

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

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

SENATE BILL 361

By: Senator Dees

By: Representative Beaty Jr.

For An Act To Be Entitled

AN ACT TO CREATE THE INDUSTRIAL DEVELOPMENT
AUTHORITIES EXPANSION ACT; TO PROVIDE FOR THE
CREATION OF INDUSTRIAL DEVELOPMENT AUTHORITIES TO
SECURE AND DEVELOP INDUSTRY AND FOSTER ECONOMIC
DEVELOPMENT; TO IMPROVE THE STATE'S ABILITY TO
EFFECTIVELY COMPETE, WIN, AND DEVELOP ECONOMIC
DEVELOPMENT PROJECTS; TO INCREASE JOB CREATION AND
CAPITAL INVESTMENT; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE INDUSTRIAL DEVELOPMENT
AUTHORITIES EXPANSION ACT; AND TO
PROVIDE FOR THE CREATION OF INDUSTRIAL
DEVELOPMENT AUTHORITIES TO SECURE AND
DEVELOP INDUSTRY AND FOSTER ECONOMIC
DEVELOPMENT.

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

SECTION 1. Arkansas Code Title 14, is amended to add an additional
chapter to read as follows:

Chapter 189

Industrial Development Authorities Expansion Act

14-189-101. Title.

This chapter shall be known and may be cited as the "Industrial
Development Authorities Expansion Act".



14-189-102. Definitions.As used in this chapter:

(1) "County" means a county of this state or, where a county is divided into two (2) districts, "county" means the entire county or either district of the county;

(2) "Governing body" means the:

(A) Council, board of directors, or other like body in which the legislative functions of a municipality are vested; or

(B) Quorum court of the county as the quorum court has been duly constituted and acting as the legislative body of the county under Arkansas Constitution, Amendment 55, or if not so constituted and acting, the county court of the county;

(3) "Industrial development authority" means a public benefit corporation authorized by one (1) or more local governments as a political subdivision of the state for the purpose of securing and developing industry and fostering economic development and that is invested with all the powers that may be necessary to enable it to accomplish those purposes;

(4) "Local government" means a county or a municipality;

(5) "Mortgage lien" means a security interest in any personal property embodied in the facilities acquired, constructed, reconstructed, extended, equipped, or improved, in whole or in part, with the proceeds of bonds issued under this chapter;

(6) "Municipality" means a city of the first class, a city of the second class, or an incorporated town; and

(7) "Person" means any natural person, partnership, corporation, association, organization, business trust, and public or private person or entity.

14-189-103. Power to establish.

(a) One (1) or more local governments may organize and establish an industrial development authority in the manner and for the accomplishment of the purposes specified in this chapter.

(b)(1) Each industrial development authority established under this chapter shall consist of and be governed by a board of directors.

(2) The members of the board of directors of the industrial

development authority shall be selected and shall serve as set forth in this chapter.

14-189-104. Organization of industrial development authority.

(a) The governing body of each local government desiring to organize an industrial development authority under this chapter shall declare its intention to do so by ordinance if the local government is a municipality or by order if the local government is a county.

(b)(1) An ordinance shall authorize and direct the mayor of the municipality issuing the ordinance and an order shall authorize and direct the county judge of the county issuing the order to prepare, or cause to be prepared, and to sign and file with the circuit clerk of any county that is to be a party to the organization of an industrial development authority under this chapter a petition requesting the circuit court of the county where the petition is filed to establish an industrial development authority under this chapter.

(2) The petition shall at least contain the following information:

(A) The identity of the local governments desiring to organize the industrial development authority;

(B)(i) The population of each petitioning local government.

(ii) The population of a petitioning county is the population of the county exclusive of the population of each petitioning municipality in the county, according to the most recent federal decennial census;

(C) The official name desired by the petitioners for the industrial development authority to be established;

(D) The total number of the members of the board of directors of the industrial development authority desired by the petitioners, subject to the conditions pertaining thereto specified in this chapter;

(E) The number of the members of the board of directors of the industrial development authority that shall represent each petitioning local government, determined in accordance with the conditions specified in this chapter; and

(F) A request that the circuit court enter an order

designating the total number of the members of the board of directors of the industrial development authority, designating the number that shall represent each petitioning local government, and establishing an industrial development authority under this chapter as a public agency of the petitioning local government, but with the powers set forth in this chapter, which need not be enumerated in the order.

(c)(1) The circuit court shall enter an order establishing and naming the industrial development authority and designating the board of directors of the industrial development authority in accordance with the petition.

(2) The circuit court shall enter the order as a record of the court, and the order shall be placed in the permanent records of the circuit clerk of the court.

(d) After the entry of the order of the circuit court establishing the industrial development authority and after the appointments of its members, the industrial development authority shall be in existence and thereafter exist as a separate entity and body corporate as set forth in this chapter.

14-189-105. Members of board of directors of industrial development authority.

(a) Immediately after the filing of the order of the circuit court issued under § 14-189-104, the governing body of each petitioning local government shall appoint the persons to be the members of the board of directors of the industrial development authority established by the order of the circuit court in accordance with the order as to the number of members to be selected by the respective petitioning local governments.

(b) The total number of the members of the board of directors of the industrial development authority established by the order shall be an odd number, each petitioning local government shall have at least one (1) representative as a member of the board of directors of the industrial development authority, and the number of members that represent each petitioning local government shall be apportioned in the ratio that each petitioner's population bears to the total population of all petitioners.

(c)(1) The term of each member of the board of directors of the industrial development authority shall be for three (3) years from the date of his or her appointment, and he or she shall serve for that term and thereafter until his or her successor shall be duly appointed and qualified.

