

1 **State of Arkansas**

2 **79th General Assembly**

3 **Regular Session, 1993**

# **A Bill**

**HOUSE BILL 1065**

4 **By: Representatives D. Wood, Henry, M. Wilson, Dietz, Molinaro, Bennett, Stalnaker,**  
5 **Fletcher, Riable, Townsend, Brown, Jones, Walker, Argue, Pryor, and Wyrick**

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## **For An Act To Be Entitled**

9 "AN ACT TO ENHANCE THE ABILITY OF THE STATE AND ITS  
10 POLITICAL SUBDIVISIONS TO ATTRACT MAJOR INDUSTRIES TO  
11 LOCATE WITHIN THEIR BOUNDARIES; AND FOR OTHER PURPOSES."

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### **Subtitle**

14 "AN ACT TO ENHANCE THE ABILITY OF THE STATE AND ITS  
15 POLITICAL SUBDIVISIONS TO ATTRACT MAJOR INDUSTRIES TO  
16 LOCATE WITHIN THEIR BOUNDARIES."

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

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20 SECTION 1. This act shall be known as "The Major Industry Facilities  
21 Incentive Act".

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23 SECTION 2. As used in this act, unless the context otherwise requires:

24 (1) "Bonds" means revenue bonds or general obligation bonds;

25 (2) "Eligible facility" means any *facility owned by any state agency*  
26 *or political subdivision, and any facility financed through the issuance of*  
27 *bonds by any state agency or political subdivision at which at least one*  
28 *hundred (100) people are employed and which is acquired or completed, or*  
29 *substantially reconstructed or expanded, after 12-31-92;*

30 (3) "Political subdivision" means cities of the first or second class,  
31 counties, and any governmental entity created by them; and

32 (4) "State income tax" means the Arkansas state income tax.

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34 SECTION 3. Application for assistance generally. Any state agency or  
35 political subdivision that has acquired or constructed or which desires to

1 acquire or construct, or which has financed or which desires to finance  
2 through the issuance of its bonds, an eligible facility may apply to the State  
3 Board of Finance for state assistance in paying the debt service requirements,  
4 including principal, interest, and trustee's and paying agent's fees and  
5 charges, on bonds issued or to be issued by the state agency or political  
6 subdivision to finance all, or a portion of, the eligible facilities and  
7 capital improvements related thereto and any amounts theretofore expended by  
8 the state agency or political subdivision from its revenues to acquire or  
9 construct the eligible facility and capital improvements related thereto  
10 increased by an annual rate of interest equal to the average rate of interest  
11 to be paid on the bonds issued to finance the facility.

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13 SECTION 4. Application - Contents.

14 (a) All applications for state assistance under this act shall be in  
15 writing and shall describe:

16 (1) The eligible facilities;

17 (2) The financing thereof;

18 (3) The estimated number of people to be employed at the  
19 facility;

20 (4) The estimated additional state income tax revenues to be  
21 derived as a result of the expenditures;

22 (5) The expected expense, if any, to the state; and

23 (6) Any other matters prescribed by the State Board of Finance.

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25 SECTION 5. Application - Review. Upon receipt of an application for  
26 state assistance, the State Board of Finance shall proceed promptly to review  
27 it and shall notify the applicant of any additional information needed for a  
28 proper evaluation of the application.

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30 SECTION 6. Application - Hearings.

31 (a) After reviewing the application, and upon reasonable notice to the  
32 applicant, the State Board of Finance shall hold a public hearing on the  
33 application.

34 (b) (1) The State Board of Finance shall give notice of the time,  
35 place, and purpose of the public hearing by publication one time in a

1 newspaper of general circulation within the boundaries of the applicant, such  
2 publication to be not less than ten calendar days prior to the hearing.

3           (2) The notice shall describe generally the facilities for which  
4 state assistance has been requested and shall contain a brief description of  
5 the procedural steps to be taken in connection with the application and the  
6 financing of the facilities.

7           (c) At the public hearing representatives of the applicant and any  
8 other interested persons may appear and present evidence and argument in  
9 support of or in opposition to the application, and the State Board of Finance  
10 may present additional evidence.

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12           SECTION 7. Application - Determination of eligibility.

13           (a) After consideration of the application and conclusion of the  
14 hearing, the State Board of Finance shall determine whether the facilities  
15 described in the application are eligible facilities.

16           (b) If the State Board of Finance determines that the facilities  
17 described in the application are eligible facilities and that the financing of  
18 or repayment for such eligible facilities through a combination of bonds of  
19 the applicant and state assistance under this act is in the best interest of  
20 the applicant and the state, the application shall be approved.

21           (c) In determining whether state assistance is in the best interest of  
22 the applicant and the state, the State Board of Finance shall consider:

23                   (1) The capacity of the applicant to issue bonds to finance the  
24 eligible facilities;

25                   (2) The amount of additional state income tax revenues estimated  
26 to be derived from the eligible facilities; and

27                   (3) The estimated principal and interest requirements for the  
28 bonds issued in connection with the eligible facilities or amounts necessary  
29 to repay the investment by a state agency or political subdivision in eligible  
30 facilities.

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32           SECTION 8. State assistance.

