

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H4/3/03 S4/11/03 S4/14/03

A Bill

Act 1751 of 2003
HOUSE BILL 2228

5 By: Representative Rosenbaum
6
7

For An Act To Be Entitled

8 THE ARKANSAS GENERAL OBLIGATION ECONOMIC
9 DEVELOPMENT SUPERPROJECTS BOND AND PROJECT
10 FUNDING ACT.
11
12
13

Subtitle

14 THE ARKANSAS GENERAL OBLIGATION ECONOMIC
15 DEVELOPMENT SUPERPROJECTS BOND AND
16 PROJECT FUNDING ACT.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. This act may be referred to and cited as the "Arkansas
23 General Obligation Economic Development Superprojects Bond and Project
24 Funding Act".
25

26 SECTION 2. As used in this act:

27 (1) "Authority" means the Arkansas Development Finance Authority and
28 any successor agency or department;

29 (2) "Bonds" means bonds issued under this act;

30 (3) "Debt service" means principal, interest, redemption premiums, if
31 any, and trustees', paying agents', dissemination agents', and like servicing
32 fees relative to the bonds;

33 (4) "Department" means the Arkansas Department of Economic
34 Development;

35 (5) "Develop" means to plan, design, construct, acquire by purchase or
36 by eminent domain, own, operate, rehabilitate, lease as lessor or lessee,



1 enter into lease-purchase agreements with respect to, lend, make grants in
2 respect of, or install or equip any lands, buildings, improvements,
3 machinery, equipment, or other properties of whatever nature, real, personal,
4 or mixed;

5 (6) "Federal Deposit Insurance Corporation" means the federal agency
6 by that name or any successor agency that insures deposits of commercial
7 banks;

8 (7) "General revenues" means the revenues described and enumerated in
9 Subchapter 2 of the Revenue Classification Law of Arkansas or in any
10 successor law;

11 (8) "Infrastructure of a superproject" means:

12 (A) Land acquisition;

13 (B) Site preparation;

14 (C) Road and highway improvements;

15 (D) Rail spur construction;

16 (E) Water service;

17 (F) Wastewater treatment;

18 (G) Employee training which may include equipment used for the
19 training;

20 (H) Environmental mitigation; and

21 (I) Training and research facilities and the necessary equipment
22 for the facilities;

23 (9) "Investment" means money expended by the sponsor on capital assets
24 directly related to the superproject and does not include amounts expended in
25 aid of the superproject by the state pursuant to this act or otherwise, or
26 amounts expended in aid of the superproject by a local entity, however
27 financed;

28 (10) "Local entity" means any nonprofit corporation, county, city of
29 the first class, city of the second class, incorporated town, improvement
30 district, or school district in the state or any agency or instrumentality
31 thereof including the authority and the department;

32 (11) "Nationally recognized rating agency" means Moody's Investors
33 Service, Inc., Standard & Poor's Ratings Group, or any other nationally
34 recognized rating agency approved by the Treasurer of State;

35 (12) "New full-time permanent employee" means a position or job which
36 was created pursuant to signed incentive plan between the sponsor and the

1 department and which is filled by one (1) or more employees or contractual
2 employees who are Arkansas taxpayers. The position or job held by such
3 employee or employees must have been filled for at least twenty-six (26)
4 consecutive weeks with an average of at least thirty (30) hours per week. A
5 contractual employee must be offered a benefits package comparable to a
6 direct employee of the sponsor.