(2) At the expiration of the term of each member of the board of directors of the industrial development authority, the governing body of the local government that is represented on the board of directors of the industrial development authority by the member shall appoint a successor member or may reappoint the same member to another term.

(d)(1) Except as provided in subdivision (d)(2) of this section, a vacancy on the board of directors of the industrial development authority shall be filled by the governing body of the local government represented on the board of directors of the industrial development authority by the vacating member.

(2)(A) If a vacancy on the board of directors of the industrial development authority is not filled by the governing body under subdivision (d)(1) of this section within ninety (90) days after the vacancy occurs, a majority of the remaining members of the board of directors of the industrial development authority shall promptly fill the vacancy by appointing a qualified person to serve for either the unexpired portion of the term of the vacated member or for a new term if the vacating member is unable to serve until a new member is otherwise appointed and qualified.

(B) For the purposes of this section, the expiration of a member's term does not create a vacancy unless the member whose term has expired is unable to serve until his or her successor is appointed and qualified.

(e) Before entering upon his or her duties, each member of the board of directors of the industrial development authority shall take and subscribe and file in the office of the circuit clerk of the county where the order establishing the industrial development authority was filed an oath to support the United States Constitution and the Arkansas Constitution and faithfully to perform the duties of the office upon which he or she is about to enter.

(f) To be eligible for membership on the board of directors of the industrial development authority, a person, at the time of his or her appointment and qualification by filing the required oath, must be a qualified elector of the municipality or of the county, as the case may be, that he or she represents on the board of directors of the industrial development authority.

(g)(1)(A) The board of directors of each industrial development

authority shall select one (1) of its members as chair, one (1) of its members as secretary, and one (1) of its members as treasurer.

(B) The offices of secretary and treasurer may be combined and held by one (1) member.

(2) The term and duties of the officers shall be fixed by resolution of the board of directors of each industrial development authority.

14-189-106. Permanent records of industrial development authority.

A certified copy of each ordinance and a certified copy of each order appointing persons to membership on the board of directors of the industrial development authority shall be filed with the secretary of the board of directors of the industrial development authority and shall be and remain part of the permanent records of the industrial development authority.

14-189-107. General purposes of industrial development authority.

(a) An industrial development authority may accomplish the following general purposes:

(1) To establish, acquire, develop, improve, or maintain:

(A) Commerce and industrial parks;

(B) Research, technology, and development proving grounds and facilities;

(C) Job training facilities, air cargo operations, depots for military use, rail lines, rail transload operations, and short-line railroads; and

(D) All other qualifying economic development projects under § 14-174-105;

(2) To acquire, purchase, install, lease, own, hold, use, control, construct, equip, maintain, develop, and improve lands and facilities, of whatever nature necessary or desirable, in connection with establishing, developing, improving, and maintaining:

(A) Commerce and industrial parks;

(B) Research, technology, and development proving grounds and facilities;

(C) Job training facilities, air cargo operations, depots for military use, rail lines, rail transload operations, and short-line

railroads; and

(D) All other qualifying economic development projects under § 14-174-105, including without limitation, buildings, warehouses, utilities, and the improvement of portions of highways or roadways, and other facilities not within the exclusive jurisdiction of the United States Government;

(3) To foster and stimulate the shipment of freight and commerce, whether by rail, air, roadway, highway, or other modes of transport, and whether originating within or without the State of Arkansas;

(4) To accept and use funds from any sources and to use them in such a manner as is within the purposes of the industrial development authority;

(5) To cooperate with the State of Arkansas and all agencies, departments, and instrumentalities of the State of Arkansas and with other counties, municipalities, and political subdivisions in the maintenance, development, improvement, and use of:

(A) Commerce and industrial parks;

(B) Research, technology, and development proving grounds and facilities;

(C) Job training facilities, air cargo operations, depots for military use, rail lines, rail transload operations, and short-line railroads; and

(D) All other qualifying economic development projects under § 14-174-105;

(6) To cooperate with any other state and all its agencies, departments, and instrumentalities and port authorities, counties, municipalities, political subdivisions, and all their instrumentalities and agencies in other states in the maintenance, development, improvement, and use of:

(A) Commerce and industrial parks;

(B) Research, technology, and development proving grounds and facilities;

(C) Job training facilities, air cargo operations, depots for military use, rail lines, rail transload operations, and short-line railroads; and

(D) All other qualifying economic development projects

under § 14-174-105;

(7) To act as agent for the United States Government or any agency, department, corporation, or instrumentality of the United States Government and for the State of Arkansas and any agency, department, instrumentality, or political subdivision of the State of Arkansas in any matter pertaining to the accomplishment of the purposes of the industrial development authority;

(8) To acquire, construct, equip, maintain, develop, and improve facilities at:

(A) Commerce and industrial parks;

(B) Research, technology, and development proving grounds and facilities;

(C) Job training facilities, air cargo operations, depots for military use, rail lines, rail transload operations, and short-line railroads; and

(D) All other qualifying economic development projects under § 14-174-105;

(9) To sell, lease, contract concerning, or permit the use of all or any part of the facilities acquired, constructed, and equipped under this subsection to any person for industrial or commercial activities; and

(10) In general, to do and perform any act or function that may tend to or be useful toward the development and improvement of:

(A) Commerce and industrial parks;

(B) Research, technology, and development proving grounds and facilities;

(C) Job training facilities, air cargo operations, depots for military use, rail lines, rail transload operations, and short-line railroads; and

(D) All other qualifying economic development projects under § 14-174-105;

(b) The enumeration of the purposes under subsection (a) of this section shall not limit or circumscribe the broad objectives and purposes of this chapter and the broad objectives of developing to the utmost:

(1) Commerce and industrial parks;

(2) Research, technology, and development proving grounds and facilities;

(3) Job training facilities, air cargo operations, depots for military use, rail lines, rail transload operations, and short-line railroads;

(4) All other qualifying economic development projects under § 14-174-105; and

(5) Industrial and commercial development possibilities of the state and the political subdivisions of the state.