33           (a) If the application is approved, the State Board of Finance shall  
34 fix the amount of state assistance to the state agency or political  
35 subdivision to repay its investment or for paying debt service on the bonds

1 issued to finance, in whole or in part, the eligible facilities if requested  
2 by the state agency or political subdivision and, on behalf of the state,  
3 shall enter into an agreement providing for the payment of the amount so fixed  
4 in quarterly payments and shall certify the amount to the State Treasurer.

5 (b) If the state agency or political subdivision issues two or more  
6 issues of bonds to finance eligible facilities, the amount of state assistance  
7 shall be fixed separately for each issue.

8 (c) The total amount of state assistance shall be fixed at no more than  
9 the additional state income tax revenues directly generated by the eligible  
10 facilities.

11 (d) It shall be a condition to any payments under this act that the  
12 state agency or political subdivision has issued and has outstanding its bonds  
13 for the purpose of financing, in whole or in part, the eligible facilities,  
14 but this shall not limit the provisions in this act for repayment of a state  
15 agency\_s or political subdivision\_s investment, heretofore made, in eligible  
16 facilities.

17 (e) The payments provided for in this act shall be subject to the  
18 specific appropriation by the General Assembly and shall be for a term of not  
19 longer than two years, but shall, subject to the appropriation by the General  
20 Assembly, be extended from time to time for additional terms of not to exceed  
21 two years each.

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23 SECTION 9. Major Industry Facilities Incentive Fund - Creation. There  
24 is created on the books of the Treasurer of State, Auditor of State, and Chief  
25 Fiscal Officer of the State a fund to be known as the Major Industry  
26 Facilities Incentive Fund.

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28 SECTION 10. Major Industry Facilities Incentive Fund - Transfer of  
29 funds. The Treasurer of State shall monthly, before making the percentage  
30 distributions of general revenues as provided by law, deduct from the General  
31 Revenue Fund Account of the State Apportionment Fund an amount of money  
32 necessary to meet the quarterly payments to state agencies and political  
33 subdivisions provided for in this act and shall credit them to the Major  
34 Industry Facilities Incentive Fund, and shall quarterly pay over the amounts  
35 to each state agency or political subdivision, provided that the General

1 Assembly shall have appropriated funds for them.

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3 SECTION 11. Major Industry Facilities Incentive Fund - Disbursements.

4 (a) The State Board of Finance shall certify to the Treasurer of State  
5 the amount of assistance to each state agency or political subdivision for  
6 paying debt service on the bonds issued to finance the eligible facilities.

7 (b) If it should be determined that overpayments were made to the  
8 entity, then the overpayments shall be recovered by reducing the succeeding  
9 fiscal year's entitlement by the overpayment.

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11 SECTION 12. Payments.

12 (a) Payments of state assistance to state agencies and political  
13 subdivisions under this act shall be made by remitting them directly to the  
14 trustee for the holders of the bonds issued to finance the eligible  
15 facilities.

16 (b) The trustee shall apply such state assistance money to the payment  
17 or redemption of the bonds, and to the payment of interest thereon.

18 (c) When the bonds issued to finance the eligible facilities are fully  
19 retired or the investment of the state agency or political subdivision of its  
20 revenues in the eligible facilities has been repaid with accrued and accruing  
21 interest, any money then held by the trustee derived from the state assistance  
22 shall be returned to the Treasurer of State and deposited in the State  
23 Treasury as general revenues to the credit of the General Revenue Fund Account  
24 of the State Apportionment Fund, and future eligibility for that project shall  
25 be terminated.

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27 SECTION 13. Suspension of local tax. Any state agency or political  
28 subdivision entering into an agreement pursuant to this act may provide for  
29 suspension, in whole or in part, of the collection of any tax voted for  
30 payment of its general obligation bonds issued in accordance with an agreement  
31 under this act in any year when money derived from state assistance under this  
32 act or from other sources is available for payment of all, or a portion of,  
33 the debt service on the bonds.

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35 SECTION 14. Pledge of state revenues prohibited.

1 (a) Nothing in this act shall be construed as authorizing the pledging  
2 of the faith and credit of the state or any of its revenues, either for the  
3 performance of the obligations of the state under the agreements authorized by  
4 this act or for the payment of bonds issued pursuant to such agreements.

5 (b) All payments to state agencies and political subdivisions under  
6 this act are made subject to specific appropriations for such purpose and  
7 nothing in this act, or in any agreement entered into pursuant to this act,  
8 shall be construed to require the General Assembly to make any appropriation  
9 pursuant to this act, or such agreement, or to prohibit the General Assembly  
10 from amending or repealing this act at any time.

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12 SECTION 15. All provisions of this act of a general and permanent  
13 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
14 Code Revision Commission shall incorporate the same in the Code.

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16 SECTION 16. If any provision of this act or the application thereof to  
17 any person or circumstance is held invalid, such invalidity shall not affect  
18 other provisions or applications of the act which can be given effect without  
19 the invalid provision or application, and to this end the provisions of this  
20 act are declared to be severable.

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22 SECTION 17. All laws and parts of laws in conflict with this act are  
23 hereby repealed.

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*/s/Doug Wood, et al*

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