

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: H3/18/03 H4/3/03 S4/11/03

A Bill

Act 1772 of 2003
HOUSE BILL 2476

5 By: Representative Adams
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS ARKANSAS CODE SECTIONS
10 THAT GOVERN THE CREATION OF JAIL BOARDS AND THE
11 ISSUANCE OF REVENUE BONDS; AND FOR OTHER
12 PURPOSES.
13

Subtitle

15 TO AMEND VARIOUS ARKANSAS CODE SECTIONS
16 THAT GOVERN THE CREATION OF JAIL BOARDS
17 AND THE ISSUANCE OF REVENUE BONDS.
18
19

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

22 SECTION 1. Arkansas Code Title 12, Chapter 41, Subchapter 7 is amended
23 to read as follows:

24 Subchapter 7 - ~~County and City Jails~~ Jail Boards - Revenue Bonds
25

26 12-41-701. Definitions.

27 As used in this subchapter, unless the context otherwise requires:

28 (1) "Bonds" means bonds, ~~and any series of bonds, or other evidences~~
29 of indebtedness authorized by and issued by a ~~county or municipality board~~
30 pursuant to the provisions of this subchapter;

31 (2) "Jail" means ~~the~~ a county jail, or jails, and jail facilities of a
32 county, ~~or~~ a municipal jail, or jails, and jail facilities of any a
33 municipality, or a public instrumentality jail, or jails, and jail facilities
34 of a public instrumentality in this state. The term "jail" shall also mean a
35 jail constructed and operated under a cooperative agreement between any two
36 (2) or more municipalities, ~~two (2) or more counties, or one (1) or more~~



1 ~~municipalities public instrumentalities in any combination and one (1) or~~
 2 ~~more counties, for the incarceration housing of their respective prisoners~~
 3 ~~misdemeanant incarcerants, and other incarcerants awaiting trial;~~

4 (3) "Jail facilities" means all property of any nature, whether
 5 personal or real, tangible or intangible, related in any way to a jail and
 6 its functions;

7 ~~(3)(4)~~ "Board" means the county jail board, ~~or the~~ municipal jail
 8 board, or public instrumentality jail board as the case may be, established
 9 by ordinance or resolution of the quorum court of the county, or the
 10 governing body of the municipality or public instrumentality under the
 11 provisions of this subchapter;

12 ~~(4)(5)~~ "Construct" or "construction" means to acquire, construct,
 13 reconstruct, remodel, install, and equip any lands, buildings, structures,
 14 improvements, or other real, personal, or mixed property used in connection
 15 with a jail and to make other necessary expenditures in connection therewith,
 16 by such methods and in such manner as may be authorized by law. The term
 17 "construct" or "construction" also includes payment or provision for payment
 18 of expenses incidental thereto;

19 ~~(5)(6)~~ "Expansion" "Expand" or "expansion" means ~~any additions,~~
 20 ~~renovations, extensions, or improvements to a county or municipal jail or~~
 21 ~~jail facility~~ to add, renovate, extend, or improve a jail and may include any
 22 necessary or appropriate remodeling or improvement to a present jail and
 23 shall include appropriate equipment and furnishings as determined by the
 24 board. The term "expand" or "expansion" also includes payment or provision
 25 for payment of expenses incidental to expansion;

26 ~~(6)(7)~~ "Fines" or "fines and penalties" means the fines, ~~or~~ penalties,
 27 bonds against fines, court costs, filing fees, other court fees, and other
 28 sums payable by judicial order, statute, ordinance, or otherwise imposed by
 29 law and collected by a county, ~~or a~~ municipality, or public instrumentality
 30 or otherwise; for convictions arising from each of the offenses listed below:

31 ~~(A) Operating or being in actual physical control of a motor~~
 32 ~~vehicle while intoxicated; "intoxicated" meaning, for the purposes of this~~
 33 ~~subchapter, influenced or affected by the ingestion of alcohol, a controlled~~
 34 ~~substance, or a combination thereof, to such a degree that the driver's~~
 35 ~~reactions, motor skills, and judgment are substantially altered and the~~
 36 ~~driver, therefore, constitutes a clear and substantial danger of physical~~