14-189-108. Powers of industrial development authority generally.

In order to enable an industrial development authority to carry out the purposes of this chapter, the industrial development authority shall:

(1) Have the powers of a body corporate including the power to sue and be sued, to make contracts, and to adopt and use a seal;

(2) Have the power to rent, acquire, improve, develop, operate, maintain, lease, buy, own, mortgage, otherwise encumber, sell, dispose of, and otherwise deal with such real, personal, or mixed property as an industrial development authority may deem proper, necessary, or desirable to carry out the purposes of this chapter;

(3) Have the power to acquire, purchase, install, lease, rent, own, hold, use, control, develop, sell, improve, construct, maintain, equip and operate, and otherwise deal with and dispose of any:

(A) Commerce and industrial parks;

(B) Research, technology, and development proving grounds and facilities;

(C) Job training facilities, air cargo operations, depots for military use, rail lines, rail transload operations, and short-line railroads; and

(D) All other qualifying economic development projects under § 14-174-105;

(4) Have the power consistent with this chapter to acquire, own, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, lease with or without options to purchase, lease with or without options to extend or renew, contract concerning, or otherwise deal in, with, or dispose of any lands, buildings, improvements, machinery, equipment, or facilities of any and every nature for the securing and developing of industry and commerce and parks for industrial and commercial operations;

(5) Have the power to appoint and employ and dismiss at pleasure such agents and employees as may be selected by an industrial development authority and to fix and pay their compensation;

(6) Have the power to establish an office for the transaction of business at such place as, in the opinion of an industrial development authority, shall be advisable or necessary in carrying out the purposes of this chapter;

(7) Have the power to create and operate such agencies, departments, and instrumentalities as an industrial development authority may deem necessary, desirable, or useful for the accomplishment and furtherance of any of the purposes of this chapter;

(8) Have the power to pay and expend funds for all necessary costs and expenses involved in and incident to the formation and organization of an industrial development authority and the carrying out of the powers and purposes of this chapter;

(9) Have the power to adopt, alter, or repeal from time to time its own bylaws, rules, and regulations consistent with this chapter governing the manner in which the business of an industrial development authority may be transacted and in which the purposes and powers may be transacted and in which the purposes and powers of an industrial development authority may be accomplished and carried out;

(10) Have the power to fix and change, from time to time, rates and charges for the use of the facilities and services of an industrial development authority;

(11) Have the power to promulgate and to alter or repeal, from time to time, rules and regulations consistent with this chapter and to enforce the same governing and pertaining to the use of the facilities and services of an industrial development authority;

(12) Have the power to sell, contract concerning, or lease any of its warehouses, industrial or commercial plants and facilities, and other improvements and facilities of whatever nature and to permit the use of any such facilities by any person engaging in any industrial or commercial activity;

(13) Have the power to do any and all other acts and things of whatever nature consistent with this chapter necessary or incidental to the carrying out of the powers specified in this section and the accomplishment

of the purposes of this chapter, whether or not specifically enumerated; and

(14) Be authorized to carry out the powers of an industrial development authority and to accomplish the purposes of this chapter.

14-189-109. Industrial development authority-owned facilities – Proposals for lease or operation.

(a) With regard to industrial development authority-owned facilities used for commercial and industrial purposes, before entering into a new lease of existing facilities or into a lease of new facilities, in whole or in part, or before operating facilities for these purposes, in whole or in part, an industrial development authority shall first publicly solicit proposals for the leasing or operation of the facilities for these purposes on such terms as shall be customary and usual in the commercial industry.

(b) An industrial development authority shall accept a proposal under subsection (a) of this section that is commercially reasonable and in the industrial development authority's best interest.

14-189-110. Acquisition of property, including rights-of-way.

(a) For the acquiring of property, including rights-of-way, necessary or desirable for the carrying out of the powers of an industrial development authority and for the accomplishment of the purposes of this chapter, an industrial development authority may acquire property by gift, by purchase, by negotiation, or by condemnation.

(b) If an industrial development authority determines to exercise the right of eminent domain, the right of eminent domain may be exercised in the manner provided for taking private property for railroads as provided by §§ 18-15-1202 – 18-15-1207, in the manner provided by §§ 18-15-301 – 18-15-307, or in the manner provided by any other statutes enacted for the exercise of the power of eminent domain by the state, or by any officers, departments, agencies, or political subdivisions of the state.

(c) An industrial development authority may exchange any property acquired under this chapter for other property necessary or desirable in carrying out of the powers of an industrial development authority.

14-189-111. Condemnation of utility system prohibited.

This chapter does not authorize any industrial development authority to

acquire by condemnation, or to issue bonds and use the proceeds of the bonds to acquire by condemnation, a utility plant or utility distribution system, or any part of them, owned or operated by a regulated public utility for the purpose of operation by the acquiring industrial development authority.

14-189-112. Operation of railroads.

(a)(1) An industrial development authority may acquire, own, lease, locate, install, construct, equip, hold, maintain, control, and operate railroads with necessary sidings, turnouts, spur branches, switches, yard tracks, transload on and off-loading equipment, bridges, trestles, and causeways.

(2) In connection with the lines and appurtenances to the lines under subdivision (a)(1) of this section, an industrial development authority may lease, install, construct, acquire, own, maintain, control, and use any and every kind or character of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares, and merchandise over, along, or upon the tracks of railroads or other conveyances.