7 (13) "New job" means a position for a new full-time permanent employee
8 created at a superproject in this state but does not include a job created
9 when an employee is shifted from an existing location in this state to a new
10 or expanded facility if the transferred job is from, or to, a superproject of
11 the sponsor or a related person;

12 (14) "Person" means any local entity or any individual, corporation,
13 trust, limited liability company, or partnership;

14 (15) "Project costs" means:

15 (A) All or any part of the costs of developing a superproject,
16 costs incidental or appropriate to the project including, without limitation,
17 all costs to the department associated with the development or operation of a
18 superproject in a supervisory capacity; and

19 (B) Costs incidental or appropriate to the financing of the
20 project, including, without limitation, capitalized interest, costs of
21 issuance of and appropriate reserves for the bonds, loan, or commitment fees,
22 loan, or grant administration fees, and costs for engineering, legal, and
23 other administrative and consultant services;

24 (16) "Project fund" means the Economic Development Superprojects
25 Project Fund created by this act;

26 (17) "Related person" means any entity or person that bears a
27 relationship to the sponsor as described in Section 267 of the Internal
28 Revenue Code of 1986, as it existed on February 1, 2003;

29 (18) "Sponsor" means a sole proprietor, partnership, corporation,
30 limited liability company, or association taxable as a business entity or any
31 combination of these entities;

32 (19) "State" means the State of Arkansas; and

33 (20) "State Apportionment Fund" means the fund by that name created by
34 the Revenue Stabilization Law or in any successor law.

35 (21) "Superproject" means infrastructure, land, buildings and other
36 improvements on the land, and all other machinery, apparatus, equipment,

1 office facilities, and furnishings which are necessary, suitable, or useful
2 by a sponsor and in which a total of at least four hundred million dollars
3 (\$400,000,000) is invested by the sponsor and at least four hundred (400) new
4 jobs are created at the project by the sponsor;

5
6 SECTION 3. The General Assembly finds that:

7 (1) Independent studies have confirmed that the State of
8 Arkansas and its people have not been able to participate in and enjoy the
9 economic development benefits to be gained from the location in Arkansas of a
10 superproject, as have many other southern states, resulting in a loss of
11 opportunity for our citizens and a further loss for economic expansion in
12 Arkansas;

13 (2) The government of the state must take bold steps to
14 establish an adequate program for funding and financing superprojects;

15 (3) The location in Arkansas of superprojects will help
16 alleviate severe economic instability and economic distress among the
17 citizens of Arkansas; and

18 (4) A superprojects program will provide means for accelerated
19 progress in the economic development of the state thereby providing increased
20 payrolls, job opportunities, and tax income to support the public services of
21 this state.

22
23 SECTION 4. (a)(1) The Arkansas Development Finance Authority,
24 exercising an essential public function as the State of Arkansas bond issuing
25 authority, is authorized by this act to issue bonds to fund superprojects.

26 (2) The authority shall be responsible for developing the bond
27 financing portion of the plan required by section 3.

28 (b)(1) The Arkansas Department of Economic Development, as the lead
29 economic development agency for the State of Arkansas, is authorized to
30 utilize the superproject funding in attracting the superprojects to Arkansas.

31 (2) The department shall:

32 (A) Utilize economic impact and cost benefit analysis to
33 evaluate proposed superprojects;

34 (B) Be responsible for developing the portion of the plan
35 concerning the selection and funding of the superprojects; and

36 (C) Be responsible for monitoring and reporting to the

1 authority, the Governor, and Legislative Council on the ongoing economic
2 impact of the project and sponsor's progress in meeting the requirement for
3 their economic development investment.

4
5 SECTION 5. (a) The Arkansas Development Finance Authority may issue
6 Bonds of the State of Arkansas to be known as State of Arkansas Economic
7 Development General Obligation Bonds, in total principal amount not to exceed
8 four hundred million dollars (\$400,000,000), for the purposes authorized in
9 this act.

10 (b) The bonds may be issued in one or more series, as required,
11 subject to the conditions and in compliance with the procedures provided by
12 this act.

13 (c) The total principal amount of bonds to be issued during any fiscal
14 biennium shall not exceed sixty million dollars (\$60,000,000) unless the
15 General Assembly shall, by law, have authorized a greater principal amount to
16 be issued during a fiscal biennium.

17 (d) Before any bonds may be issued during any fiscal biennium, the
18 department and the authority shall submit the plan to the Legislative Council
19 and the Governor.