1 ~~injury or death to himself or other motorists or pedestrians;~~

2 ~~(B) Operating or being in actual physical control of a motor~~
 3 ~~vehicle while impaired by alcohol or drugs; the word "impaired" meaning, for~~
 4 ~~the purposes of this subchapter, influenced or affected by the ingestion of~~
 5 ~~alcohol, a controlled substance, or a combination thereof, to such a degree~~
 6 ~~that the driver's reaction, motor skills, and judgment are reduced or~~
 7 ~~lessened and the driver constitutes a threat of physical injury or death to~~
 8 ~~himself or other motorists or pedestrians;~~

9 ~~(C) Operating or being in actual physical control of a motor~~
 10 ~~vehicle if, at that time, there was an alcohol concentration of eight-~~
 11 ~~hundredths (0.08) or more in the person's breath or blood, as determined by a~~
 12 ~~chemical test of the person's blood, urine, breath, or other bodily~~
 13 ~~substance;~~

14 ~~(7)(8) "Pledged revenues" means all revenues allocated by this~~
 15 ~~subchapter to be pledged for the security and payment of the bonds; and~~

16 ~~(8)(9) "Municipality" means any city of the first class or city of the~~
 17 ~~second class and any incorporated town in this state; and~~

18 ~~(10) "Public instrumentality" means any public facilities board,~~
 19 ~~regardless of whether formed by county or municipal ordinance, and any other~~
 20 ~~governmental or political subdivision of this state.~~

21
 22 12-41-702. Method supplemental.

23 The method set forth in this subchapter shall be supplemental to any
 24 other method authorized by law for construction, renovation, or expansion of
 25 ~~county or municipal jails.~~

26
 27 12-41-703. Adoption of ordinance.

28 Any county quorum court or governing body of a municipality or public
 29 instrumentality desiring to construct, renovate, or expand a ~~county jail and~~
 30 ~~jail facilities~~ in the manner authorized in this subchapter, ~~and the~~
 31 ~~governing body of any municipality desiring to construct or expand a~~
 32 ~~municipal jail and jail facilities in the manner authorized in this~~
 33 ~~subchapter,~~ may adopt an ordinance or resolution to establish a ~~county jail~~
 34 ~~board or a municipal jail board,~~ as the case may be, and to authorize the
 35 board to issue revenue bonds to construct, renovate, or expand the ~~county~~
 36 ~~jail or jail facilities or the municipal jail or jail facilities in the~~

1 manner authorized in this subchapter.

2
3 12-41-704. Jail boards.

4 (a)(1) Any county, municipality, or public instrumentality electing to
5 ~~issue county jail revenue~~ form a board for the purpose of issuing bonds under
6 the provisions of this subchapter, and ~~any municipality electing to issue~~
7 ~~municipal jail revenue bonds under the provisions of this subchapter,~~ shall,
8 by ordinance or resolution adopted by the county quorum court or by the
9 governing body of the municipality or public instrumentality, establish a
10 ~~jail~~ board consisting of such members, not less than three (3) nor more than
11 seven (7) in number, as provided in the ordinance or resolution.

12 (2) After reasonable notice and an opportunity for a hearing
13 concerning the alleged grounds for removal, any member of the board may be
14 removed for misfeasance, malfeasance, or willful neglect of duty by the
15 county quorum court or governing body of the municipality or public
16 instrumentality that created the board.

17 (b) The county judge of the county shall serve as a member of ~~the~~
18 ~~county jail~~ a board created by the county, and the ~~mayor of the city~~
19 principal executive officer of the municipality or public instrumentality
20 shall serve as a member of ~~the municipal jail~~ a board created by a
21 municipality or public instrumentality, unless the county judge or principal
22 executive officer is removed as provided in this subchapter.

23 (c) The ~~jail~~ board is authorized and empowered to:

24 (1) Construct a ~~county or municipal jail or jail facilities~~ or
25 provide for the renovation or expansion of an existing county or municipal
26 jail facilities on a site or sites selected by the board;

27 (2) Enter into contracts with the government of the United
28 States, any state agency, state or governmental body or political
29 subdivision, public or private corporation or other legal entity, or any
30 individual, or a combination of any of these entities and individuals, to
31 provide for the design, financing, construction, expansion, operation and
32 maintenance of all or any portion of a jail, or for any combination of such
33 services and functions.

