

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**

**A BILL ACT 877 OF 1991**  
**HOUSE BILL 1425**

4 **By: Representatives Flanagin and Shaver**

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**For An Act To Be Entitled**

8 "AN ACT TO PROVIDE THAT STATE AGENCIES AND COMMISSIONS ARE  
9 RESPONSIBLE FOR LEVEE, DRAINAGE, AND ANY OTHER IMPROVEMENT  
10 OR SPECIAL ASSESSMENT DISTRICT ASSESSMENTS ON LAND OWNED  
11 BY THE AGENCY OR COMMISSION; TO PROVIDE THAT ASSESSMENT  
12 LIENS ARE NOT EXTINGUISHED BY SALE OR TRANSFER OF LAND TO  
13 A STATE AGENCY OR COMMISSION; AND FOR OTHER PURPOSES."

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

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17 SECTION 1. It is hereby found and determined by the General Assembly  
18 that some state agencies and commissions owning land within levee, drainage,  
19 or other improvement or special assessment districts do not pay the  
20 assessments; that such land may be benefitted by the assessment levied by the  
21 district; that although public property used exclusively for public purposes  
22 is exempt from ad valorem property taxation under the Arkansas Constitution,  
23 the Arkansas Supreme Court has distinguished a tax from an assessment, stating  
24 that the word "taxes" refers to exactions laid by the government for the  
25 purpose of general revenues and that the word "assessments" refers to  
26 exactions laid for making improvements; and that state agencies and  
27 commissions owning land in these districts should pay the assessments levied  
28 by the districts because they benefit from the districts' improvements.

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30 SECTION 2. It is hereby found and determined by the 78th General  
31 Assembly that all property owned by the Arkansas State Highway Commission or  
32 the Arkansas State Highway and Transportation Department is public property  
33 used exclusively for public purposes. Since neither the Commission nor the  
34 Department pursuant to Article 16 §5 of the Constitution of Arkansas are  
35 required to pay real or personal property taxes on real estate and tangible  
36 personal property owned by that Commission or Department, likewise,

1 notwithstanding any provision of law or any provision in this Act to the  
2 contrary, the Commission and Department shall not be required to pay any  
3 improvement district assessments that may be assessed against the Commission  
4 or Department as a result of such ownership.

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6         SECTION 3. Any state agency or commission, including the Arkansas Game  
7 and Fish Commission, owning real property located within a levee, drainage, or  
8 any other improvement or district and benefiting from the district shall pay  
9 the assessments levied by such districts from the date of implementation.  
10 However, the provisions of this section shall not apply retroactively to lands  
11 owned by state agencies prior to this act, unless the state agencies were  
12 already paying taxes or assessments on their lands. This section shall not  
13 apply to the Commissioner of State Lands.

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15         SECTION 4. The sale or transfer of real property located within a  
16 levee, drainage, or other improvement or special assessment district to a  
17 state agency or commission, including the Arkansas Game and Fish Commission,  
18 if benefitted by the stated purpose of the improvement district, shall not  
19 extinguish any lien for delinquent assessments of such districts or relieve  
20 the purchaser or transferee of liability for delinquent assessments in such  
21 districts. At its option, any state agency or commission may be excluded from  
22 any newly formed levee, drainage, or other improvement or special assessment  
23 districts. If the purpose of the improvement district does not benefit the  
24 affected lands, than no taxes or assessments will apply to the non-served  
25 lands. This section shall not apply to the Commissioner of State Lands.

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27         SECTION 5. All provisions of this act of a general and permanent  
28 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
29 Code Revision Commission shall incorporate the same in the Code.

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31         SECTION 6. If any provision of this act or the application thereof to  
32 any person or circumstance is held invalid, such invalidity shall not affect  
33 other provisions or applications of the act which can be given effect without  
34 the invalid provision or application, and to this end the provisions of this  
35 act are declared to be severable.

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SECTION 7. All laws and parts of laws in conflict with this act are hereby repealed.

*/s/ P. Flanagan and J. Shaver*

APPROVED: 3/29/91