20 (e) Upon receipt of the plan, the Governor shall confer with the Chief
21 Fiscal Officer of the state concerning whether, after utilization of the
22 balance in the project fund, any amount of general revenues will be required
23 to be set aside for payment of debt service requirements in connection with
24 the bonds during either year of the fiscal biennium in which the bonds are to
25 be issued and, if any general funds are required to be used, whether such use
26 would cause an undue hardship upon any agency or program supported from the
27 general revenues under the Revenue Stabilization Law.

28 (1) The department's written plan setting forth:

29 (A) A description of the project or projects to be
30 financed with the proceeds derived from the sale of the bonds;

31 (B) A description of the economic impact and cost benefit
32 of the proposed project or projects;

33 (C) The amount of bonds necessary to be issued to defray
34 project costs and a budget of those costs;

35 (D) A certification by the director of the department that
36 each project to benefit from the expenditure of the proceeds of the bonds

1 consists of an investment in the state of not less than four hundred million
2 dollars (\$400,000,000) and the creation of no fewer than four hundred (400)
3 new permanent full-time jobs;

4 (E) A tentative time schedule setting forth the period of
5 time during which the sum requested is to be expended.

6 (2) The authority's written plan setting forth:

7 (A) A debt service table showing the annual principal and
8 interest requirements for any bonds outstanding and to be issued;

9 (B) A recommended plan of marketing for the bonds and
10 proposed schedule of issuance dates based on the department's proposed
11 spending schedule.

12 (f)(1) Upon conclusion of the conference, and after obtaining the
13 advice of the Legislative Council, the Governor may by proclamation authorize
14 the authority to proceed with the issuance of the bonds, in one (1) or more
15 series, up to the maximum principal amount approved by the Governor for the
16 fiscal biennium.

17 (2) If the Legislative Council fails to advise the Governor
18 within thirty (30) calendar days after receipt of the request for advice, the
19 Governor may proceed to issue the proclamation.

20 (g)(1) If the Governor declines or refuses to give his approval for
21 the issuance of the bonds, the Governor shall promptly notify the authority
22 in writing and the bonds shall not be issued.

23 (2) The authority may resubmit a request to the Governor for the
24 approval of the issuance of the bonds.

25 (3) The issue as resubmitted to the Governor shall be dealt with
26 in the same manner as provided for the initial request to issue the bonds.

27
28 SECTION 6. (a)(1) To qualify as a superproject, the investment and
29 job creation requirements must be attained no later than the eighth (8th)
30 year after the project first begins operations unless the eight-year period
31 is extended by the department.

32 (2) The department may extend the eight-year deadline for a
33 reasonable period of time taking into consideration general economic
34 conditions.

35 (b) If the investment and job creation requirements are not attained
36 within the eight-year deadline or the extended deadline as prescribed by the

1 department, the sponsor shall refund to the authority any funds the sponsor
2 received under this act.

3
4 SECTION 7. (a) The bonds shall be issued in series in amounts
5 sufficient to finance or refinance all or any part of superproject costs,
6 with the respective series to be designated in alphabetical order or by the
7 year in which issued or both.

8 (b) Each series of bonds shall have such date as the authority shall
9 determine and shall mature or be subject to mandatory sinking fund redemption
10 as determined by the authority over a period ending not later than thirty
11 (30) years after the date of issuing the bonds of each series.

12 (c) Pending the issuance of bonds, the authority may issue temporary
13 notes, maturing not more than five (5) years after the date of issuance, to
14 be exchanged for or paid from the proceeds of bonds at such time as the bonds
15 may be issued.

16 (d)(1) Each series of the bonds shall bear interest at the rate or
17 rates accepted by the authority.

18 (2) Interest shall be payable at such times as the authority
19 shall determine.

