

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1732

By: Representative Shepherd

By: Senator L. Eads

For An Act To Be Entitled

AN ACT TO AMEND THE LOCAL GOVERNMENT BOND ACT OF 1985; TO IMPLEMENT ARKANSAS CONSTITUTION, AMENDMENT 97, AS IT RELATES TO THE LOCAL GOVERNMENT BOND ACT OF 1985; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LOCAL GOVERNMENT BOND ACT OF 1985; AND TO IMPLEMENT ARKANSAS CONSTITUTION, AMENDMENT 97, AS IT RELATES TO THE LOCAL GOVERNMENT BOND ACT OF 1985.

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

SECTION 1. Arkansas Code § 14-164-302 is amended to read as follows:
14-164-302. Legislative intent.

The people of the State of Arkansas by the adoption of Arkansas Constitution, Amendment 62, have expressed their intention to provide county and municipal governments expanded powers and authority with respect to the creation of bonded indebtedness for capital improvements of a public nature and the financing of ~~facilities for the securing and developing of industry~~ economic development projects, and have empowered the General Assembly to define and prescribe certain matters with respect to the exercise of this power and authority. To that end this subchapter is adopted to enable the accomplishment and realization of the public purposes intended by Arkansas Constitution, Amendment 62, and is not intended to otherwise limit in any manner the exercise of the powers of counties and municipalities.



SECTION 2. Arkansas Code § 14-164-303(7)-(9), concerning the definitions used under the Local Government Bond Act of 1985, are repealed.

~~(7) "Federal reserve rate" means the rate for primary credit, or its functional equivalent, in effect at the federal reserve bank for the federal reserve district in which Arkansas is located;~~

~~(8) "Industrial development bonds" means bonds specified in Arkansas Constitution, Amendment 62, §§ 2 and 3, issued for the public purpose of financing facilities for the securing and developing of industry;~~

~~(9) "Industrial facilities" means:~~

~~(A) Land, interests in land, buildings, facilities, equipment, or related improvements necessary or useful for the securing, developing, preserving, or maintaining of economic activity within or near the municipality or county, including, but not limited to, manufacturing facilities;~~

~~(B) Warehouse and storage facilities;~~

~~(C) Distribution facilities;~~

~~(D) Repair and maintenance facilities;~~

~~(E) Communications facilities;~~

~~(F) Facilities for computer and data processing equipment and related services;~~

~~(G) Agricultural storage, processing, packaging, shipping, and other agricultural facilities;~~

~~(H) Transportation facilities;~~

~~(I) Tourism facilities;~~

~~(J) Corporate and management offices for industry; and~~

~~(K) Industrial parks;~~

SECTION 3. Arkansas Code § 14-164-303(11), concerning the definitions used under the Local Government Bond Act of 1985, is amended to read as follows:

(11) "Legislative body" means the quorum court of a county or the ~~council~~, board of directors, board of commissioners, or similar elected governing body of a city or town;

SECTION 4. Arkansas Code § 14-164-303, concerning the definitions used

under the Local Government Bond Act of 1985, is amended to add additional subdivisions to read as follows:

(16) "Economic development projects" means the land, buildings, furnishings, equipment, facilities, infrastructure, and improvements that are required or suitable for the development, retention, or expansion of:

(A) Manufacturing, production, and industrial facilities;

(B) Research, technology, and development facilities;

(C) Recycling facilities;

(D) Distribution centers;

(E) Call centers;

(F) Warehouse facilities;

(G) Job training facilities; and

(H) Regional or national corporate headquarters

facilities; and

(17) "Infrastructure" means:

(A) Land acquisition;

(B) Site preparation;

(C) Road and highway improvements;

(D) Rail spur, railroad, and railport construction;

(E) Water service;

(F) Wastewater treatment;

(G) Employee training, which may include equipment for

such purpose; and

(H) Environmental mitigation or reclamation.

SECTION 5. Arkansas Code § 14-164-305(a), concerning the supplemental nature of the Local Government Bond Act of 1985, is amended to read as follows:

(a) It is the specific intent of this subchapter that ~~the provisions of this subchapter, and in particular § 14-164-303(b), and §§ 14-164-326 to 14-164-339, are~~ be supplemental to other constitutional or statutory provisions ~~which that~~ which may provide for the financing of capital improvements of a public nature or ~~the securing and developing of industry economic development projects.~~

SECTION 6. Arkansas Code §§ 14-164-307 and 14-164-308 are amended to

read as follows:

14-164-307. Financing of ~~facilities for industry~~ economic development projects.

