

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Howell**

A Bill

SENATE BILL 483

For An Act To Be Entitled

8 "AN ACT TO AUTHORIZE THE STATE BUILDING SERVICES TO
9 ACQUIRE AND MANAGE FACILITIES IN LITTLE ROCK, ARKANSAS,
10 FOR HOUSING AND FOR PROVIDING APPROPRIATE PARKING
11 FACILITIES FOR STATE AGENCIES, DEPARTMENTS, OFFICES,
12 BOARDS, AND COMMISSIONS; TO AUTHORIZE THE STATE BUILDING
13 SERVICES TO ESTABLISH A SYSTEM OF CHARGES FOR RENTS TO BE
14 COLLECTED FROM STATE AGENCIES, DEPARTMENTS, BOARDS, AND
15 COMMISSIONS HOUSED IN SUCH FACILITIES; TO AUTHORIZE THE
16 ISSUANCE OF REVENUE BONDS TO PROVIDE FUNDS FOR THE
17 ACQUISITION, RENOVATION AND REPAIR OF SUCH FACILITIES; AND
18 FOR OTHER PURPOSES."

19

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

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22 SECTION 1. This act shall be known and cited as the "State Agencies
23 Facilities Acquisition Act of 1991".

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25 SECTION 2. Definitions. Whenever used in this act, unless a different
26 meaning clearly appears from the context:

27 (a) "Agency" or "state agency" means any agency, board, office,
28 commission, department, division or institution of the state of Arkansas.

29 (b) "Bonds" or "revenue bonds" mean any bonds, notes, debentures,
30 interim certificates, grant and revenue anticipation notes, interest in a
31 lease, lease certificate(s) of participation or evidences of indebtedness,
32 whether or not the interest on them is subject to federal income taxation.

33 (c) "State Building Services" means the public agency known as
34 "Arkansas State Building Services" and the "State Building Services Council",
35 as established under Arkansas Code 22-2-101 et seq.

1 (d) "Construct" means to acquire, construct, reconstruct, remodel,
2 install, and equip any lands, buildings, structures, improvements or other
3 property, real, personal or mixed, useful in connection with buildings and
4 facilities acquired under this act and to make other necessary expenditures in
5 connection therewith, by such methods and in such manner as the State Building
6 Services shall determine to be necessary or desirable to accomplish the
7 powers, purposes, and authority set forth in this act.

8 (e) "Authority" means the Arkansas Development Finance Authority
9 created pursuant to Act 1062 of 1985, as amended.

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11 SECTION 3. (a) In addition to the purposes, powers, and authority set
12 forth elsewhere in this act or in other laws, the State Building Services is
13 hereby authorized and empowered to:

14 (1) acquire by purchase, exchange, barter, gift, eminent domain,
15 long term lease or other means, building and facilities in Little Rock,
16 Arkansas, to house state agencies, and to repair, remodel, renovate such
17 buildings and facilities as it shall deem necessary and appropriate to
18 accommodate state agencies;

19 (2) exercise the power of eminent domain for the purpose of
20 acquiring buildings and facilities and to otherwise carry out the purposes and
21 intent of this act, with such power to be exercised in the manner provided in
22 Arkansas Code 22-2-109;

23 (3) arrange for the housing of state agencies in such buildings
24 and facilities to the extent that space and facilities are available for such
25 purpose, under such terms and conditions and for such rentals and charges as
26 State Building Services may determine;

27 (4) acquire, construct or cause to be constructed parking
28 facilities to serve the facility;

29 (5) purchase, lease or rent, and receive bequests or donations
30 of or otherwise acquire, sell, trade or barter, any property (real, personal
31 or mixed), and convert such property into money and/or other property;

32 (6) contract and be contracted with;

33 (7) apply for, receive, accept, and use any monies and property
34 from the government of the United States of America, any agency, any state, or
35 governmental body or political subdivision, any public or private organization
36 or corporation, of any nature, or any individual;

1 (8) take such other actions not inconsistent with law as may be
2 necessary or desirable to carry out the powers, purposes, and authority as set
3 forth herein, in accordance with the duly-promulgated policies of the State
4 Building Services Council.

5 (b) In addition to the purposes, powers and authority set forth
6 elsewhere in this act or in other laws, in connection with the construction
7 and equipping of buildings and facilities in Little Rock, Arkansas, to house
8 state agencies, the Authority is hereby authorized:

9 (1) to obtain the necessary funds for accomplishing the purposes
10 set forth in this act, from any source or sources, including, without
11 limitation, the proceeds of revenue bonds or lease financings as authorized
12 herein, and other funds as may be appropriated or may be available therefor;
13 and

14 (2) contract and to be contracted with; and

15 (3) invest and reinvest any of the proceeds of such revenue
16 bonds as provided in such authorizing resolution or trust indenture,
17 hereinafter authorized; and

18 (4) take such other actions not inconsistent with law as may be
19 necessary or desirable to carry out the powers, purposes and authority set
20 forth herein, in accordance with the duly promulgated policies of the
21 Authority as authorized by law.