(b)(1) An industrial development authority may make agreements as to scale of wages, seniority, working conditions, and related matters with locomotive engineers, firemen, switchmen, foremen, hostlers, and other employees engaged in the operation of the railroads and the service and equipment pertinent to railroads.

(2) An industrial development authority may connect with or cross any other railroad upon payment of just compensation and receive, deliver to, and transport the freight, passengers, and cars of common carrier railroads as though they were ordinary common carriers.

14-189-113. Dealings with United States Government.

(a)(1) An industrial development authority may assign, transfer, lease, convey, grant, or donate to the United States Government or to the appropriate agency of the United States Government any or all of the property of the industrial development authority for use by the United States Government or the appropriate agency of the United States Government, for any purpose included within the purposes of this chapter.

(2) An assignment, transfer, lease, conveyance, grant, or donation under subdivision (a)(1) of this section shall not be made that

would constitute an impairment of the covenants and obligations of an industrial development authority in connection with bonds or other certificates of indebtedness issued and outstanding by the industrial development authority or that would constitute an event of default under any indenture or similar instrument securing any indebtedness of an industrial development authority.

(3) Any assignment, transfer, lease, conveyance, grant, or donation, subject to the limitations specified, shall be upon such terms as the industrial development authority involved may deem advisable.

(b) If the United States Government or the appropriate agency or department of the United States Government should decide to undertake the acquisition, construction, equipment, maintenance, or operation of any of the properties and facilities of an industrial development authority and should decide to acquire the lands and properties necessarily needed in connection with it by condemnation or otherwise, the industrial development authority may transfer and pay over to the United States Government or to the appropriate agency of the United States Government such of the moneys belonging to the industrial development authority as may be reasonably required by the United States Government or the appropriate agency of the United States Government to meet and pay the amount of judgments in condemnation proceedings as may be rendered from time to time against the United States Government or the appropriate agency of the United States Government or as may be reasonably necessary to permit the United States Government or the appropriate agency of the United States Government to acquire and become possessed of such lands and properties as are reasonably required for the acquisition, construction, and use of the properties and facilities referred to in this section.

14-189-114. Local government assistance – Legislative determination.

(a)(1) It is determined by the General Assembly that the following are necessary for and useful in the securing and developing of industry in the State of Arkansas:

- (A) Commerce and industrial parks;
- (B) Research, technology, and development proving grounds and facilities;
- (C) Job training facilities, air cargo operations, depots

for military use, rail lines, rail transload operations, and short-line railroads;

(D) All other qualifying economic development projects under § 14-174-105; and

(E) The facilities authorized to be acquired, constructed, reconstructed, extended, equipped, or improved by an industrial development authority under this chapter.

(2) Therefore, an industrial development authority may contract with the local governments represented on the board of directors of the industrial development authority for the local governments to make available the proceeds of bonds issued under Arkansas Constitution, Amendment 62, or prior amendments to the Arkansas Constitution repealed by Arkansas Constitution, Amendment 62, to the industrial development authority for the purpose of financially assisting the industrial development authority to accomplish the purposes of this chapter consistent with Arkansas Constitution, Amendment 62, or prior amendments to the Arkansas Constitution repealed by Arkansas Constitution, Amendment 62.

(b)(1) In addition, local governments may use and make available to an industrial development authority, by way of donation, loan, or otherwise, any available revenues for the purpose of financially assisting the industrial development authority to accomplish the purposes of this chapter.

(2) Revenues made available under subdivision (b)(1) of this section may be used by the industrial development authority either alone or together with any other available funds and revenues for the accomplishment of the authorized purposes of this chapter.

14-189-115. Authorization to borrow funds and issue bonds.

(a) An industrial development authority may enter into the necessary contracts for the borrowing of funds, pursuant to this chapter, that the industrial development authority may determine will be required to carry out the purposes of this chapter. In this regard, an industrial development authority may issue bonds and use the proceeds of the bonds for the accomplishment of the purposes of this chapter, either alone or together with other available funds and revenues.

(b) An industrial development authority also may issue revenue bonds under this chapter for the purpose of applying a major portion of the

proceeds of the revenue bonds, alone or with other revenues that may be pledged, to the acquisition of an investment contract or contracts at a rate or rates of interest at least sufficient to provide for principal, premium, if any, and interest on the revenue bonds, as due, in consideration of the receipt of a portion of the proceeds for application by the industrial development authority to one (1) or more of the purposes authorized by this chapter.

14-189-116. Bonds – Authority to issue.

(a) This chapter is the sole authority required for the issuance of bonds under this chapter and for the exercise of the powers of an industrial development authority established under this chapter.

(b) A local government represented on the board of directors of an industrial development authority need not authorize or approve the:

(1) Issuance of bonds under this chapter; or

(2) Exercise of any other powers by an industrial development authority under this chapter.

14-189-117. Bonds – Covenants and agreements – Enforcement.

(a) All covenants and agreements entered into and made by an industrial development authority shall be binding in all respects on the industrial development authority and the members of the industrial development authority and their successors from time to time in accordance with the terms of the covenants and agreements.

(b) All of the terms of the covenants and agreements under subsection (a) of this section shall be enforceable by mandamus or other appropriate proceedings at law or in equity.

14-189-118. Bonds – Purposes.

Bonds may be issued for the acquisition, construction, and equipment of facilities and the reconstructing, extending, improving, equipping, or reequipping of facilities.

14-189-119. Bonds – Principal amount.