To provide for the financing of ~~facilities for the securing, developing, preserving, and maintaining of industry~~ economic development projects, municipalities and counties are ~~authorized to~~ may own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, ~~or~~ and otherwise deal in or dispose of any ~~industrial facilities~~ economic development projects.

14-164-308. Bonds generally – Authorizing ordinance.

Whenever a legislative body determines the need to issue bonds for capital ~~improvement or industrial development purposes~~ improvements or economic development projects, ~~it~~ the legislative body shall authorize the issuance of the bonds by ordinance specifying the principal amount of bonds to be issued, the purpose or purposes for which the bonds are to be issued, and the maximum rate of any ad valorem tax to be levied and pledged to the retirement of the bonds.

SECTION 7. Arkansas Code § 14-164-315 is amended to read as follows:

14-164-315. Bonds generally – Sale.

~~(a) Except as provided in subsection (b) of this section, the bonds~~ Bonds may be sold at public or private sale for such price, including, without limitation, sale at a discount, and in such manner as the legislative body of the issuer may determine.

~~(b)(1) Bonds which are industrial development bonds shall be sold only at public sale after notice of the sale shall have been given not less than twenty (20) days prior to the sale by one (1) publication in a newspaper having bona fide circulation in the municipality or county issuing such bonds.~~

~~(2) Nothing contained in this subsection shall require the public sale of industrial development bonds which are to be exchanged for bonds of like amount, rate of interest, and length of issue.~~

SECTION 8. Arkansas Code § 14-164-317(b), concerning ad valorem taxes collected and pledged for the payment of bonds under the Local Government

Bond Act of 1985, is amended to read as follows:

(b)~~(1)~~ The ad valorem tax shall never be extended for any other purpose, nor collected for any greater length of time than necessary to retire ~~such~~ the bonded indebtedness.

~~(2) However, tax collections in excess of the amount required to retire the debt according to its terms may, subject to covenants entered into with the owners of the bonds, be pledged as security for the issuance of additional bonds if authorized by the electors.~~

~~(3) The tax for the additional bonds shall terminate within the time provided for the tax originally imposed.~~

SECTION 9. Arkansas Code § 14-164-319 is amended to read as follows:

14-164-319. Bonds generally – Mortgage lien – Definition.

(a) The ordinance or trust indenture authorized in § 14-164-310 or § 14-164-312 may, but need not, impose a foreclosable mortgage lien upon the capital improvements or ~~industrial facilities~~ economic development projects financed with the proceeds of bonds issued under this subchapter.

(b) The nature and extent of ~~such~~ the mortgage lien imposed under subsection (a) of this section may be controlled by the ordinance or trust indenture, including, without limitation, provisions:

(1) Pertaining to the release of all or part of the land, buildings, or facilities from the mortgage lien;

(2) Pertaining to the priority of the mortgage lien in the event of successive bond issues; and

(3) Authorizing any owner of bonds, or a trustee on behalf of all owners, either at law or in equity, to enforce the mortgage lien and, by proper suit, compel the performance of the duties of the officials of the issuer set forth in this subchapter or in the ordinance or trust indenture authorizing and securing the bonds.

(c) ~~References As used~~ in this section, ~~to mortgage lien shall include~~ "mortgage lien" includes a security interest in any personal property constituting the capital improvements or ~~industrial facilities~~ economic development projects, or part ~~thereof~~ of the capital improvements or economic development projects, financed with the proceeds of bonds issued under this subchapter.

SECTION 10. Arkansas Code § 14-164-324(c), concerning refunding bonds under the Local Government Bond Act of 1985, is amended to read as follows:

(c)(1) Bonds issued to refund outstanding bonds that were issued under Arkansas Constitution, Amendment 62, shall in all respects be authorized and issued in the manner provided for the bonds being refunded.

(2)(A) However, if the refunding bonds are not in a greater principal amount than the bonds being refunded, the question of issuing ~~such~~ the refunding bonds need not be submitted at an election.

(B) Any premium paid as part of the purchase price of the refunding bonds shall not be taken into account in calculating the principal amount of the refunding bonds.

