs" means:

(A) All or any part of the costs of ~~developing~~ infrastructure needs or other needs for a proposed or qualified Amendment 82 project and costs incidental or appropriate to the proposed or qualified Amendment 82 project, including, without limitation, ~~all~~:

(i) All costs incurred by the sponsor in developing

a proposed project or qualified Amendment 82 project, whether before or after the Amendment 82 agreement has been executed and bonds have been issued under this subchapter; and

(ii) All costs to the commission associated with the development or operation of a qualified Amendment 82 project in a supervisory capacity; and

(B) Costs incidental or appropriate to the financing of the proposed or qualified Amendment 82 project, including, without limitation:

- (i) Capitalized interest;
- (ii) Costs of issuance;
- (iii) Funding of appropriate reserves for the bonds;
- (iv) Loan fees;
- (v) Guarantee fees;
- (vi) Commitment fees;
- (vii) Grant administration fees;
- (viii) Surety bond premiums;
- (ix) Bond insurance;
- (x) Credit enhancement;
- (xi) Fees of nationally recognized rating agencies;
- (xii) Liquidity facilities fees; and
- (xiii) Costs for engineering, legal, and other administrative and consultant services;

SECTION 5. Arkansas Code § 15-4-3203(e) and (f), concerning Amendment 82 project qualification under the Arkansas Amendment 82 Implementation Act, are amended to read as follows:

(e) If the authority's initial assessment is that Amendment 82 bond financing for the proposed project is feasible, the authority shall notify the commission, and the commission shall refer the proposal and the findings of the commission and the authority to the Chief Fiscal Officer of the State for review of the impact of the proposed Amendment 82 bond financing on any agency or program supported from the ~~gross~~ general revenues under the Revenue Stabilization Law, § 19-5-101 et seq.

(f) If the Chief Fiscal Officer of the State's initial assessment is that the proposed Amendment 82 financing will not have a substantially

negative impact on any agency or program supported from ~~gross~~ general revenues, then:

(1) The Chief Fiscal Officer of the State shall notify the commission; and

(2) The commission shall make a formal proposal to the sponsor detailing the state's proposed offer with respect to Amendment 82 financing and all other economic incentives offered by the state in connection with the proposed project.

SECTION 6. Arkansas Code § 15-4-3207 is amended to read as follows:

15-4-3207. Maximum ceiling on bond principal.

(a) In determining the maximum amount of Amendment 82 bonds that may be issued, the sum of the outstanding bonded indebtedness plus the principal amount of the proposed Amendment 82 bonds shall not exceed five percent (5%) of the ~~net~~ general revenues ~~for~~ collected during the most recent fiscal year for which revenue calculations are available.

(b) It ~~shall not be~~ is not a violation of Arkansas Constitution, Amendment 82, or this subchapter ~~or~~ and does not affect the validity of Amendment 82 bonds that were properly issued if:

(1) ~~Net-general~~ General revenues decline after Amendment 82 bonds are issued; and

(2) The outstanding bonded indebtedness exceeds five percent (5%) of the ~~net~~ general revenues ~~for~~ collected during the most recent fiscal year for which revenue calculations are available.

(c) Amendment 82 bonds that when issued complied with the five-percent limitation may be refunded under Arkansas Constitution, Amendment 82, and this subchapter even if the outstanding bonded indebtedness before or after the refunding exceeds five percent (5%) of the ~~net~~ general revenues ~~for~~ collected during the most recent fiscal year for which revenue calculations are available.

SECTION 7. Arkansas Code § 15-4-3214(b)(1), concerning general obligation bonds under the Arkansas Amendment 82 Implementation Act, is amended to read as follows:

(b)(1) The bonds shall be payable from ~~gross~~ general revenues or special revenues, which shall be appropriated by the General Assembly for

that purpose, and the amount of ~~gross~~ general revenues or, if applicable, special revenues as may be necessary are pledged to the payment of debt service on the bonds and shall be and remain pledged for those purposes.

SECTION 8. Arkansas Code § 15-4-3215(a) and (b), concerning the annual determination of moneys required for bond repayment, under the Arkansas Amendment 82 Implementation Act, are amended to read as follows:

(a)(1) On or before commencement of each fiscal year, the Chief Fiscal Officer of the State shall determine the estimated amount required for payment of all or a part of the debt service on the outstanding bonded indebtedness during the fiscal year and deduct therefrom the estimated moneys to be available from special revenues or to the Arkansas Development Finance Authority from other sources related to the qualified Amendment 82 project to determine what amount of ~~gross~~ general revenues, if any, will be required.

(2) The Chief Fiscal Officer of the State shall certify the estimated amount to the Treasurer of State.

(3) The Treasurer of State shall then make monthly transfers from the State Apportionment Fund to the appropriate trust fund of the amount of ~~gross~~ general revenues or, if applicable, special revenues ~~as shall be~~ required to pay the maturing debt service on the outstanding bonded indebtedness.

(b)(1) The obligation to make monthly transfers of general revenues from the State Apportionment Fund to the appropriate trust fund shall constitute a first charge against the ~~gross~~ general revenues prior to all other uses to which the general revenues are devoted, either under present law or under any laws that may be enacted in the future.

(2) To the extent other general obligation bonds of the state may have been issued or may subsequently be issued, the bonds shall rank on a parity of security with respect to payment from general revenues.