20 (e) The bonds may:

21 (1) Be issued in the form;

22 (2) Be in the denominations;

23 (3) Be made exchangeable for bonds of another form or
24 denomination, bearing the same rate of interest and date of maturity;

25 (4) Be made payable at the places within or without the state;

26 (5) Be made subject to redemption prior to maturity in the
27 manner and for redemption prices; and

28 (6) Contain other terms and conditions as the authority shall
29 determine.

30 (f) The bonds shall have all of the qualities of negotiable
31 instruments or securities under the laws of this state, subject to the
32 provision for registration of ownership.

33
34 SECTION 8. (a) Bonds shall be issued for the purpose of financing
35 superprojects.

36 (b) The proceeds of the bonds shall be applied to the payment of

1 project costs and the costs and expenses of issuance of the bonds, or in
2 connection with a superproject refinancing, the repayment of indebtedness
3 incurred to pay superproject costs, or for refunding of bonds as provided in
4 this act.

5
6 SECTION 9. (a)(1) The bonds shall be authorized by resolution of the
7 authority.

8 (2) Each resolution shall contain terms, covenants, and
9 conditions as deemed desirable including, without limitation, those
10 pertaining to:

11 (A) The establishment and maintenance of funds and
12 accounts;

13 (B) The deposit and investment of revenues and of bond
14 proceeds; and

15 (C) The rights and obligations of the state, its officers
16 and officials, the authority, and the registered owners of the bonds.

17 (3)(A) The resolution of the authority may provide for the
18 execution and delivery by the authority of a trust indenture or indentures,
19 with one (1) or more banks or trust companies located within or without the
20 state, containing any of the terms, covenants, and conditions referred to in
21 this act.

22 (B) The trust indenture or indentures shall be binding
23 upon the state and its agencies, officers, and officials, to the extent set
24 forth in this act.

25 (b) Any resolution or trust indenture adopted or executed under this
26 section shall provide that power is reserved:

27 (1) To apply to the payment of debt service on the bonds issued
28 or secured under this act, all or any part of the revenues that may be
29 derived from any superproject financed by the bonds or financed by the
30 authority in some other manner; and

31 (2) To the extent of the revenues that the authority elects to
32 apply to debt service, to release from any requirement of the resolution or
33 trust indenture other revenues and resources of the state, including without
34 limitation, the project fund revenues or other revenues required to be
35 transferred under this act.

36

1 SECTION 10. (a) Each bond shall:

2 (1) Be signed with the manual or facsimile signatures of the
3 Governor, the Chairperson of the Board of Directors of the Arkansas
4 Development Finance Authority, and the Treasurer of State; and

5 (2) Have affixed, imprinted, or lithographed on the bond the
6 Great Seal of the State of Arkansas.

7 (b) Interest coupons attached to the bonds, if any, shall be signed
8 with the facsimile signature of the Treasurer of State.

9 (c) Delivery of the bonds and coupons shall be valid notwithstanding
10 any change in persons holding such offices occurring after the bonds have
11 been executed.

12
13 SECTION 11. (a) The bonds may be sold in the manner, either at public
14 or private sale, and upon terms as determined by the authority to be
15 reasonable and expedient for effectuating the purposes of this act.

16 (b) The bonds may be sold at the price the authority determines
17 acceptable, including sale at a discount.

18 (c) The authority may employ administrative agents, fiscal agents,
19 underwriters, architects, accountants, engineers, and legal counsel and may
20 pay them reasonable compensation from the proceeds of the bonds.

21 (d) The proceeds from the sale of the bonds may be used to pay:

22 (1) The fees of any trustee or paying agent;

23 (2) The costs of publication of notices;

24 (3) The costs of publication of the printing of the bonds;

25 (4) The costs of publication of official statements and other
26 documents relating to the sale of the bonds;

27 (5) The fees of any rating agency; and

28 (6) Other reasonable costs incurred by the authority for issuing
29 and selling the bonds.

