

1 **State of Arkansas**
2 **79th General Assembly**
3
4 **Regular Session, 1993**
5 **By: Senator Hoofman**
6
7

A Bill₁₂

ACT 374 OF 1993

SENATE BILL 365

For An Act To Be Entitled

9 **"AN ACT AUTHORIZING THE BOARD OF TRUSTEES OF A**
10 **TECHNICAL OR A COMMUNITY COLLEGE TO ISSUE**
11 **REVENUE BONDS FOR THE PURPOSE OF FINANCING**
12 **CAPITAL IMPROVEMENTS AND SETTING FORTH THE**
13 **MANNER IN WHICH SUCH BONDS MAY BE ISSUED AND**
14 **SECURED; TO REPEAL ARKANSAS CODE ANNOTATED §§ 6-**
15 **61-604 THROUGH 6-61-612; TO DECLARE AN EMERGENCY;**
16 **AND FOR OTHER PURPOSES."**

Subtitle

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18
19 **"TO AUTHORIZE AND SET FORTH THE MANNER BY WHICH**
20 **TECHNICAL AND COMMUNITY COLLEGES MAY ISSUE**
21 **REVENUE BONDS FOR FINANCING CAPITAL**
22 **IMPROVEMENTS."**

23
24 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:**
25

26 **SECTION 1. This act shall be known as and may be cited as the "Technical College**
27 **and Community College Capital Improvement Act of 1993."**
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29 **SECTION 2. As used in this act, unless the context otherwise requires:**

30 **(1) "Board of trustees" means the local board of trustees of a technical or a community**
31 **college that is a member of the Arkansas Technical and Community College System under the**
32 **coordination of the State Board of Higher Education;**

33 **(2) "Bonds" means any evidences of indebtedness issued by a board of trustees**
34 **pursuant to this act;**

35 **(3) "Capital improvements" means the construction, repair, or renovation of buildings,**
36 **including without limitation, laboratories, libraries, portable classrooms, special events**

1 centers, training facilities, student housing, parking facilities, theaters, meeting halls, dining
2 facilities, and administrative offices; the purchase of existing buildings or structures; the
3 renovation or demolition of existing structures; the purchase of sites for the construction of
4 capital improvements; the purchase of equipment, apparatus, or library materials for any
5 facilities used by the technical college or the community college; any improvement that may be
6 the subject of a "capital outlay expense" as defined in Arkansas Code Annotated § 6-53-103(2);
7 or any other improvements that a board of trustees deems reasonable and necessary for the
8 development of the technical college or the community college;

9 **(4) "Community college" means a two-year institution of higher education established**
10 **pursuant to Act 560 of 1977, codified in Title 6, Chapter 61 of the Arkansas Code Annotated,**
11 **and Act 1244 of 1991, Arkansas Code Annotated §§ 6-53-101 et seq., and a member of the**
12 **Arkansas Technical and Community College System under the coordination of the State Board**
13 **of Higher Education;**

14 **(5) "Costs of issuance" means all costs associated with the issuance of bonds, including**
15 **without limitation, printing, publication, and notice expenses; the fees and expenses of trustees**
16 **and paying agents; and the fees and expenses of financial advisers, underwriters, attorneys,**
17 **consultants, and other professionals engaged to assist a board of trustees in issuing bonds;**

18 **(6) "Debt service" means the payment of principal, interest, redemption premiums, if**
19 **any, and the fees of trustees and paying agents, and servicing fees relating to the bonds;**

20 **(7) "Project" means the development, construction, or acquisition of any capital**
21 **improvement authorized by this act;**

22 **(8) "Project costs" means all or any part of the costs of developing any project**
23 **hereunder, and all or any part of costs incidental thereto, including without limitation,**
24 **planning, design, and engineering fees and expenses, payment of capitalized interest, and the**
25 **funding of appropriate reserves;**

26 **(9) "State" means the State of Arkansas;**

27 **(10) "State Board" means the State Board of Higher Education;**

28 **(11) "Technical college" means a two-year institution of higher education established**
29 **pursuant to Act 1244 of 1991, Arkansas Code Annotated §§ 6-53-101 et seq., or Act 617 of**
30 **1991, Arkansas Code Annotated §§ 6-54-101 et seq. and a member of the Arkansas Technical**
31 **and Community College System under the coordination of the State Board of Higher**
32 **Education.**

33

34 **SECTION 3. The board of trustees is authorized and empowered to enter into the**
35 **necessary contracts for the borrowing of all or any part of the funds that the board may**

1 determine will be required in connection with the financing of a project.

2

3 **SECTION 4.** The board of trustees is authorized to utilize any funds available to
4 finance temporarily all or any part of the project and to make reimbursement of the funds from
5 the proceeds of the sale of any bonds issued to finance a project permanently.