SECTION 11. Arkansas Code § 14-164-324(e)(1), concerning refunding bonds under the Local Government Bond Act of 1985, is amended to read as follows:

(e)(1) Bonds may also be issued under the provisions of this subchapter for the purpose of refunding any outstanding short-term financing obligation issued under Arkansas Constitution, Amendment 78, or revenue bonds, including bonds secured in whole or in part by revenues derived from any special tax pledged ~~thereto~~ to secure the bonds, issued, whether or not issued prior or subsequent to April 15, 1985, to finance capital improvements of a public nature if the question of the issuance of the refunding bonds is submitted to the electors in the manner provided in § 14-164-309.

SECTION 12. Arkansas Code § 14-164-325 is amended to read as follows:
14-164-325. Taxes not state revenues.

It is the express intent of the General Assembly that any tax levied under the authority of this subchapter by a municipality or county ~~for the purpose of financing~~ to finance capital improvements of a public nature or ~~facilities for the securing and developing of industry~~ economic development projects shall not constitute revenues of the state within the meaning of any constitutional or statutory provisions, but ~~such~~ the tax levied under this subchapter shall at all times continue to be revenues of the particular municipality or county notwithstanding the participation or involvement, for the convenience of administration, by the Director of the Department of Finance and Administration or the ~~State~~ State Treasurer of State in the manner

authorized in this subchapter in any phase of collection, holding, or distribution of proceeds of any tax authorized under this subchapter.

SECTION 13. Arkansas Code § 14-164-327(a)(1), concerning the levy of local sales and use taxes for capital improvement bonds under the Local Government Bond Act of 1985, is amended to read as follows:

(a)(1) In lieu of or in addition to the levying of an ad valorem tax to retire bonds for capital ~~improvement purposes~~ improvements or for financing economic development projects, the legislative body of a municipality or county may adopt an ordinance levying a local sales and use tax in the amount of one-eighth of one percent (0.125%), one-fourth of one percent (0.25%), one-half of one percent (0.5%), three-fourths of one percent (0.75%), one percent (1%), or any combination of these amounts to retire the bonds in accordance with the terms of this section and §§ 14-164-328 – 14-164-335.

SECTION 14. Arkansas Code § 14-164-327(c), concerning the levy of local sales and use taxes for capital improvement bonds under the Local Government Bond Act of 1985, is amended to read as follows:

(c) Section 26-74-414(b) does not apply to a local sales and use tax levied by a county under this subchapter for the sole purpose of retiring ~~capital improvement~~ bonds for capital improvements or economic development projects if all collections derived from the local sales and use tax are pledged by the county to pay the principal and interest of the ~~capital improvement~~ bonds for capital improvements or economic development projects.

SECTION 15. Arkansas Code § 14-164-328(a)(1)(A), concerning the election to authorize local sales and use taxes for capital improvement bonds under the Local Government Bond Act of 1985, is amended to read as follows:

(a)(1)(A) On the date of adoption of an ordinance levying a local sales and use tax or taxes to retire the bonds for capital improvements or economic development projects, or within thirty (30) days following the adoption of the ordinance, the municipality or county shall provide by ordinance for the calling and holding of an election on the issuance of the bonds to which the tax or taxes will be pledged as provided in § 14-164-309.

SECTION 16. Arkansas Code § 14-164-339(a)(1), concerning the simultaneous pledge of local sales and use tax under the Local Government Bond Act of 1985, is amended to read as follows:

(a)(1) ~~Any~~ A municipality levying a local sales and use tax ~~pursuant to the provisions of~~ under § 26-73-113, § 26-75-201 et seq., or § 26-75-301 et seq., ~~or § 26-73-113~~ may pledge, simultaneously with the levy, all or a specified portion of the tax to retire bonds for ~~the purposes set forth in § 14-164-303(2)~~ capital improvements or economic development projects.

SECTION 17. Arkansas Code § 14-164-339(b)(1), concerning the simultaneous pledge of local sales and use tax under the Local Government Bond Act of 1985, is amended to read as follows:

(b)(1) ~~Any~~ A county levying a local sales and use tax ~~pursuant to the provisions of~~ under § 26-73-113, § 26-74-201 et seq., § 26-74-301 et seq., or § 26-74-401 et seq., ~~or § 26-73-113~~ may pledge, simultaneously with ~~such~~ the levy, all or a specified portion of ~~such~~ the tax to retire bonds for ~~the purposes set forth in § 14-164-303(2)~~ capital improvements or economic development projects.