30
31 SECTION 12. (a) The proceeds from the sale of the bonds, together
32 with all revenues derived by the authority from any superproject financed or
33 refinanced under this act shall be deposited by the recipient, as received,
34 into trust funds either established in the State Treasury or into accounts
35 established outside the State Treasury in the name of the authority to
36 accomplish the purposes of this act, in amounts or portions as set forth in

1 the resolution or trust indenture authorizing or securing the bonds issued to
2 finance or refinance the superprojects.

3 (b) There is created as a trust fund in the State Treasury an account
4 designated as the Economic Development Superprojects Project Fund to provide
5 for payment of all or a part of debt service on bonds issued under this act
6 and to directly fund superprojects on a pay as you go basis should bonds not
7 be approved or not issued.

8 (c)(1) The Treasurer of State shall establish separate accounts and
9 subaccounts within the project fund to correspond to the applicable series of
10 bonds.

11 (2) In addition, there may be created in the State Treasury
12 other funds, accounts, or subaccounts as the authority may determine to be
13 necessary to accomplish the purposes of this act.

14 (d) All procedures and methods for application of proceeds of any
15 series of bonds to the financing or refinancing of superproject costs shall
16 be developed in consultation with and approved by the department and shall be
17 set forth in writings and shall be maintained as part of the records of the
18 authority.

19 (e) Any arrangements undertaken pursuant to subsection (b) of this
20 section whereby a local entity will administer funds composed in whole or in
21 part of proceeds of bonds or disbursements from the project fund shall
22 include provision for the auditing, no less frequently than annually, of the
23 funds.

24 (f) The proceeds from the sale of the bonds, together with all
25 revenues derived by the authority from any superproject financed or
26 refinanced under this act may be invested and reinvested by the Treasurer of
27 State in any of the following:

28 (1) Direct obligations of the United States of America,
29 including obligations issued or held in book entry form on the books of the
30 Department of the Treasury, or obligations the principal of and interest on
31 which are unconditionally guaranteed by the United States of America;

32 (2) Bonds, debentures, notes, or other evidences of indebtedness
33 issued or guaranteed by any United States government agency if the
34 obligations are backed by the full faith and credit of the United States of
35 America;

36 (3) Senior debt obligations issued or guaranteed by United

1 States nonfull faith and credit government agencies;

2 (4) Money market funds investing exclusively in the investments
3 described in subdivisions (f)(1) through (f)(3) of this section;

4 (5)(A) Certificates of deposit providing for deposits secured at
5 all times by collateral described in subdivisions (f)(1) through (f)(3) of
6 this section.

7 (B) The certificates must be issued by commercial banks
8 whose deposits are insured by the Federal Deposit Insurance Corporation and
9 whose collateral must be held by a third party.

10 (C) The Treasurer of State, or assigns, must have a
11 perfected first security interest in the collateral;

12 (6) Certificates of deposit, savings accounts, deposit accounts,
13 or money market deposits, all of which are fully insured by the Federal
14 Deposit Insurance Corporation;

15 (7) Bonds or notes issued by this state or any municipality,
16 county, or school district in this state, or any agency or instrumentality
17 thereof;

18 (8) Investment agreements with financial institutions or
19 insurance companies which are rated in one (1) of the two (2) highest rating
20 categories of a nationally recognized rating agency;

21 (9) Repurchase agreements providing for the transfer of
22 securities from a dealer bank or securities firm to the Treasurer of State,
23 and the transfer of cash from the Treasurer of State to the dealer bank or
24 securities firm with an agreement that the dealer bank or securities firm
25 will repay the cash plus a yield to the Treasurer of State in exchange for
26 the securities at a specified date. Repurchase agreements must satisfy the
27 following criteria:

28 (A) Repurchase agreements must be between the Treasurer of
29 State and a dealer bank or securities firm described as follows:

30 (i) Dealers with at least one hundred million
31 dollars (\$100,000,000) in capital; or

32 (ii) Banks whose deposits are insured by the Federal
33 Deposit Insurance Corporation; and

34 (B) The written repurchase agreement contract must include
35 the following:

36 (i) Securities which are acceptable for transfer are

1 those listed in subdivisions (f)(1) through (f)(3) of this section;

2 (ii) The term of the repurchase agreement may not
3 exceed thirty (30) calendar days;

4 (iii) The collateral must be delivered to the
5 Treasurer of State, trustee if trustee is not supplying the collateral, or a
6 third party acting as agent for the trustee if the trustee is supplying the
7 collateral before or simultaneous with payment;

8 (iv) The securities must be valued weekly, marked-
9 to-market at current market price plus accrued interest. The value of
10 collateral must be equal to one hundred three percent (103%) of the amount of
11 cash transferred by the Treasurer of State to the dealer bank or security
12 firm under the repurchase agreement plus accrued interest. If the value of
13 securities held as collateral declines below one hundred three percent (103%)
14 of the value of the cash transferred by the Treasurer of State, then
15 additional cash or acceptable securities or both must be transferred and held
16 by the Treasurer of State; and

17 (10) Any other investment authorized by state law.

18
19 SECTION 13. The department, in addition to powers conferred under
20 other laws, may take any action necessary to carry out the purposes of this
21 act, including the power to:

22 (1) Provide loans and grants from bond proceeds or project
23 revenues to local entities and to authorize local entities to make loans to
24 other persons for financing superprojects;

25 (2) Cause the authority to purchase with bond proceeds or
26 project revenues, bonds or notes from a local entity in order to provide
27 funds for financing superprojects and to enter into note and bond purchase
28 agreements in connection with those purchases;

29 (3) Fix, regulate, and collect rates, fees, rents, or other
30 charges for making any loan or commitment under this act and for performing
31 accounting and loan servicing duties relating to the loans;

32 (4) Require audits of all accounts related to construction,
33 operation, or maintenance of any superproject funded by this act;

34 (5) Take reasonable actions necessary to ensure that debt
35 service requirements are met;

36 (6) Refinance loans made by the authority from whatever source

1 to local entities in order to develop a superproject;

2 (7) Provide loans from bond proceeds or project revenues to
3 local entities for the purpose of refinancing indebtedness of the local
4 entity incurred for the purpose of financing a superproject; and

5 (8) Take such other action necessary to accomplish the purposes
6 of this act.

7
8 SECTION 14. (a) The bonds shall be direct general obligations of the
9 state, for the payment of debt service on which the full faith and credit of
10 the state are irrevocably pledged so long as any of the bonds are
11 outstanding.

12 (b) The bonds shall be payable from the project fund and, if
13 necessary, from general revenues and such amount of general revenues as may
14 be necessary is pledged to the payment of debt service on the bonds and shall
15 be and remain pledged for such purposes.

16
17 SECTION 15. (a)(1) On or before commencement of each fiscal year, the
18 Chief Fiscal Officer of the State shall determine the estimated amount
19 required for payment of all or a part of the debt service on the bonds issued
20 during the fiscal year and deduct therefrom the estimated moneys to be
21 available to the authority from other sources and the amount available in the
22 project fund to determine what amount of general revenues, if any, will be
23 required.

24 (2) The Chief Fiscal Officer of the State shall certify the
25 estimated amount to the Treasurer of State.

26 (3) The Treasurer of State shall then make monthly transfers
27 from the project fund and, if necessary, from the State Apportionment Fund to
28 the bond fund of the amount of general revenues as shall be required to pay
29 the maturing debt service on the bonds.

30 (b)(1) The obligation to make monthly transfers of general revenues
31 from the State Apportionment Fund to the bond fund shall constitute a first
32 charge against the general revenues prior to all other uses to which the
33 general revenues are devoted, either under present law or under any laws that
34 may be enacted in the future.

35 (2) To the extent other general obligation bonds of the state
36 may have been issued or may subsequently be issued, they shall rank on a

1 parity of security with respect to payment from general revenues.