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7 **SECTION 5.** The board of trustees is authorized and empowered to issue its bonds
8 with a specific pledge for the payment of debt service and costs of issuance thereof, all or any
9 part of the following:

10 **(1)** The gross tolls, fees, rents, and other charges to be derived as income from the
11 project;

12 **(2)** Any surplus not pledged of the gross tolls, fees, rents, and other charges to be
13 derived from other projects financed in whole or in part by bonds issued by the board;

14 **(3)** All or any part of revenues derived from any auxiliary enterprise authorized by law;

15 **(4)** Tuition and fees collected from students;

16 **(5)** All or any part of the proceeds of any tax or special millage now or hereafter
17 approved by the General Assembly for the accomplishment of the purposes of this act;

18 **(6)** All or any part of the revenues described in § 6-53-207(d) and (e) and § 6-61-
19 603(b); and

20 **(7)(A)** Any funds received from the United States of America, or any department or
21 agency thereof, pursuant to any act of Congress, providing for grants or payments to
22 educational institutions in connection with, or in any way pertaining to, the financing of
23 acquiring lands and constructing and equipping buildings and improvements thereon.

24 **(B)** In regard to the funds referred to in (7)(A), the board of trustees is
25 authorized to take such action, comply with such terms and conditions, and execute such
26 agreements as may be necessary to apply for, receive, pledge, or use such funds for the purposes
27 specified in this act or any other lawful purpose.

28

29 **SECTION 6. (a)** The board of trustees shall not issue any bonds under the provisions
30 of this act unless, prior to the issuance of such notes or bonds, the board shall have obtained
31 the advice of the State Board of Higher Education as to the economic feasibility of the
32 particular project to be financed, in whole or in part, by those bonds.

33 **(b)** The board of trustees shall submit to the State Board of Higher Education
34 information pertaining to the proposed project and other information deemed pertinent to and
35 requested by the State Board of Higher Education.

1 **(c) The State Board of Higher Education shall notify the board of trustees, within**
2 **thirty (30) days from the date the information is submitted to the State Board, of the State**
3 **Board's advice with respect to the economic feasibility of the particular project.**

4 **(d) The advice of the State Board of Higher Education under this section shall not be**
5 **binding on the board of trustees.**

6 **(e) The authority conferred upon the State Board of Higher Education by this section**
7 **shall not extend to the feasibility of the bonds proposed to be issued by the board of trustees or**
8 **to any of the terms, conditions, and provisions thereof, and this section shall not be construed**
9 **to impair in any way the validity of any bonds issued by the board of trustees under this act or**
10 **impair or affect in any way the obligations of the board of trustees or the rights of any holder or**
11 **registered owner of the bonds.**

12
13 **SECTION 7. (a) The bonds shall be authorized by resolution of the board of trustees**
14 **of the technical college or the community college.**

15 **(b) The authorizing resolution may contain terms, covenants, and conditions that are**
16 **deemed desirable by the board of trustees, including, without limitation, provisions:**

17 **(1) Authorizing the issuance of bonds in series from time to time;**

18 **(2) Pertaining to the custody and application of bond proceeds;**

19 **(3) Pertaining to the maintenance of various funds and reserves;**

20 **(4) Pertaining to the collection, depositing, securing, and disbursing of tax**
21 **proceeds and other revenues;**

22 **(5) Pertaining to the nature and extent of the security; and**

23 **(6) Pertaining to the rights, duties, and obligations of the board and the holders**
24 **and registered owners of the bonds.**

25
26 **SECTION 8. The bonds shall be registrable as to principal and interest; and the bonds**
27 **may be in such form and denominations; may have such date or dates; may mature at such time**
28 **or times, not exceeding thirty (30) years from their date of issuance; may bear interest payable**
29 **on such dates and at such rate or rates not exceeding the maximum rate allowed by law; may be**
30 **payable at such place or places within or without the State of Arkansas; may be subject to such**
31 **terms of redemption in advance of maturity at such prices, including such premiums; and may**
32 **contain such terms and provisions, all as the board of trustees of the technical college or the**
33 **community college shall specify in the authorizing resolution or in the trust indenture**
34 **authorized by Section 9.**

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1 **SECTION 9. (a) The authorizing resolution may provide for the execution by the**
2 **board of trustees of the technical college or the community college with a bank or trust**
3 **company within or without the State of Arkansas of a trust indenture.**

4 **(b) The trust indenture may contain such terms, covenants, and conditions that are**
5 **deemed desirable by the board of trustees, including, without limitation, provisions:**

6 **(1) Authorizing the issuance of bonds in series from time to time;**

7 **(2) Pertaining to the custody and application of bond proceeds;**

8 **(3) Pertaining to the maintenance of various funds and reserves;**

9 **(4) Pertaining to the collection, depositing, securing, and disbursing of other**
10 **revenues;**

