

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

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As Engrossed: S2/16/17 H3/1/17
A Bill

SENATE BILL 288

By: Senators J. Hendren, *J. English*
By: Representative D. Douglas

For An Act To Be Entitled

AN ACT TO CREATE THE WORKFORCE DEVELOPMENT CENTER AUTHORITY ACT; TO AUTHORIZE THE CREATION AND OPERATION OF WORKFORCE DEVELOPMENT CENTER AUTHORITIES FOR THE PURPOSE OF PROVIDING VOCATIONAL AND TECHNICAL EDUCATION; TO PRESCRIBE THE POWERS AND FINANCING OF WORKFORCE DEVELOPMENT CENTER AUTHORITIES; TO PERMIT THE ISSUANCE OF BONDS AND OTHER FORMS OF INDEBTEDNESS BY A WORKFORCE DEVELOPMENT CENTER AUTHORITY; TO PERMIT CITY AND COUNTY TAX REVENUE TO BE DEDICATED TO THE BENEFIT OF A WORKFORCE DEVELOPMENT CENTER AUTHORITY; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE WORKFORCE DEVELOPMENT CENTER AUTHORITY ACT.

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

SECTION 1. Arkansas Code Title 6, Chapter 50, is amended to add an additional subchapter to read as follows:

Subchapter 8 – Workforce Development Center Authority Act

6-50-801. Title.

This subchapter shall be known and may be cited as the “Workforce Development Center Authority Act”.



6-50-802. Purpose – Construction.

(a) It is the purpose of this subchapter to:

(1) Enhance the availability, accessibility, responsiveness, and quality of vocational and technical education in this state;

(2) Assist cities and counties in upgrading the knowledge and skills of their existing workforce or potential new workforce;

(3) Encourage and facilitate cooperation between cities, counties, school districts, and vocational-technical schools; and

(4) Develop new funding sources for vocational and technical education.

(b) This subchapter shall be liberally construed to accomplish its intent and purposes and shall be the sole authority required for the accomplishment of its purpose.

6-50-803. Definitions.

As used in this subchapter:

(1) “Area of operation” means, for a workforce development center authority, the area within the combined geographical boundaries of every school district, city, and county that is a sponsor of a workforce development center authority;

(2) “Sponsor” means a school district, city, county, or vocational-technical school that is a sponsor of a workforce development center authority;

(3) “Vocational-technical school” means:

(A) A publicly supported vocational-technical school under § 6-51-202;

(B) A publicly supported technical institute under § 6-51-217; or

(C) A two-year or four-year state-supported institution of higher education that operates or has been approved to operate a secondary vocational center as of January 1, 2017;

(4) “Workforce development center” means a public education facility established by a workforce development center authority for any purpose of this subchapter; and

(5) “Workforce development center authority” means a public educational institution created under this subchapter to operate one (1) or

more workforce development centers and to further the purposes of this subchapter.

6-50-804. Workforce development center authority – Creation – Public corporation.

(a)(1) Four (4) or more sponsors listed under subdivision (a)(2) of this section may create a workforce development center authority.

(2) A workforce development center authority's four (4) or more sponsors:

(A) Shall include:

(i) One (1) or more school districts; and

(ii) One (1) or more vocational-technical schools;

and

(B) May include one (1) or more cities or counties.

(b)(1) A county or city shall not sponsor a workforce development center authority unless the governing body of the county or city provides by ordinance to sponsor the workforce development center authority.

(2) A school district or vocational-technical school shall not sponsor a workforce development center authority unless the governing body of the school district or vocational-technical school provides by resolution to sponsor the workforce development center authority.

(c)(1) The sponsors of a workforce development center authority shall enter into an agreement establishing the terms and conditions for operation of the workforce development center authority.

(2) To the extent consistent with this subchapter, the agreement shall specify the information provided for in the Interlocal Cooperation Act, § 25-20-104(c).

(3) The agreement shall be filed with the Secretary of State.

(d) By action of the board of directors of the workforce development center authority, a workforce development center authority established under this subchapter may add one (1) or more sponsors to the creating sponsors under subsection (a) of this section.

(e)(1) Each workforce development center authority and its sponsors:

(A) Shall constitute a public corporation;

(B) Shall have perpetual succession;

(C) May contract and be contracted with;

(D) May sue and be sued; and

(E) May have and use a common seal.

(2) The exercise of the powers and performance of duties provided for in this subchapter by each workforce development center authority and its officers, agents, and employees are declared to be public and governmental functions, exercised for a public purpose and matters of public necessity, conferring upon each workforce development center authority governmental immunity from suit in tort.

6-50-805. Board of directors.

(a) The management and control of each workforce development center authority and its property, operations, business, and affairs shall be lodged in a board of directors of not less than five (5) members.

(b)(1) The membership of the board of directors shall include:

(A) The superintendent of each sponsoring school district, or his or her designee; and

(B) The president or executive director of each sponsoring vocational-technical school, or his or her designee.