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23 SECTION 4. No single acquisition under the provisions of this act may
24 exceed a total cost of eight million dollars (\$8,000,000) in value, whether
25 acquired by purchase, exchange, eminent domain, long-term lease, or other
26 means, exclusive of the cost of any repairs, remodeling and renovation of such
27 buildings and facilities as State Building Services deems necessary and
28 appropriate to accommodate state agencies. Provided, such repairs, remodeling
29 and renovation shall not result in increasing the area of the structure of any
30 such existing building or facility by more than ten percent (10%). Provided
31 further, nothing in this act shall be construed to authorize or permit
32 construction of any new buildings.

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34 SECTION 5. REVENUE BONDS.

35 (a) Pursuant to the intention of the General Assembly expressed in

1 Arkansas Code Annotated §15-5-303, the Authority, in cooperation with State
2 Building Services, is hereby authorized and empowered to issue revenue bonds,
3 at one time or from time to time, and to use the proceeds thereof for
4 defraying the costs of accomplishing all or part of the powers, purposes and
5 authorities set forth in this act, pay all incidental expenses in connection
6 therewith, pay the expenses of authorizing and issuing the bonds, establishing
7 a debt service reserve to secure the payment of the bonds, if the Authority
8 deems such desirable, and making provision for the payment of interest and
9 trustee's fees on the bonds. The bonds outstanding under this act may be in
10 such principal amount as the Authority and State Building Services shall
11 determine to be necessary for the accomplishment of the purposes of this act.

12 (b) The bonds shall be authorized, shall be sold by such means, shall
13 bear such rate or rates of interest, and shall be executed and delivered in
14 such manner as the Authority may determine pursuant to the provisions of
15 Arkansas Code Annotated §15-5-301 to §15-5-316, inclusive. The Authority is
16 authorized to enter into such authorizing resolutions and trust indentures as
17 it deems necessary to secure the revenue bonds.

18 (c) Nothing in the provisions of this act shall be deemed to remove,
19 modify or amend Arkansas Code Section 15-5-303.

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21 SECTION 6. (a) It shall be plainly stated on the face of each bond
22 that it has been issued under the provisions of this act, that the bonds shall
23 be obligations only of the Authority, that in no event shall they constitute
24 indebtedness for which the faith and credit of the State of Arkansas or any of
25 its revenues (within the meaning of Amendment 20 to the Constitution of the
26 State of Arkansas) are pledged. No member of the Authority shall be
27 personally liable on the bonds.

28 (b) The principal of, premiums, if any, interest on, and trustees' and
29 paying agents' fees in connection with the bonds shall be secured by a lien on
30 and pledge of and shall be payable from the pledged revenues defined in
31 Section 6 hereof. The authorizing resolution or trust indenture shall set
32 forth details of the nature and extent of the lien and pledge, including
33 provisions for the use of surplus revenues, if any, for any other lawful
34 purposes.

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SECTION 7. (a) The principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with all bonds issued under this act shall be secured solely by a lien on and pledge of the gross revenues derived from the leasing or renting to state agencies or other tenants of space in the buildings and facilities acquired pursuant to this act and the pledging of such revenues (the "pledged revenues") is hereby authorized. All pledged revenues are hereby specifically declared to be cash funds restricted in their use and dedicated and to be used solely as provided and authorized in this act. Commencing the first day of the month succeeding the issuance of the bonds hereunder and so long as any bonds are outstanding hereunder, the pledged revenues shall not be deposited into the State Treasury and shall not be subject to legislative appropriation, but, as and when received (by the *Authority*, or by any other state agency, as the case may be) shall be deposited in a bank or banks selected by the *Authority*, to the credit of funds designated the "State Agencies Facilities Revenue Bond Fund", with appropriate identification for separate issues or series. So long as any bonds are outstanding hereunder, all monies in any bond fund shall be used solely for the payment of the principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with the bonds, with the maintenance of necessary funds and reserves, except that the authorizing resolution or trust indenture may provide for the withdrawal, for other purposes, of surplus monies, as defined in the authorizing resolution or trust indenture. Nothing in this section is intended to prohibit the *Authority* from investing monies received hereunder, as provided in this Act.