Each bond issued under this chapter shall be in the principal amount sufficient, together with other available funds, for:

(1) The acquisition, construction, and equipment of facilities or the reconstruction, extension, improvement, equipment, or reequipment of facilities;

(2) All costs of issuing the bonds;

(3) The amount necessary for a reserve, if deemed desirable by the industrial development authority issuing the bonds;

(4) The amount necessary to provide for debt service on the bonds until revenues for the payment of the bonds are available; and

(5) Any cost of whatever nature necessarily incidental to the bonds.

14-189-120. Bonds – Resolution or trust indenture generally.

(a)(1) An industrial development authority issuing the bonds under this chapter, by resolution or indenture, among other things, may control the subsequent issuance of additional bonds and the priority, between and among issues, of the pledge of revenues and of the mortgage lien, provide for the use of surplus pledged revenues, and provide for the creation of special trust funds to be maintained in such banks as the industrial development authority issuing the bonds may select.

(2) The moneys in the special trust funds under subdivision (a)(1) of this section shall be secured and disbursed as determined by the industrial development authority.

(b) The special trust funds under subsection (a) of this section may include without limitation a bond fund, a depreciation fund, an operation and maintenance fund, and such reserve funds as the industrial development authority issuing the bonds may determine to be in the best interests of the industrial development authority in accomplishing the purposes of this chapter.

14-189-121. Bonds – Authorizing resolution.

(a) Each issue of bonds under this chapter shall be authorized by resolution of the industrial development authority issuing the bonds.

(b) Priority, between and among successive issues of bonds under this chapter, of the pledge of revenues and mortgage lien may be controlled by the resolutions authorizing the issuance of bonds under this chapter.

14-189-122. Bonds – Terms and conditions.(a) Bonds issued under this chapter may:

- (1) Be coupon bonds payable to bearer as the authorizing resolution may provide;
- (2) Be registered as to principal or as to principal and interest, or be coupon bonds subject to registration as to principal or as to principal and interest as the authorizing resolution may provide;
- (3) Be in one (1) or more series as the authorizing resolution may provide;
- (4) Bear such date or dates as the authorizing resolution may provide;
- (5) Mature at such time or times, not exceeding thirty-five (35) years from their respective dates as the authorizing resolution may provide;
- (6) Bear interest at such rate or rates as the authorizing resolution may provide;
- (7) Be in such form as the authorizing resolution may provide;
- (8) Be executed in such manner as the authorizing resolution may provide;
- (9) Be payable in such medium of payment at such place or places as the authorizing resolution may provide;
- (10) Be subject to such terms of redemption as the authorizing resolution may provide; and
- (11) Contain such terms, covenants, and conditions as the authorizing resolution may provide, including without limitation those pertaining to:
 - (A) The custody and application of the proceeds of the bonds;
 - (B) The collection and disposition of revenues;
 - (C) The maintenance and investment of various funds and reserves;
 - (D) The nature and extent of the security;
 - (E) The rights, duties, and obligations of the industrial development authority issuing the bonds and of the trustee for the holders or registered owners of the bonds; and
 - (F) The rights of the holders or registered owners of the bonds.

(b) Bonds issued under this chapter shall have all of the qualities of negotiable instruments under the negotiable instruments laws of the state, subject to the provisions of this section pertaining to registration.

14-189-123. Bonds – Trust indenture.

(a) Each resolution of an industrial development authority authorizing the issuance of bonds under this chapter may provide for the execution of an indenture defining the rights of the holders and registered owners of the bonds and providing for the appointment of a trustee for the holders and registered owners of the bonds.

(b) An indenture under subsection (a) of this section may control the priority, between and among successive issues, of the pledge of revenues and mortgage lien and may control any other terms, covenants, and conditions that are deemed desirable, including without limitation, those pertaining to:

- (1) The custody and application of the proceeds of the bonds;
- (2) The collection and disposition of revenues;
- (3) The maintenance of various funds and reserves;
- (4) The nature and extent of the security;
- (5) The rights, duties, and obligations of the industrial development authority and the trustee for the holders and registered owners of the bonds; and
- (6) The rights of the holders and registered owners of the bonds.

14-189-124. Bonds – Contents.

It shall be plainly stated on the face of each bond issued under this chapter that the bond has been issued under the provisions of this chapter.

14-189-125. Bonds – Sale.

Bonds issued under this chapter may be sold for such price, including without limitation sale at a discount, and in such manner as the industrial development authority issuing the bonds may determine by resolution.

14-189-126. Bonds and coupons – Execution.

(a)(1) Bonds issued under this chapter may be executed by the facsimile signature of the chair of the board of directors of the industrial

development authority issuing the bonds and by the manual signature of the secretary of the board of directors of the industrial development authority issuing the bonds and sealed with the seal of the industrial development authority issuing the bonds.

(2) The coupons attached to the bonds may be executed by the facsimile signature of the chair of the board of directors of the industrial development authority issuing the bonds.

(b) In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of the bonds or coupons, their signatures shall, nevertheless, be valid and sufficient for all purposes.

14-189-127. Bonds – Conversion.

(a) Bonds issued under this chapter may be sold with the privilege of conversion to an issue bearing a lower rate or rates of interest upon such terms that the industrial development authority issuing the bonds receive no less and pay no more than the industrial development authority would receive and pay if the bonds were not converted.

(b) The conversion shall be subject to the approval of the industrial development authority issuing the bonds.

14-189-128. Bonds – Issues.

There may be separate issues involving different facilities and there may be successive issues involving the same facilities.

14-189-129. Bonds – General or special obligations.

Bonds issued under this chapter:

(1) Shall be general or special obligations only of the industrial development authority issuing the bonds; and

(2) Do not constitute an indebtedness for which the faith and credit of the state or the faith and credit of any municipality, county, or other political subdivision of the state or any of their revenues are pledged.

14-189-130. Bonds – Liability.