(2) The membership of the board of directors may include, as determined by the agreement establishing the terms and conditions for the operation of the workforce development center authority, one (1) or more of the following:

(A) The county judge of one (1) or more sponsoring counties, or his or her designee;

(B) The mayor of one (1) or more sponsoring cities, or his or her designee; and

(C)(i) One (1) or more individuals appointed by the board of directors of one (1) or more sponsoring school districts.

(ii) The agreement establishing the terms and conditions for the operation of the workforce development center authority may define the term lengths, qualifications, and process for filling vacancies for individuals appointed by a school district board of directors.

(c) The board of directors shall elect a chair and other officers as determined by the board of directors.

(d) The members of the board of directors shall receive no compensation for their services but shall be entitled to reimbursement of

expenses incurred in the performance of their duties.

6-50-806. Powers generally.

The board of directors of a workforce development center authority created under this subchapter may:

(1) Make and adopt all necessary bylaws for its organization and operation;

(2) Elect officers and employ personnel necessary for its operation;

(3) Delegate any authority given to it by law to any of its officers, committees, agents, or employees;

(4)(A) Enter into contracts and agreements necessary or incidental to its powers and duties under this subchapter.

(B) A workforce development center authority's power to contract includes without limitation the power to contract with one (1) or more of its sponsors for the provision of services or programs to advance any purpose of this subchapter;

(5) Apply for, receive, and spend grants for any purpose of this subchapter;

(6) Acquire lands and hold title to the lands acquired in its own name;

(7) Acquire, own, lease, use, sell, encumber, and dispose of property in the exercise of its powers and the performance of its duties under this subchapter;

(8) Borrow money on a secured or unsecured basis, and in connection therewith issue bonds, promissory notes, or other evidence of indebtedness, and make and deliver indentures, mortgages, pledges, security agreements, financing statements, and other instruments encumbering assets of the workforce development center authority;

(9) Acquire, equip, construct, maintain, and operate one (1) or more workforce development centers and appurtenant facilities or properties;

(10) Promote, advertise, and publicize the workforce development center authority and its workforce development centers; and

(11) Do all things necessary or appropriate to carry out the powers and duties expressly granted or imposed under this subchapter.

6-50-807. Financing generally – Exemption from taxation or assessment.

(a) A workforce development center authority may request, receive, and be financed or supported by any revenue, grants, or funds allowed by law, including without limitation:

(1) Funds provided by counties, cities, school districts, and vocational-technical schools;

(2) Property or funds received by gift or donation;

(3) Grants;

(4) Proceeds from the sale or issuance of bonds, promissory notes, or other evidence of indebtedness;

(5) Tuition, fees, and other charges assessed on individuals or employers receiving services from a workforce development center authority;

(6) Other state funding that is appropriated;

(7) Other funds or loans from a state or federal agency;

(8) If requested and adopted, revenue from the levy by a sponsoring county of a sales tax or sales and use tax under § 26-74-201 et seq., § 26-74-301 et seq., and § 26-74-401 et seq. for the benefit of the workforce development center authority;

(9) If requested and adopted, revenue from the levy by a sponsoring city of a sales tax or sales and use tax under § 26-75-201 et seq. and § 26-75-301 et seq. for the benefit of the workforce development center authority;

(10)(A) If authorized by law, requested, and adopted, revenue from the levy of an additional sales and use tax for the benefit of an authority by a county or city not to exceed one-half of one percent (0.5%).

(B) A sales and use tax levied as described in this subdivision (a)(10) is in addition to any taxes levied under subdivisions (a)(8) and (9) of this section;

(11) If requested and adopted, revenue from the levy by a sponsoring school district of an additional ad valorem property tax under § 26-80-102 to secure the enrollment of a minimum number of the school district's students in a workforce development center operated by the authority; and

(12) If authorized by law, requested, and adopted, revenue from the levy by a sponsoring city or county of an additional ad valorem property tax for the benefit of the workforce development center authority.

(b) Taxes imposed under subdivisions (a)(8)-(12) of this section shall be approved by voters pursuant to all applicable election laws.

(c)(1)(A) Counties, pursuant to an ordinance properly and lawfully adopted by their quorum courts, may annually grant financial aid to any workforce development center authority operating within their borders for the purpose of assisting the workforce development center authority in paying its lawful expenses of operation.

(B) The ordinance shall be effective for a period of twelve (12) months.

(2)(A) Incorporated towns and cities of the first or second class, pursuant to an ordinance properly and lawfully adopted by their governing bodies, may annually grant financial aid to any workforce development center authority operating within their borders for the purpose of assisting the workforce development center authority in paying its lawful expenses of operation.

(B) The ordinance shall be effective for a period of twelve (12) months.