34 ~~(2)(3)~~ (3) Arrange for the housing of prisoners in carcerants during
35 the period in which any such ~~facilities are~~ jail is undergoing construction,
36 renovation, or expansion;

1 ~~(3)~~(4) Construct or cause to be constructed parking facilities
2 to serve the jail and the public having business therein;

3 ~~(4)~~(5) Obtain the necessary funds for accomplishing its powers,
4 purposes, and authority;

5 ~~(5)~~(6) Purchase, lease, or rent and receive bequests or
6 donations of or otherwise acquire, sell, trade, or barter any real, personal,
7 or mixed property and convert into money or any property not needed or which
8 cannot be used in its then current form;

9 ~~(6)~~(7) Contract and be contracted with, apply for, receive,
10 accept, and use any moneys and property from the Government of the United
11 States, any state agency, any state or governmental body or political
12 subdivision, any public or private corporation of any nature, or any
13 individual;

14 (8) Enter into long or short term contracts with counties,
15 municipalities, public instrumentalities, the State of Arkansas, agencies of
16 the federal government, and other public entities under which the board shall
17 provide nightly or other periodic housing of these entities' misdemeanant or
18 other incarcerants for fee compensation or other consideration;

19 (9) Offer incarcerants the option in lieu of incarceration to
20 participate in community service programs and all other forms of voluntary
21 labor;

22 (10) To the extent allowed under applicable law, enter into
23 contracts with third party governmental entities under which the board may
24 receive compensation for supplying to those entities with the voluntary
25 services and labor of incarcerants;

26 (11) Enter into jail management contracts with third party
27 governmental or private organizations upon terms and conditions that the
28 board determines appropriate;

29 (12) Pledge to the repayment of debt any and all contract
30 receivables and revenues of any kind that are payable to the board;

31 (13) Mortgage real property and grant a security interest in all
32 personal, intangible, or other property, including all contract receivables
33 and revenues of any kind that are payable to the board;

34 (14) Borrow funds that shall be available for board use with an
35 obligation to repay;

36 ~~(7)~~(15) Invest and reinvest any of its moneys and securities as

1 authorized by law; and

2 ~~(8)(16)~~ Take such other action not inconsistent with law as may
3 be necessary and desirable to carry out the power, purposes, and authority
4 set forth in this subchapter and to carry out the intent of this subchapter.
5

6 12-41-705. Bonds - Authority to issue.

7 The ~~county jail board or the municipal jail board, as the case may be,~~
8 is authorized and empowered to issue bonds, at one (1) time or in series from
9 time to time, and to use the proceeds thereof, together with any other funds,
10 for financing the cost of construction, renovation, or expansion of the
11 ~~county or municipal jail or jail facilities,~~ together with all expenses
12 incidental to and reasonably necessary in connection therewith, the expenses
13 of the issuance of the bonds, the creating and maintenance of reserves to
14 secure the payment of the bonds, if the board deems it necessary or
15 desirable, and for providing for the payment of the interest on the bonds, if
16 necessary or desirable, until sufficient funds are available therefor out of
17 pledged revenues.
18

19 12-41-706. Bonds - Authorizing resolution.

20 (a) The bonds shall be authorized by resolution of the ~~county jail~~
21 ~~board or the municipal jail board.~~

22 (b) The authorizing resolution may contain any terms, covenants, and
23 conditions that are deemed necessary or desirable by the board, including
24 without limitation, those pertaining to the creation and maintenance of
25 various funds and reserves, the nature and extent of the security, the
26 issuance of additional series of bonds and the priority of lien and pledge in
27 that event, and the rights, duties, and obligations of the board and of the
28 holders and registered owners of the bonds, all as the board shall determine.

29 (c) The authorizing resolution may provide for the execution of a
30 trust indenture with a bank or trust company located within or outside the
31 State of Arkansas containing appropriate ~~the~~ terms, covenants, and conditions
32 ~~authorized in this subchapter.~~
33

34 12-41-707. Bonds - Contract between parties - Enforcement.