A member of an industrial development authority shall not be personally

liable on the bonds issued under this chapter or for any damages sustained by anyone in connection with the contracts with the holders and registered owners of the bonds or the construction, reconstruction, extension, improvement, or equipping of buildings or facilities unless the member has acted with a corrupt intent.

14-189-131. Bonds – Pledge of revenues.

(a) The principal of, premium, if any, or interest on, and trustee's and paying agent's fees in connection with each issue of bonds issued by the industrial development authority under this chapter shall be secured by a pledge of, and shall be payable from, the revenues derived from the lands, buildings, or facilities acquired, constructed, reconstructed, extended, improved, or equipped, in whole or in part, with the proceeds of the bonds of the particular issue.

(b) In addition, the industrial development authority issuing the bonds may pledge to, and use for the payment of the principal of, premium, if any, or interest on, and trustee's and paying agent's fees in connection with a particular issue of bonds, revenues derived from other lands, buildings, or facilities owned or held by the industrial development authority, and an investment contract or contracts entered into by the industrial development authority for the purpose of paying and securing the bonds, and any revenues to be derived from the contract or contracts.

14-189-132. Refunding bonds.

(a)(1) Bonds may be issued under this chapter for the purpose of refunding bonds previously issued under this chapter.

(2)(A) Refunding bonds may be issued alone or combined with bonds issued under this chapter into a single issue for the purpose of refunding outstanding bonds, acquiring lands, and constructing and equipping buildings or facilities or reconstructing, extending, improving, or reequipping existing buildings or facilities.

(B)(i) When refunding bonds are issued, the bonds may be either sold or delivered in exchange for the outstanding bonds being refunded.

(ii) If sold, the proceeds may either be applied to the payment of the bonds being refunded, or the proceeds may be deposited in

escrow for the retirement of them.

(b)(1) All refunding bonds shall, in all respects, be authorized, issued, and secured in the manner provided for other bonds issued under this chapter and shall have all the attributes of such bonds.

(2) The resolution or indenture authorizing or securing refunding bonds may provide that the bonds shall have the same priority of lien on the revenues pledged for their payment and on the property mortgaged as security for their payment as was enjoyed by the bonds refunded by them.

14-189-133. Bonds – Tax exemption.

(a) Bonds issued under this chapter are exempt from all state, county, and municipal taxes.

(b) The exemption under this section includes without limitation income, inheritance, and estate taxes.

14-189-134. Bonds as legal investment.

Bonds issued under this chapter shall be eligible to secure deposits of all public funds and shall be legal for investment of bank, insurance company, and retirement funds.

14-189-135. Bonds – Mortgage lien.

(a) The resolution or indenture referred may impose a foreclosable mortgage lien upon the facilities acquired, constructed, reconstructed, extended, equipped, or improved, in whole or in part, with the proceeds of bonds issued under this chapter.

(b) The nature and extent of the mortgage lien under this section may be controlled by the resolution or indenture, including without limitation provisions pertaining to:

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

(2) The priority of the mortgage lien in the event of successive bond issues as authorized by this chapter.

(c) The resolution or indenture authorizing or securing the bonds may authorize any holder or registered owner of bonds issued under the provisions of this chapter or a trustee on behalf of all holders and registered owners, either at law or in equity, to enforce the mortgage lien and, by proper suit,

to compel the performance of the duties of the officials of the industrial development authority set forth in this chapter and set forth in the resolution or indenture authorizing or securing the bonds.

14-189-136. Bonds – Default – Receiver.

(a) In the event of a default in the payment of the principal of or interest on any bonds issued under this chapter, any court having jurisdiction may appoint a receiver to take charge of the land, buildings, or facilities upon which there is a mortgage lien securing the bonds.

(b) The receiver shall have the power to operate and maintain the land, buildings, or facilities and to charge and collect rates or rents with reference to them. These rents shall be sufficient to provide for the payment of the principal of and interest on bonds, after providing for the payment of any costs of receivership and operating expenses of the land, buildings, or facilities, and to apply the income and revenues derived from them in conformity with this chapter and the resolution or indenture authorizing or securing the bonds.

(c) When the default has been cured, the receivership shall be ended and the properties returned to the industrial development authority issuing the bonds.

(d) The relief afforded by this section is in addition and supplemental to the remedies that may be afforded the trustee for the bondholders and the bondholders in the resolution or indenture authorizing or securing the bonds and shall be so granted and administered as to accord full recognition to priority rights of bondholders as to the pledge of revenues from, and the mortgage lien on, the land, buildings, or facilities as specified in and fixed by the resolution or indenture authorizing or securing successive bond issues.

SECTION 2. Arkansas Code Title 14, Chapter 164, Subchapter 7 is amended to read as follows:

14-164-701. Legislative intent.

(a) It is declared and confirmed that the securing and developing of industry is vital to the economic welfare of the state and its people. To this end, it is necessary that maximum flexibility be given to the Arkansas Development Finance Authority and to the counties, ~~and~~ municipalities, and

industrial development authorities organized under the Industrial Development Authorities Expansion Act, § 14-189-101 et seq., in the state in their efforts to retain and expand existing industrial facilities and locate new industrial facilities. This task involves the opportunity for the full utilization of the benefits of financing industrial facilities under Arkansas Constitution, ~~Amendment 49 [repealed]~~, Amendment 62, or prior amendments to the Arkansas Constitution repealed by Arkansas Constitution, Amendment 62, and §§ 14-164-201 – 14-164-206, 14-164-208 – 14-164-224, the Industrial Development Authorities Expansion Act, § 14-189-101 et seq., § 14-267-101 et seq., §§ 15-5-101 – 15-5-105, 15-5-207, § 15-5-301 et seq., and the Arkansas Development Finance Authority Bond Guaranty Act of 1985, § 15-5-401 et seq., including the exemption from ad valorem taxation of all industrial facilities that were exempt under Arkansas Constitution, Article 16, § 5, as interpreted by the Supreme Court in Wayland v. Snapp, 232 Ark. 57, 334 S.W.2d 633 (1960).