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SECTION 8. Any authorizing resolution and trust indenture shall, together with this act, constitute a contract between the *Authority* and the holders and registered owners of the bonds, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict compliance with the terms and provisions of such contract, and the covenants, agreements, and obligations of the State Building Services may be enforced by mandamus or other appropriate proceedings at law or in equity. In this regard, in addition to other provisions referred to above, the State Building Services is hereby expressly authorized to include in any authorizing resolution or trust indenture assurance that, to the fullest extent possible,

1 it will always charge, impose and collect sufficient rentals and other revenue
2 to meet, as due, all debt service requirements, maintain reserves at proper
3 levels, and otherwise comply with any provisions of authorizing resolutions or
4 trust indentures concerning revenues and bonds.

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6 SECTION 9. Bonds issued under the provisions of this act, and the
7 interest thereon, shall be exempt from all state, county, and municipal taxes,
8 and the exemption shall include income, inheritance, and estate taxes.

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10 SECTION 10. *The Authority shall include necessary provisions in the*
11 *authorizing resolution or trust indenture to provide for the deposit of the*
12 *proceeds of the bonds pursuant to the provisions of Arkansas Code Annotated*
13 *§15-5-209. The Authority may create and establish one or more special funds*
14 *in such depositories and make such investment as it may designate to provide*
15 *for the construction, secure the bonds, establish reserves, and fund other*
16 *necessary functions or activities authorized by the act.*

17

18 SECTION 11. REFUNDING BONDS. *Bonds may be issued for the purpose of*
19 *refunding any bonds issued under this act. Refunding bonds may be issued by*
20 *the Authority pursuant to the provisions of Arkansas Code §15-5-314.*

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22 SECTION 12. No member of the State Building Services Council shall be
23 held personally liable for any act taken by the Council or for any damages
24 sustained by anyone in any contract entered into in carrying out the purposes
25 and intent of this act, unless he (she) shall have acted with a corrupt
26 intent.

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28 SECTION 13. (a) The State Building Services is hereby authorized to
29 supervise and manage buildings and other facilities acquired pursuant to the
30 authority granted herein and to manage, maintain and repair said buildings and
31 facilities to provide rental space to be made available for the housing of
32 state agencies, departments, boards, commissions and institutions, or other
33 tenants, at such rental rates as deemed necessary:

34 (i) *to provide sufficient funds to enable the Authority to meet,*
35 *when due, the payment of principal of, interest on, and trustee's and paying*

1 agents' fees in connection with all bonds issued under this act;
2 (ii) to enable the Authority to establish and maintain such
3 reserves, and other financial obligations in regard to the bonds issued under
4 the provisions of this act, as shall be set forth in any authorizing
5 resolution or trust indenture utilized for that purpose; and
6 (iii) in addition thereto, to pay the costs of utilities,
7 insurance, janitorial supplies and services, building maintenance, upkeep,
8 repair, and remodeling as deemed necessary, including the accumulation of
9 reserves deemed necessary for such purposes as authorized under the provisions
10 of this act, and, in connection therewith, the State Building Services may
11 establish one or more accounts in one or more banks authorized to do business
12 in this state to accomplish such purposes.

13 (b) The State Building Services is hereby authorized to hire legal
14 counsel of its choice to assist in the administration of this act.

15 (c) State Building Services is hereby prohibited from utilizing the
16 proceeds of any bonds issued under this act to acquire by purchase, exchange,
17 barter, gift, eminent domain, long term lease or other means the capital
18 improvements located on the property described as Lots 7, 8, 9, 13, 14, and 15
19 and the East 33 feet 4 inches of Lots 10 and 12 in Block 344 of Beach's
20 Subdivision, and Addition to the city of Little Rock, Arkansas, as designated
21 on the plat of said Addition now appearing of record in Deed Book 4, Page 586,
22 in the office of the Recorder of Pulaski County, Arkansas.

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24 SECTION 14. This act shall not create any right in any bondholder for
25 bonds issued pursuant to this act, and no right of such bondholders shall
26 arise under it, until bonds authorized by this act (of the initial issue or
27 series) shall have been sold and delivered by the Authority.

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29 SECTION 15. This act shall be construed liberally. The enumeration of
30 any object, purpose, power, manner, method, and thing shall not be deemed to
31 exclude like or similar objects, purposes, powers, manners, methods, and
32 things.

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34 SECTION 16. Nothing in this act shall be construed to provide or allow
35 for the construction of a new office building to house any governmental agency

1 of the State of Arkansas.

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3 SECTION 17. All provisions of this act of a general and permanent
4 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
5 Code Revision Commission shall incorporate the same in the Code.

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7 SECTION 18. If any provision of this act or the application thereof to
8 any person or circumstance is held invalid, such invalidity shall not affect
9 other provisions or applications of the act which can be given effect without
10 the invalid provision or application, and to this end the provisions of this
11 act are declared to be severable.

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13 SECTION 19. All laws or parts of laws in conflict with this act are
14 hereby repealed.

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/s/Howell

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