35 (a) Together with this subchapter and the ordinance or resolution of
36 the quorum court or the governing body of the municipality or public

1 instrumentality acting pursuant to this subchapter, each authorizing
 2 resolution or trust indenture shall constitute a contract by and between the
 3 ~~county jail board or the municipal jail board~~ and the holders and registered
 4 owners of the bonds issued pursuant to this subchapter.

5 (b) The contract and all covenants, agreements, and obligations
 6 therein shall be properly performed in strict accordance with the terms and
 7 provisions thereof.

8 (c) The covenants, agreements, and obligations of the bonds may be
 9 enforced by mandamus or other appropriate proceedings at law or in equity.

10
 11 12-41-708. Bonds - Terms and conditions.

12 (a) The bonds ~~may be coupon bonds, payable to the bearer, or may be~~
 13 ~~registrable as to principal only, or may~~ shall be registrable as to both
 14 principal and interest; may contain such exchange provisions; may be in such
 15 form and denomination; may be payable on such date or dates; may be stated to
 16 mature at such time or times; may bear interest payable at such times and at
 17 such rate or rates; may be made payable at such places within and outside the
 18 State of Arkansas; may be made subject to such terms of redemption in advance
 19 of maturity at such times and at such prices; and may contain such other
 20 terms and conditions, all as the ~~county jail board or the municipal jail~~
 21 ~~board~~ shall determine.

22 (b) The bonds shall have all the qualities of negotiable instruments
 23 under the laws of the State of Arkansas, subject to provisions as to
 24 registration or ownerships as set forth above.

25 (c) It shall be plainly stated on the face of each bond that it has
 26 been issued under the provisions of this subchapter and under the provisions
 27 of the ~~ordinance~~ resolution of the ~~quorum court or of the governing body of~~
 28 ~~the municipality~~ board authorizing the issuance thereof.

29
 30 12-41-709. Bonds - Sale - Disposition of proceeds.

31 (a) The bonds may be sold in such manner and at such prices, including
 32 sale at discount, as the ~~county jail board or the municipal jail board~~ may
 33 accept.

34 (b) The proceeds derived from the sale of revenue bonds by ~~a county or~~
 35 ~~a municipality~~ the board under the provisions of this subchapter shall be
 36 deposited in a ~~county~~ board jail fund ~~or a municipal jail fund, as the case~~

1 ~~may be,~~ and shall be used ~~solely~~ for the purposes of constructing or
 2 expanding jails, and for all other expenses incidental to the issuance of the
 3 bonds of such city or county or municipality, as authorized in this
 4 subchapter.

5
 6 12-41-710. Bonds - Coupons - Execution - Seal.

7 (a) Bonds issued pursuant to this subchapter shall ~~be executed by the~~
 8 ~~chairman and secretary of the county jail board or the municipal jail board~~
 9 ~~by manual or facsimile signature with at least one (1) manual signature~~ bear
 10 the manual or facsimile signature of the presiding officer of the board and
 11 the manual authenticating signature or the trustee or paying agent of the
 12 bonds, if the trustee or paying agent exists.

13 ~~(b) The coupons attached to the bonds shall be executed by the~~
 14 ~~facsimile signature of the chairman of the board.~~

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

19 ~~(d)(c)~~ Each bond shall be sealed with the seal of the board.

20
 21 12-41-711. Bonds - Liability on.

22 (a) Bonds issued pursuant to this subchapter shall be obligations only
 23 of the issuing ~~county jail board or the municipal jail board~~. In no event
 24 shall they constitute any indebtedness for which the faith and credit of the
 25 county or the municipality or the public instrumentality that created the
 26 board issuing the bonds, or any of their respective revenues, or of the State
 27 of Arkansas or any of its revenues, as used in Arkansas Constitution,
 28 Amendment 20, are pledged, except that the fines and penalties described
 29 under this subchapter may be pledged.