(3)(A) School districts, pursuant to a resolution properly and lawfully adopted by their governing bodies, may appropriate funds to any workforce development center authority operating within their borders for the purpose of securing the enrollment of a minimum number of the school district's students in a workforce development center operated by the authority.

(B) Funds appropriated by a school district to a workforce development center authority under this subdivision (c)(3), and any ad valorem property tax revenue pledged by a school district under subdivision (a)(11) of this section, are maintenance and operation expenses under § 26-80-102 and Arkansas Constitution, Article 14, § 3.

(d) A county, city, or vocational-technical school located within the area of operation of a workforce development center authority may:

(1) Contribute funds for the benefit of the workforce development center authority, including without limitation funds for the cost of acquiring, constructing, equipping, maintaining, and operating workforce development centers operated by the workforce development center authority;

(2) Pledge tax revenue for the benefit of the workforce development center authority as allowed by law; and

(3) Transfer and convey property to the workforce development center authority for any purpose of this subchapter.

(e)(1) A workforce development center authority is exempt from ad valorem property taxation or assessments on property acquired or used by the workforce development center authority for any purpose of this subchapter.

(2) Income from the operation of the authority shall be exempt from state income tax.

6-50-808. Bonds – Sale.

(a) A workforce development center authority may issue bonds for:

(1) The cost of acquiring, constructing, equipping, maintaining, and operating one (1) or more workforce development centers operated by the workforce development center authority within its area of operation;

(2) The cost of issuing the bonds;

(3) Any outstanding indebtedness of the workforce development center authority, including without limitation interest on the bonds; and

(4) Refunding any obligations issued under this subchapter.

(b) Bonds issued under this subchapter:

(1) Including any income from the bonds, or any profit made on the sale or transfer of the bonds, are exempt from taxation in this state;

(2) Shall be authorized by the board of directors of a workforce development center authority through a resolution containing any terms, covenants, and conditions that the board of directors deems to be reasonable and desirable;

(3) Shall have all of the qualities of and shall be deemed to be negotiable instruments under the laws of the State of Arkansas; and

(4) May be sold in such a manner, either at public or private sale, and upon such terms as the board of directors of a workforce development center authority shall determine to be reasonable and expedient for effectuating the purposes of this subchapter.

(c) Bonds, promissory notes, or other evidence of indebtedness issued under this subchapter:

(1) Are not backed by the full faith and credit of the State of Arkansas or the sponsors of the workforce development center authority; and

(2) Shall not in any event constitute an indebtedness of, nor pledge the faith and credit of, the State of Arkansas or a sponsor of the

workforce development center authority within the meaning of any constitutional provisions or limitations.

6-50-809. Accounts – Report – Audit.

(a)(1) The board of directors of a workforce development center authority:

(A) Shall deposit the funds received by the workforce development center authority into bank accounts as determined by the board of directors; and

(B) May withdraw funds from the bank accounts as determined by the board of directors.

(2)(A) Each workforce development center authority shall:

(i) Keep strict account of all of its receipts and expenditures; and

(ii) Make a report each quarter to the governing bodies of each sponsor.

(B) The report shall contain an itemized account of the workforce development center authority's receipts and disbursements during the preceding quarter.

(C) The report shall be made within sixty (60) days after the end of the quarter.

(b)(1)(A)(i) Within sixty (60) days after the end of each fiscal year, each workforce development center authority shall cause an annual audit to be made by an independent certified public accountant.

(ii) Each workforce development center authority shall file a copy of the resulting audit report with the governing bodies of each sponsor.

(B) The audit shall contain an itemized statement of the workforce development center authority's receipts and disbursements for the preceding year.

(2) The books, records, and accounts of each workforce development center authority shall be subject to audit and examination by any proper public official or body in the manner provided by law.

6-50-810. Dissolution.

(a) If a workforce development center authority does not have any

outstanding indebtedness, the board of directors of a workforce development center authority may adopt a resolution, which shall be entered in its minutes, declaring that the workforce development center authority shall be dissolved.

(b) The resolution dissolving the workforce development center authority shall provide for allocation of the workforce development center authority's remaining assets among the sponsors as of the date of dissolution.

(c) Upon the filing for record of a certified copy of the resolution with the Secretary of State, the workforce development center authority is dissolved.

SECTION 2. Arkansas Code § 26-73-114, concerning dedication of sales and use tax to schools, is amended to add a new section to read as follows:

(d)(1) When a city or county calls an election on the issue of a sales and use tax, it may designate on the ballot that a portion of the tax will be dedicated to a workforce development center authority under § 6-50-807.

(2) The Treasurer of State shall transmit to the treasurer or fiscal officer of each such workforce development center authority that workforce development center authority's share of the local sales and use taxes collected under this section at the same time as the city and county taxes are transmitted.

(3) Funds so transmitted may be used by the workforce development center authority for any purpose under § 6-50-801 et seq.

/s/J. Hendren