

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

A Bill

HOUSE BILL 1425

4 **By: Representatives Flanagin and Shaver**

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For An Act To Be Entitled

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

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

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

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

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

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

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

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

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

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

/s/ P. Flanagan and J. Shaver

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