30 (b) The bonds shall not be secured by a mortgage or lien on any land,
 31 buildings, or property belonging to the county, municipality, or public
 32 instrumentality that created the board, but may be secured by the real and
 33 personal property owned by the board, and all other revenues of whatever
 34 nature that are received by the board or otherwise generated as a result of
 35 the board's activities ~~or city issuing such bonds.~~

36 (c) No member of the board shall be personally liable on the bonds or

1 for any damages sustained by anyone in connection with any contracts entered
 2 into or action taken in carrying out the powers, purposes, or authority of
 3 this subchapter, or of the ordinance or resolution adopted by the quorum
 4 court or governing body of the municipality or public instrumentality, unless
 5 he shall have acted with a corrupt intent.

6
 7 12-41-712. Bonds - Pledge of revenues - Funds.

8 (a)(1) The principal, premiums, if any, interest on, and trustees' and
 9 paying agents' fees in connection with all bonds issued under this subchapter
 10 shall be secured by a lien on and pledge of the fee revenues and the gross
 11 revenues derived from revenues collected from fines or penalties for
 12 convictions of the offenses as defined in this subchapter, all real property
 13 and personal property owned by the board and all other collateral identified
 14 in that trust indenture pursuant to which the bonds are issued.

15 (2) The pledged revenues and such principal and interest are
 16 specifically declared to be cash funds, restricted in their use and
 17 dedication and to be used solely as provided in this subchapter.

18 (3) Bonds may additionally be secured and collateralized by:

19 (A) The board's pledge of contract revenue receivables
 20 realized through the execution of contracts with third parties for
 21 incarcerant housing;

22 (B) Income received from supplying third parties with
 23 incarcerant services and labor; and

24 (C) All other revenues and income that the board may
 25 realize through its operations that are otherwise expressly pledged and
 26 identified in the bonds' trust indenture or authorizing resolution.

27 (b) There is created a fund designated ~~county~~ jail revenue bond fund,
 28 with respect to ~~county~~ bonds issued under this subchapter ~~and a fund~~
 29 ~~designated municipal jail revenue bond fund, with respect to municipal bonds~~
 30 ~~issued under this subchapter~~, to be maintained at such depository ~~and as~~
 31 shall be specified by the ~~appropriate county jail or municipal jail~~ board.

32 (c) The fund shall be a trust fund, and after the issuance of any
 33 bonds pursuant to this subchapter, the moneys therein shall be applied ~~solely~~
 34 for the payment of the principal of, premiums, if any, and interest on the
 35 bonds, trustees', and paying agents', and any other fees in connection with
 36 the bonds at maturity and at redemption prior to maturity, except moneys that

1 are withdrawn therefrom pursuant to § 12-41-709(b), all as shall be specified
2 and subject to the terms and conditions set forth in the authorizing
3 resolution or trust indenture.

4 (d) The pledged revenues shall not be deposited into the county
5 treasury, ~~or the city~~ municipal treasury, or public instrumentality treasury
6 but, as and when received, shall be deposited into the appropriate jail
7 revenue bond fund.

8 (e) The principal, premiums, if any, and interest on the bonds, and
9 trustees', ~~and~~ paying agents', and any other fees in connection with the
10 bonds ~~shall be payable solely~~ may be paid from the moneys in the jail revenue
11 bond fund and the moneys required by this subchapter to be deposited in the
12 jail revenue bond fund.

13 (f) The board is directed to insert appropriate provisions in the
14 authorizing resolution or trust indenture for the investment and reinvestment
15 of moneys in the jail revenue bond fund in securities selected by the board,
16 and all income derived from such investment shall be and become part of the
17 jail revenue bond fund.

18 (g) Any municipality, county, public instrumentality, or other
19 governmental entity may pledge all or any portion of its fines, penalties,
20 bonds against fines, court costs, filing fees, other court fees, and other
21 sums payable by judicial order, statute, ordinance, or otherwise imposed by
22 law and collected by the entity towards the repayment of any debt issued by a
23 board or any public facilities board operating, owning, or administering a
24 jail facility.

25
26 12-41-713. Bonds - Tax exemption.

27 Bonds and other evidences of indebtedness issued under the provisions
28 of this subchapter and the interest thereon shall be exempt from all state,
29 county, and municipal taxes, and this exemption shall include income,
30 inheritance, and state taxes.