2 (c)(1) Moneys credited to the project fund shall be used for the
3 purposes identified in section 12(b), and for those purposes the Treasurer of
4 State is designated as the disbursing officer to administer those funds in
5 accordance with this act.

6 (2) If no bonds are issued, upon the request of the department
7 and with the approval of the Governor, moneys in the project fund may be used
8 on a pay as you go basis as department grants to local entities for
9 infrastructure project costs.

10 (d) Moneys in the bond fund over and above the amount necessary to
11 ensure the prompt payment of debt service on the bonds, and the establishment
12 and maintenance of a reserve fund, if any, may be used for the redemption of
13 bonds prior to maturity in the manner and in accordance with the provisions
14 pertaining to redemption prior to maturity as set forth in the resolution or
15 trust indenture authorizing or securing the bonds.

16
17 SECTION 16. (a) All bonds issued under this act, and interest on the
18 bonds, are exempt from all state and local taxes.

19 (b) The bonds shall be eligible to secure deposits of all public funds
20 and shall be legal for investment of bank, fiduciary, insurance company,
21 trust, and public funds.

22
23 SECTION 17. (a)(1) Bonds may be issued under this act for the purpose
24 of refunding any outstanding bonds issued pursuant to this act.

25 (2) The authority shall not be required to include bonds issued
26 pursuant to this section in any written plan submitted to the Governor under
27 Section 3, and the bonds shall not be subject to the requirements for the
28 approval and proclamation of the Governor as set forth in Section 3.

29 (b)(1) The refunding bonds may be either sold for cash or delivered in
30 exchange for the outstanding obligations.

31 (2) If sold for cash, the proceeds may be either applied to the
32 payment of the obligations refunded or deposited in irrevocable trust for the
33 retirement thereof either at maturity or on an authorized redemption date.

34 (c)(1) Refunding bonds shall in all respects be authorized, issued,
35 and secured in the manner provided for the bonds being refunded, and shall
36 have all the attributes of the refunded bonds.

1 (2) To the extent that the refunding bonds are not in a greater
2 principal amount than the outstanding principal amount of the bonds being
3 refunded, the principal amount of the refunding bonds shall not be subject to
4 the four hundred million dollars (\$400,000,000) limit set forth in section 3
5 or the sixty millions dollars (\$60,000,000) limit set forth in section 3.

6 (d) The resolution or trust indenture under which the refunding bonds
7 are issued shall provide that any refunding bonds shall have the same
8 priority of payment as was enjoyed by the obligations refunded.

9
10 SECTION 18. (a) This act shall constitute a contract between the
11 state and the registered owners of all bonds issued under this act which
12 shall never be impaired, and any violation of its terms, whether under
13 purported legislative authority or otherwise, shall be enjoined by the courts
14 at the suit of any bondholder or any taxpayer.

15 (b)(1) The courts shall, in like suit against the authority, the
16 Treasurer of State, or other appropriate agency, officer, or official of the
17 state, prevent a diversion of any revenues pledged and shall compel the
18 restoration of diverted revenues, by injunction or mandamus.

19 (2) Also, and without limitation as to any other appropriate
20 remedy at law or in equity, any bondholder may, by an appropriate action,
21 including without limitation, injunction or mandamus, compel the performance
22 of all covenants and obligations of the state, its officers, and officials,
23 under this act.

24
25 SECTION 19. (a) This act shall not create any right of any character
26 and no right of any character shall arise under it unless and until the first
27 series of bonds authorized by this act are sold and delivered.

28 (b) The issuance of bonds authorized by this act shall not impair or
29 affect any outstanding bonds of the authority issued under prior acts.

30
31 SECTION 20. (a) No bonds shall be issued under this act except by and
32 with the consent of a majority of the qualified electors of the state voting
33 on the question in substantially the form described in this section at the
34 general election or a special election called by proclamation of the
35 Governor.