(b) While concerns using industrial bond financing should be encouraged to make payments in lieu of ad valorem taxes, and that is declared to be the general policy of the General Assembly, the final determination of whether these payments are to be made and, if made, in what amounts should be negotiated and contracted by the counties, ~~or municipalities,~~ or industrial development authorities in the state and by the industrial concerns involved under § 14-164-704.

14-164-702. Applicability.

(a) Pursuant to the findings and declarations of the state in § 14-164-701, it is found and declared that not only are the industrial facilities owned by a municipality, county, industrial development authority organized under the Industrial Development Authorities Expansion Act, § 14-189-101 et seq., or the Arkansas Development Finance Authority financed with bonds issued under §§ 14-164-201 – 14-164-206, 14-164-208 – 14-164-224, the Industrial Development Authorities Expansion Act, § 14-189-101 et seq., § 14-267-101 et seq., §§ 15-5-101 – 15-5-105, 15-5-207, § 15-5-301 et seq., and the Arkansas Development Finance Authority Bond Guaranty Act of 1985, § 15-5-401 et seq., to be exempt from ad valorem taxation, but the interest of a lessee or of a purchaser under a contract for sale of industrial facilities that are so exempt are also exempt from ad valorem taxation. To this end, the interest of a lessee or of a purchaser is intangible personal property for

purposes of ad valorem taxation. This finding and declaration is made under the authority granted to the General Assembly by and in implementation of the provisions and purposes of Arkansas Constitution, Amendment 57.

(b) The findings and declarations made in § 14-164-701 and the policy declared in this section apply to all existing industrial facilities and to all future industrial facilities involved in Arkansas Constitution, ~~Amendment 49 [repealed]~~, Amendment 62, or prior amendments to the Arkansas Constitution repealed by Arkansas Constitution, Amendment 62, §§ 14-164-201 – 14-164-206, 14-164-208 – 14-164-224, the Industrial Development Authorities Expansion Act, § 14-189-101 et seq., § 14-267-101 et seq., §§ 15-5-101 – 15-5-105, 15-5-207, § 15-5-301 et seq., and the Arkansas Development Finance Authority Bond Guaranty Act of 1985, § 15-5-401 et seq., financings, and to all existing and future interests in leases or purchase contracts pertaining to these industrial facilities.

14-164-703. Payments in lieu of taxes.

(a) If the Arkansas Development Finance Authority or a county, ~~or~~ municipality, or industrial development authority organized under the Industrial Development Authorities Expansion Act, § 14-189-101 et seq., in the state and a lessee under a lease or a purchaser under a contract for sale enter into an agreement for payments in lieu of ad valorem taxes, each agreement shall provide, or under this subchapter shall be interpreted as providing, that all in-lieu-of-taxes payments shall be distributed to the local political subdivisions that would have received ad valorem tax payments on the industrial facilities if the interest involved had not been exempt from ad valorem taxes in the proportions that the millage levied by each affected local political subdivision bears to the millage levied by all affected political subdivisions, unless all such local political subdivisions, including without limitation the affected school district or districts, shall otherwise agree.

(b) This section does not affect the rights or obligations of any of the parties to an agreement under this subchapter that exists on the date of enactment of this subchapter providing for payments in lieu of ad valorem taxes.

14-164-704. Sale of property.

(a)(1)(A) When the Arkansas Development Finance Authority or a municipality, ~~or~~ county, industrial development authority organized under the Industrial Development Authorities Expansion Act, § 14-189-101 et seq., in the state enters into a lease of property owned by the ~~authority~~ Arkansas Development Finance Authority, a municipality, ~~or~~ a county, or an industrial development authority or enters into a contract for sale of property by the ~~authority~~ Arkansas Development Finance Authority, a municipality, ~~or~~ a county, or an industrial development authority to a private for-profit entity under this subchapter or any other law or the Arkansas Constitution for the purpose of securing and developing industry, the lease or contract for sale shall, except as otherwise provided in this section, include an obligation that the lessee or purchaser make payments in lieu of property taxes in an amount as negotiated between the parties except the aggregate amount of the payments during the initial term of the lease or contract for sale shall be not less than thirty-five percent (35%) of the aggregate amount of ad valorem taxes that would be paid if the property were on the tax rolls, unless the Director of the Arkansas Economic Development Commission and the Chief Fiscal Officer of the State approve a lesser amount.

(B) If the ~~authority~~ Arkansas Development Finance Authority is the owner of the property, there shall be a separate agreement for payment in lieu of taxes among the ~~authority~~ Arkansas Development Finance Authority, the lessee or purchaser, the county in which the industrial facilities are located, and, if applicable, the municipality in which the industrial facilities are located.

(2)(A) The aggregate amount of ad valorem taxes that would be paid if the property were on the tax rolls during the initial term of the lease or contract for sale may be determined based on:

(i) The millage and assessment rates in effect at the time the obligation to make payments in lieu of property taxes is entered into;

(ii) The projected installed costs of the taxable real and personal property subject to or to be subject to the lease or contract for sale, which may be evidenced by an affidavit of an authorized officer of the private for-profit entity; and

(iii) Depreciation guidelines for personal property published by the Assessment Coordination Division.

(B) The aggregate amount determined under this subdivision (a)(2) shall be adjusted based on the actual installed costs of the taxable real and personal property at the time the lease or contract for sale is entered into or the time of completion of the project subject to the lease or contract for sale, whichever is later.