31
32 12-41-714. Bonds - Investments by public entities.

33 Any municipality or any board, commission, or the governing authority
34 established by ordinance of any municipality, or the governing authorities,
35 respectively, of the firemen's relief and pension fund and the policemen's
36 pension and relief fund of any such municipality or the governing authority

1 of any retirement system created by the General Assembly of the State of
 2 Arkansas or any agency may, in its discretion, invest any of its funds not
 3 immediately needed for its purposes in bonds and other evidences of
 4 indebtedness issued under the provisions of this subchapter. Any bonds issued
 5 under the provisions of this subchapter shall be eligible to secure the
 6 deposit of public funds.

7
 8 12-41-715. Fees, costs, etc. - Disposition.

9 (a) Any county, municipality, or public instrumentality ~~adopting an~~
 10 ~~ordinance providing for the establishment of a county jail board, and any~~
 11 ~~municipality adopting an ordinance providing for the establishment of a~~
 12 ~~municipal jail board, and authorizing the board to issue county jail revenue~~
 13 ~~bonds or municipal jail revenue bonds, as the case may be, as authorized in~~
 14 ~~this subchapter, may, by ordinance or resolution, provide that all or any~~
 15 identified portion of the revenues derived by the county, ~~or city~~
 16 municipality, or public instrumentality from all or any identified portion of
 17 the fines or penalties as defined in this subchapter shall be remitted to and
 18 deposited by the county treasurer, ~~or by the city~~ municipal treasurer, or
 19 public instrumentality treasurer in one (1) or more banks doing business in
 20 the county, ~~or the city~~ municipality, or county or municipality in which the
 21 public instrumentality is primarily located, to the credit of a ~~county~~ jail
 22 revenue bond fund that may be created in connection with the issuance of debt
 23 ~~with respect to county jail revenue bonds, or to a municipal jail revenue~~
 24 ~~bond fund with respect to municipal jail revenue bonds, to be used solely for~~
 25 the purposes as provided in this subchapter.

26 (b) Any person charged with a felony or misdemeanor for which a fine
 27 or penalty, as defined in this subchapter, is imposed, who shall post bond
 28 and forfeit it upon failure to appear on the date set for trial, the entire
 29 amount, or any identified portion of the ~~of~~ bond forfeiture ~~shall~~ may be
 30 deposited in the ~~county~~ jail revenue bond fund ~~or the municipal jail revenue~~
 31 ~~bond fund, as the case may be, as provided in this subchapter.~~

32 (c) All revenues derived from the fines collected under the provisions
 33 of this subchapter are determined to be "fee revenues" and are declared to be
 34 cash funds. The revenues shall not be deposited in the county treasury, ~~or~~
 35 ~~the~~ municipal treasury, or public instrumentality treasury, but shall be
 36 deposited in the bank or banks selected by the respective boards.

1 (d) The fee revenues as provided in this section shall be collected
2 and applied as provided in this subchapter until the principal, premiums, if
3 any, and interest on bonds issued under this subchapter, with trustees' and
4 paying agents' fees, shall be paid or adequate provision made for their
5 payment.

6
7 12-41-716. Use of county jail fund for supervision and transportation
8 of inmates.

9 In addition to any other purposes for which funds in the ~~county board~~
10 jail fund may be used, such funds may be used for the transportation and
11 supervision of inmates assigned to outside work projects or for transporting
12 inmates to a Department of Correction facility, as determined by the ~~quorum~~
13 ~~court~~ board.

14
15 SECTION 2. Arkansas Code Title 12, Chapter 41, Subchapter 7 is amended
16 to add additional sections to read as follows:

17 12-41-717. Contract with governmental entities - Authority to create
18 boards.

19 (a) All counties, municipalities, public instrumentalities, and other
20 governmental entities of this state are authorized and empowered, upon
21 ordinance or resolution of the governing body, to enter into long or short
22 term contracts with the boards under which the board provides nightly or
23 other periodic housing of these entities' misdemeanant or other incarcerants
24 for fee compensation or other consideration.