11 **(5) Pertaining to the nature and extent of the security; and**

12 **(6) Pertaining to the rights, duties, and obligations of the local board, the**
13 **trustee, and the holders and registered owners of the bonds.**

14
15 **SECTION 10. Bonds shall be executed by the manual or facsimile signature of the**
16 **chairman and secretary of the board of trustees of a technical college or a community college.**
17 **In case any of the officers whose signatures appear on the bonds shall cease to be an officer**
18 **before the delivery date of the bonds, his or her signature shall nevertheless be valid and**
19 **sufficient for all purposes.**

20
21 **SECTION 11. (a) Bonds issued pursuant to this act may be sold by negotiation or at**
22 **public sale, as shall be determined by the board of trustees.**

23 **(b) If the bonds are sold by negotiation, the board of trustees is authorized to enter a**
24 **bond purchase agreement upon such terms regarding discount and underwriting fees and at**
25 **such interest rates as the board shall determine in the exercise of its reasonable discretion.**

26 **(c) If the bonds are sold at public sale, notice of such public sale shall be published in a**
27 **newspaper of general circulation throughout the state at least twenty (20) days prior to the**
28 **date of sale, and the sale of the bonds shall be awarded to the bidder whose bid results in the**
29 **lowest net interest cost, taking into account any premium or discount contained in such bid.**

30
31 **SECTION 12. (a) The bonds shall be revenue bonds secured solely by the revenues**
32 **pledged thereto, and in no event shall they be considered a debt for which the faith and credit of**
33 **the State of Arkansas or any of its revenues are pledged.**

34 **(b) No member of any board shall be personally liable for the notes or bonds, or for any**
35 **damages sustained by anyone in connection with contracts for loans or the construction of the**

1 buildings, unless it shall be made to appear that he has acted with a corrupt intent.

2

3 **SECTION 13. (a)** For the purpose of and in connection with the issuance of bonds,
4 the board of trustees may execute such documents and enter into such agreements as it may
5 deem necessary or proper in connection therewith.

6 **(b)(1)** Any agreement entered into by the board of trustees shall be binding in all
7 respects upon the board of trustees and their successors from time to time in accordance with
8 the terms and all of the provisions of the agreement.

9 **(2)** The terms and provisions shall be enforceable by appropriate proceedings
10 at law or in equity, or otherwise, provided no mortgage or other lien shall be executed on any of
11 the lands or buildings belonging to the State of Arkansas.

12

13 **SECTION 14. (a)** The board of trustees has the power and is authorized to refinance,
14 in whole or in part, from time to time, its valid outstanding obligations issued under this act
15 and any amendments thereto.

16 **(b)(1)** To that end, the board of trustees may issue refunding bonds.

17 **(2)** This power may be exercised successively, and any obligations which have
18 once been refunded may thereafter from time to time be refunded.

19 **(3)** Refunding bonds shall be issued in the same manner as provided in this act
20 for original obligations.

21

22 **SECTION 15.** *Arkansas Code § 6-61-603(b) is hereby amended to read as follows:*

23 **"(b)** *While capital outlay expenses may not be paid from funds from the general*
24 *operating budget, such as state funds, capital outlay expenses may be paid from funds from*
25 *outside of the general operating budget, such as gifts, grants, or profits from auxiliary*
26 *enterprises."*

27

28 **SECTION 16.** Arkansas Code §§ 6-61-604 through -612 are hereby repealed.

29

30 **SECTION 17.** All provisions of this act of a general and permanent nature are
31 amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision
32 Commission shall incorporate the same in the Code.

33

34 **SECTION 18.** If any provision of this act or the application thereof to any person or
35 circumstance is held invalid, such invalidity shall not affect other provisions or applications of

1 the act which can be given effect without the invalid provision or application, and to this end
2 the provisions of this act are declared to be severable.

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4 **SECTION 19.** All laws and parts of laws in conflict with this act are hereby repealed.

5

6 **SECTION 20. EMERGENCY.** It is hereby found and determined by the Seventy-
7 Ninth General Assembly that technical colleges and community colleges are necessary
8 components of higher education in Arkansas in order for quality educational programs to be
9 available in all areas of the state and to all people; that the technical and community colleges
10 must achieve accreditation from the North Central Association - Commission on Institutions
11 of Higher Education by 1997 or they will be abolished by the State Board of Higher
12 Education; that in order to achieve accreditation, new sources for funding capital outlay
13 expenses for technical colleges, as well as an improvement in the method whereby community
14 colleges can issue bonds, must be found at once; that it is necessary for this act to become
15 effective immediately so that Arkansas technical and community colleges can be fully
16 accredited before the 1997 deadline. Therefore, an emergency is hereby declared to exist and
17 this act being necessary for the immediate preservation of the public peace, health, and safety
18 shall be in full force and effect from and after its passage and approval.

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/s/ Senator Hoofman

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APPROVED: 3/5/93

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