36 (b) The proclamation shall be issued at least sixty (60) calendar days

1 prior to the date fixed by the proclamation for the election, and notice of
2 the special election shall be given by publication of the proclamation by one
3 (1) insertion in one (1) newspaper of general circulation published in each
4 county in the state not less than thirty (30) calendar days prior to the date
5 of the election.

6 (c) If there is no newspaper regularly published in a county, the
7 proclamation may be published in any newspaper having a general circulation
8 in the county.

9 (d) It is not necessary, in the case of the notice or proclamation for
10 the election, to publish this act in its entirety, but the notice or
11 proclamation shall state that it is issued for the purpose of submitting to
12 the people the following question:

13 “Shall the Arkansas Development Finance Authority be authorized to
14 issue general obligation bonds under the authority of the Arkansas General
15 Obligation Economic Development Superprojects Bond Act in total principal
16 amount not to exceed four hundred million dollars (\$400,000,000), in series
17 from time to time in principal amounts not to exceed, without prior approval
18 of the General Assembly, sixty million dollars (\$60,000,000) in any fiscal
19 biennium, for the financing and refinancing of superprojects as defined in
20 the Arkansas General Obligation Economic Development Superprojects Bond Act,
21 which bonds shall be secured by a pledge of the full faith and credit of the
22 State of Arkansas?”

23 (e) The title of this act shall be the ballot title, and there shall
24 be printed on the ballot the proposition stated in subsection (d), and the
25 following:

26 “FOR Issuance of State of Arkansas Economic Development Superprojects
27 General Obligation Bonds _____”

28 “AGAINST Issuance of State of Arkansas Economic Development
29 Superprojects General Obligation Bonds _____”

30 (g)(1) The county boards of election commissioners of the several
31 counties of the state shall conduct the election.

32 (2) Each board shall take action with respect to the appointment
33 of election officials and other matters as the law requires.

34 (3) The vote shall be canvassed and the result declared in each
35 county by the several county boards.

36 (4) The results shall, within ten (10) calendar days after the

1 date of the election, be certified by the county boards to the Secretary of
2 State who shall tabulate all returns so received and certify to the Governor
3 the total vote for and against the proposition.

4 (5) The result of the election shall be proclaimed by the
5 Governor by publication one (1) time in a newspaper published in the city of
6 Little Rock, Arkansas, and the results as proclaimed shall be conclusive
7 unless attacked in the courts within thirty (30) calendar days after the date
8 of the publication.

9
10 SECTION 21. (a) If a majority of the qualified electors voting on the
11 question vote for the issuance of the bonds, the authority shall proceed with
12 the sale and the issuance of the bonds as provided in this act.

13 (b) If a majority of the qualified electors voting on the question
14 vote against the issuance of the bonds, none of the bonds authorized by this
15 act shall ever be sold or issued.

16
17 SECTION 22. Any case involving the validity of this act or involving
18 the bonds issued under this act shall be deemed of public interest and shall
19 be advanced by all courts and heard as a preferred cause, and all appeals
20 from judgments or decrees rendered in the cases must be taken within thirty
21 (30) calendar days after rendition of the judgment or decree.

22
23 SECTION 23. (a) This act shall be liberally construed to accomplish
24 its purposes.

25 (b) This act shall constitute the sole authority necessary to
26 accomplish its purposes.

27 (c) This act shall be interpreted to supplement existing laws
28 conferring rights and powers upon the authority, and the rights and powers
29 under this act shall be regarded as alternate methods for the accomplishment
30 of the purposes of this act.

31
32 SECTION 24. This act becomes effective on the first day of the
33 calendar month following the ninetieth (90th) day after the sine die
34 adjournment of this session or the first (1st) day of the calendar month
35 following the ninetieth (90th) day after a recess or adjournment for a period
36 longer than ninety (90) days.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 25. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that there is an immediate need to begin funding the Economic Development Superproject Project Fund created by this act in order to improve the state's competitive position in the recruitment of large economic development projects, and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 2003 could work harm upon the economic condition of the state. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003.

/s/ Rosenbaum

APPROVED: 4/22/2003