25 (b)(1) All counties, municipalities, and public instrumentalities are
26 authorized and empowered to adopt ordinances or resolutions that provide for
27 the creation of boards under this subchapter.

28 (2) The boards shall constitute and comprise a political
29 subdivision of the county or municipality that creates the board, or in the
30 case of a public instrumentality board, a political subdivision of the county
31 or municipality that created the public instrumentality that creates the
32 board.

33
34 12-41-718. Sole and exclusive law.

35 Except as provided under § 12-41-702, the provisions of this subchapter
36 are intended to solely and exclusively govern the manner in which boards are

1 organized, operated, managed, and administered and no other laws of this
2 state are applicable to the boards.

3
4 SECTION 3. Arkansas Code § 14-137-111 is amended by adding the
5 following additional subsection:

6 (c) With regard to public facilities boards that own, operate, or
7 administer jail facilities, the public facilities boards shall additionally
8 possess the power and authority:

9 (1) To exercise those powers granted to jail boards pursuant to
10 Arkansas Code Title 12, Chapter 41, Subchapter 7, as may be amended from time
11 to time;

12 (2) To enter into contracts with any state agency, state or
13 governmental body or political subdivision, public or private corporation,
14 agencies or instrumentalities of the federal government, or other
15 governmental body or political subdivision, public or private corporation, or
16 other legal entity, or any individual, or a combination of any of these
17 entities and individuals, to provide for the design, financing, construction,
18 expansion, operation, and maintenance of all or any portion of a jail
19 facility, or for any combination of such services or functions;

20 (3) To enter into long or short term contracts with counties,
21 municipalities, public entities, the State of Arkansas, agencies or
22 instrumentalities of the federal government, and other public entities under
23 which the public facilities board shall provide nightly or other periodic
24 housing of these entities' misdemeanants, or other incarcerants for fee
25 compensation or other consideration;

26 (4) To offer incarcerants the option to participate in community
27 service programs and all other forms of voluntary labor;

28 (5) To enter into contracts with third party governmental
29 entities under which the board may receive compensation for supplying to
30 these entities the voluntary services and labor of the board's incarcerants;

31 (6) To enter into jail management contracts with third party
32 governmental or private organizations upon terms and conditions that the
33 board determines appropriate;

34 (7) To pledge contract revenue receivables realized through the
35 execution of contracts with third parties for incarcerant housing;

36 (8) To pledge contract revenue receivables realized through the

1 execution of contracts with third parties for incarcerant labor or services
2 rendered; and

3 (9) To pledge all other revenues and income of every nature that
4 the board may realize through its operations that are otherwise expressly
5 pledged and identified in the trust indenture that the board may execute in
6 connection with the issuance of its debt.

7
8 SECTION 4. Any municipality, county, public instrumentality, or other
9 governmental entity may pledge all or any portion of its fines, penalties,
10 bonds against fines, court costs, filing fees, other court fees, and other
11 sums payable by judicial order, statute, ordinance, or otherwise imposed by
12 law and collected by the entity towards the repayment of any debt issued by a
13 jail board or any public facilities board operating, owning, or administering
14 a jail facility.

15
16 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
17 General Assembly that the counties, municipalities, public instrumentalities
18 and other governmental entities of the State of Arkansas are experiencing
19 severe jail overcrowding, and that existing jail facilities may not be in
20 compliance with applicable state and federal regulations. It is further
21 recognized that funding for jail renovation, improvement, and construction is
22 extremely limited and oftentimes can be funded only through the
23 implementation of new sales taxes, and that the failure to immediately
24 address this problem could result in the possible closure of existing jail
25 facilities, and the release of incarcerants prior to the schedule expiration
26 of their terms. Therefore, an emergency is declared to exist, and this act
27 being immediately necessary for the preservation of the public peace, health,
28 and safety shall become effective on:

29 (1) The date of its approval by the Governor;

30 (2) If the bill is neither approved nor vetoed by the Governor,
31 the expiration of the period of time during which the Governor may veto the
32 bill; or

33 (3) If the bill is vetoed by the Governor and the veto is
34 overridden, the date the last house overrides the veto.

35
36 /s/ Adams

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