(3) In cases in which the municipality, ~~or county,~~ or industrial development authority is the lessor or seller, the obligation may be contained in a separate agreement at the option of the parties to the lease or contract for sale.

(4)(A)(i) For agreements entered into on or after September 1, 2023, the lessee or purchaser shall provide a copy of the agreement for payment in lieu of taxes under this subsection to the county assessor, including a description of all real and personal property that is subject to the agreement for payment in lieu of taxes.

(ii) This section does not require a lessee or purchaser to provide any information that the lessee or purchaser in good faith considers to be a trade secret, proprietary information, or other information that, if disclosed, would give an advantage to competitors.

(B)(i) Payments in lieu of ad valorem taxes under this subsection shall be billed by the county collector to the lessee or purchaser or their respective designees.

(ii) Payments made to the county collector for disbursement by the county treasurer shall be distributed to the respective taxing entities at the same time and in the same manner that ad valorem taxes are disbursed as provided by law.

(b) Before a meeting of municipal officials, ~~or county officials,~~ officers of the industrial development authority, or officials of the ~~authority~~ Arkansas Development Finance Authority in which action may be taken regarding approval of in-lieu-of-tax payments, the ~~authority~~ Arkansas Development Finance Authority, municipality, ~~or county,~~ or industrial development authority shall give at least ten (10) days' notice of the date, time, and place of the meeting to the:

(1) Superintendent of each school district in which all or any part of the property that is subject to the lease or contract of sale is located;

(2) Chief Fiscal Officer of the State; and

(3) County assessor, county tax collector, and county treasurer of the county in which the property is located.

(c) Subsections (a) and (b) of this section do not apply to:

(1) An agreement existing before July 1, 2001;

(2) An agreement entered into on or after July 1, 2001, under a memorandum of intent or agreement to issue bonds authorized by a municipality or county before July 1, 2001;

(3) An agreement entered into on or after July 1, 2001, related to a project covered by a financial incentive proposal from the Arkansas Economic Development Commission, or by resolution of the governing body of a municipality or a county designating the project by name for the purposes of this exemption, dated before July 1, 2001;

(4) A reissue or refinancing of bonds that are subject to an existing in-lieu-of-tax agreement; and

(5) A lease or contract for sale with a qualified manufacturer of steel as defined in § 26-52-901 or in Acts 2001, No. 541, entered into before June 30, 2009.

SECTION 3. Arkansas Code § 14-233-102(6), concerning the definition of "district" with respect to the Joint County Municipal Solid Waste Disposal Act, is amended to read as follows:

(6) "District" means an entity established pursuant to § 14-114-101 et seq., the Interstate Watershed Cooperation Act, § 14-115-101 et seq., The Regional Water Distribution District Act, § 14-116-101 et seq., the Arkansas Irrigation, Drainage, and Watershed Improvement District Act of 1949, § 14-117-101 et seq., § 14-118-101 et seq., The Water Improvement District Accounting Law of 1973, § 14-119-101 et seq., § 14-120-101 et seq., § 14-121-101 et seq., § 14-122-101 et seq., § 14-123-201 et seq., § 14-124-101 et seq., the Conservation Districts Law, § 14-125-101 et seq., the Central Business Improvement District Act, § 14-184-101 et seq., the Metropolitan Port Authority Act of 1961, § 14-185-101 et seq., § 14-186-101 et seq., § 14-187-101 et seq., the Rural Development Authority Act, § 14-188-101 et seq., the Industrial Development Authorities Expansion Act, § 14-189-101 et seq., § 14-249-101 et seq., the Wastewater Treatment Districts Act, § 14-250-101 et seq., and § 14-251-101 et seq.;

SECTION 4. Arkansas Code § 15-11-211 is amended to read as follows:
15-11-211. Disposal of railroad track material.

(a) The State Parks, Recreation, and Travel Commission and the Department of Parks, Heritage, and Tourism ~~are authorized to~~ may dispose of rail and other railroad track material by gift or contract to a regional intermodal facilities authority organized pursuant to the Regional Intermodal Facilities Act, § 14-143-101 et seq., a metropolitan port authority organized pursuant to the Metropolitan Port Authority Act of 1961, § 14-185-101 et seq., an industrial development authority organized under the Industrial Development Authorities Expansion Act, § 14-189-101 et seq., or a planning and development district recognized by § 14-166-202.

(b) A regional intermodal facilities authority, a metropolitan port authority, an industrial development authority, or a planning and development district may receive and acquire the property described in subsection (a) of this section upon such terms and conditions acceptable to it and shall use the property for railroad purposes in accordance with the power and authority conferred by law.

(c) If a regional intermodal facilities authority, a metropolitan port authority, an industrial development authority, or a planning and development district subsequently sells the property described in subsection (a) of this section, the net proceeds received from disposition of the property, after deduction of all costs and expenses related thereto, shall be remitted to the commission and the department.

SECTION 5. Arkansas Code § 27-67-322(f)(1) and (2), concerning the disposition of surplus rail or other railroad track material by the State Highway Commission, are amended to read as follows:

(f)(1) The transfer of surplus rail and other railroad track material purchased in part with federal transportation enhancement funds and granted to the State Parks, Recreation, and Travel Commission or the Department of Parks, Heritage, and Tourism, or both, by the State Highway Commission shall not be subject to the procedures set forth in subsections (a)-(e) of this section.

(2) Surplus rail and other track material described under this subsection may be transferred by gift or contract to a regional intermodal facilities authority, a metropolitan port authority, ~~or~~ a planning and

development district, or an industrial development authority.