

**Hall of the House of Representatives**  
84th General Assembly - Regular Session, 2003  
**Amendment Form**

\*\*\*\*\*

**Subtitle of House Bill No. 2476**

"TO AMEND VARIOUS ARKANSAS CODE SECTIONS THAT GOVERN THE CREATION  
OF JAIL BOARDS AND THE ISSUANCE OF REVENUE BONDS AND THE EMINENT  
DOMAIN POWERS OF PUBLIC FACILITIES BOARDS."

\*\*\*\*\*

**Amendment No. 1 to House Bill No. 2476.**

Amend House Bill No. 2476 as originally introduced:

Page 1, delete Section 1. of the bill and substitute a new Section 1. to read as follows:

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

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

12-41-701. Definitions.

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

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

(2) "Jail" means ~~the~~ a county jail, or jails, and jail facilities of a county, or a municipal jail, or jails, and jail facilities of any a municipality, or a public instrumentality jail, or jails, and jail facilities of a public instrumentality in this state. The term "jail" shall also mean a jail constructed and operated under a cooperative agreement between any two (2) or more municipalities, ~~two (2) or more counties, or one (1) or more municipalities~~ public instrumentalities in any combination and one (1) or more counties, for the ~~incarceration~~ housing of their respective ~~prisoners~~ misdemeanant incarcerants, and other incarcerants awaiting trial;

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

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

~~(4)~~(5) "Construct" or "construction" means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures,



improvements, or other real, personal, or mixed property used in connection with a jail and to make other necessary expenditures in connection therewith, by such methods and in such manner as may be authorized by law. The term "construct" or "construction" also includes payment or provision for payment of expenses incidental thereto;

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

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

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

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

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

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

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

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

12-41-702. Method supplemental.

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

12-41-703. Adoption of ordinance.

Any county quorum court or governing body of a municipality or public instrumentality desiring to construct, renovate, or expand a ~~county jail and~~

~~jail facilities in the manner authorized in this subchapter, and the governing body of any municipality desiring to construct or expand a municipal jail and jail facilities in the manner authorized in this subchapter,~~ may adopt an ordinance or resolution to establish a ~~county jail board or a municipal jail board,~~ as the case may be, and to authorize the board to issue revenue bonds to construct, renovate, or expand the ~~county jail or jail facilities or the municipal jail or jail facilities~~ in the manner authorized in this subchapter.

12-41-704. Jail boards.

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

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

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

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

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

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

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

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

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

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

~~(6)(7)~~ Contract and be contracted with, apply for, receive,

accept, and use any moneys and property from the Government of the United States, any state agency, any state or governmental body or political subdivision, any public or private corporation of any nature, or any individual;

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

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

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

(11) Exercise the power of eminent domain to the same extent and in the same manner as counties, municipalities, municipal corporations, and public instrumentalities exercise the power under Arkansas Code Title 18, Chapter 15, and Title 14, Chapter 137;

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

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

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

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

~~(7)~~(16) Invest and reinvest any of its moneys and securities as authorized by law; and

~~(8)~~(17) Take such other action not inconsistent with law as may be necessary and desirable to carry out the power, purposes, and authority set forth in this subchapter and to carry out the intent of this subchapter.

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

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

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

(a) The bonds shall be authorized by resolution of the ~~county jail~~

board ~~or the municipal jail board.~~

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

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

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

(a) Together with this subchapter and the ordinance or resolution of the quorum court or the governing body of the municipality or public instrumentality acting pursuant to this subchapter, each authorizing resolution or trust indenture shall constitute a contract by and between the ~~county jail board or the municipal jail board~~ and the holders and registered owners of the bonds issued pursuant to this subchapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12-41-711. Bonds - Liability on.

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

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

(c) No member of the board shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into or action taken in carrying out the powers, purposes, or authority of this subchapter, or of the ordinance or resolution adopted by the quorum court or governing body of the municipality or public instrumentality, unless he shall have acted with a corrupt intent.

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

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

(2) The pledged revenues and such principal and interest are specifically declared to be cash funds, restricted in their use and

dedication and to be used solely as provided in this subchapter.

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

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

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

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

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

(c) The fund shall be a trust fund, and after the issuance of any bonds pursuant to this subchapter, the moneys therein shall be applied ~~solely~~ for the payment of the principal of, premiums, if any, and interest on the bonds, trustees', and paying agents', and any other fees in connection with the bonds at maturity and at redemption prior to maturity, except moneys that are withdrawn therefrom pursuant to § 12-41-709(b), all as shall be specified and subject to the terms and conditions set forth in the authorizing resolution or trust indenture.

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

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

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

#### 12-41-713. Bonds - Tax exemption.

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

#### 12-41-714. Bonds - Investments by public entities.

Any municipality or any board, commission, or the governing authority established by ordinance of any municipality, or the governing authorities, respectively, of the firemen's relief and pension fund and the policemen's pension and relief fund of any such municipality or the governing authority of any retirement system created by the General Assembly of the State of Arkansas or any agency may, in its discretion, invest any of its funds not immediately needed for its purposes in bonds and other evidences of

indebtedness issued under the provisions of this subchapter. Any bonds issued under the provisions of this subchapter shall be eligible to secure the deposit of public funds.

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

(a) Any county, municipality, or public instrumentality adopting an ordinance or resolution providing for the establishment of a ~~county jail board, and any municipality adopting an ordinance providing for the establishment of a municipal jail board,~~ and authorizing the board to issue ~~county jail revenue bonds or municipal jail revenue bonds, as the case may be,~~ as authorized in this subchapter, may provide that all revenues derived by the county, ~~or city~~ municipality, or public instrumentality from all fines or penalties as defined in this subchapter shall be remitted to and deposited by the county treasurer, ~~or by the city~~ municipal treasurer, or public instrumentality treasurer in one (1) or more banks doing business in the county, ~~or the city~~ municipality, or county or municipality in which the public instrumentality is primarily located, to the credit of a ~~county jail revenue bond fund with respect to county jail revenue bonds, or to a municipal jail revenue bond fund with respect to municipal jail revenue bonds,~~ to be used solely for the purposes as provided in this subchapter.

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

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

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

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

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

AND

Page 1, delete Section 2. of the bill and substitute a new Section 2. to read as follows:

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

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



boards.

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

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

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

12-41-718. Sole and exclusive law.

Except as provided under § 12-41-702, the provisions of this subchapter are intended to solely and exclusively govern the manner in which boards are organized, operated, managed, and administered and no other laws of this state are applicable to the boards."

The Amendment was read \_\_\_\_\_  
By: Representative Adams  
EAN/VJF - 031720030824  
VJF703

\_\_\_\_\_  
Chief Clerk