

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H3/17/97 S3/26/97

A Bill

HOUSE BILL 1910

4
5 *By: Representatives Beatty, Horn, Cunningham, Dawson and Judy Smith*
6 *By: Senators Ross and Mahony*

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE §§ 14-137-108, 14-137-110
10 AND 14-137-115 TO PROVIDE THAT MEMBERS OF PUBLIC
11 FACILITIES BOARDS SHALL BE APPOINTED BY THE MAYORS OR THE
12 COUNTY JUDGES, TO REQUIRE RECORDS TO BE KEPT IN ACCORDANCE
13 WITH MUNICIPAL OR COUNTY ORDINANCES, AND TO PROVIDE FOR AN
14 ANNUAL AUDIT OF THE PUBLIC FACILITIES BOARD'S FINANCIAL
15 ACTIVITIES; AND FOR OTHER PURPOSES."

Subtitle

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18 "TO PROVIDE THAT MEMBERS OF PUBLIC
19 FACILITIES BOARDS SHALL BE APPOINTED BY
20 MAYORS AND COUNTY JUDGES, TO REQUIRE
21 RECORDS TO BE KEPT, AND TO PROVIDE FOR
22 AN ANNUAL AUDIT OF THE PUBLIC FACILITIES
23 BOARD'S FINANCIAL ACTIVITIES."

24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 SECTION 1. Arkansas Code § 14-137-108(a) is amended to read as follows:

28 "(a)(1) Each public facilities board shall consist of five (5) members
29 unless there is an expansion of the board to provide services outside the
30 boundaries of the governmental unit from which it obtains power.

31 (2) The provisions of this subsection shall be applicable only to
32 county public facilities boards in counties having a population of less than
33 one hundred fifty thousand (150,000) according to the most recent federal
34 decennial census and to all public facilities boards established by
35 municipalities having a population of less than one hundred thousand (100,000)
36 according to the most recent federal decennial census, regardless of where

1 located.

2 (3)(A) The initial members shall be appointed by the mayor of the
3 creating municipality or the county judge of the creating county for terms of
4 one (1), two (2), three (3), four (4), and five (5) years, respectively.

5 (B) Successor members prior to January 1, 1998 shall be
6 elected by a majority of the board for terms of five (5) years each. After
7 January 1, 1998 as members' terms end, successor members shall be appointed by
8 the mayor of the creating municipality or the county judge of the creating
9 county subject to confirmation by the governing body of the municipality or
10 county.

11 (C) Each member shall serve until his successor is elected
12 and qualified.

13 (D) A Except as is otherwise provided, a member shall be
14 eligible to succeed himself.

15 (E) After January 1, 1998, the governing body of the
16 municipality or county may, by ordinance, limit the number of terms a person
17 may serve on the board.

18 (4) Each member shall qualify by taking and filing with the clerk
19 of the municipality or county creating the board his oath of office in which
20 he shall swear to support the Constitution of the United States and the
21 Constitution of the State of Arkansas and to discharge faithfully his duties
22 in the manner provided by law.

23 (5) In the event of a vacancy in the membership of the board,
24 however caused, a majority of the board shall elect a successor member to
25 serve the unexpired term.

26 (6) The members of the board shall receive no compensation for
27 their services, but shall be entitled to reimbursement for reasonable and
28 necessary expenses incurred in the performance of their duties.

29 (7) Any member of the board may be removed for misfeasance,
30 malfeasance, or willful neglect of duty, by the mayor of the municipality or
31 the county judge of the county, as the case may be, which created the board,
32 after reasonable notice of and an opportunity to be heard concerning the
33 alleged grounds for removal.

34 (8)(A)(i) If the jurisdiction of a board, pursuant to interlocal
35 agreements, expands to provide services outside the boundaries of the
36 governmental unit from which it obtains power, then not more than two (2)

1 additional members per governmental unit may be added pursuant to the terms of
2 any relevant interlocal agreement.

3 (ii) These members shall initially be appointed by
4 the mayor of the newly participating municipality, or the county judge of the
5 newly participating county, and shall serve for a term agreed upon in the
6 interlocal agreement, provided that the term shall not exceed five (5) years.

7 (B) The other provisions of this section shall apply to
8 these additional members, provided that no additional member shall be eligible
9 to serve as chairman of the board.

10 (9) Provided, however, the provisions of law in this subsection
11 (a) regarding the selection process for members of public facilities boards
12 after January 1, 1998 shall not apply to the selection of board members for
13 public facilities boards which constructed and operated only public water
14 systems and related transmission and distribution facilities prior to
15 January 1, 1998. Public facility boards which constructed and operated only
16 public water systems prior to January 1, 1998 shall continue to use the board
17 member selection methods in effect for their boards prior to January 1, 1998."
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19 SECTION 2. Arkansas Code § 14-137-110 is amended to read as follows:

20 "14-137-110. Meetings - Records.

21 (a)(1) Each public facilities board shall meet upon the call of its
22 chairman, or a majority of its members, and at such times as may be specified
23 in its bylaws for regular meetings. A majority of its members shall constitute
24 a quorum for the transaction of business.

25 (2) The affirmative vote of a majority of the members present at
26 a meeting of the board shall be necessary for any action taken by the board.

27 (3) Any action taken by the board may be authorized by
28 resolution, and such resolution shall take effect immediately unless a later
29 effective date is specified in the resolution.

30 (4) No vacancy in the membership of the board shall impair the
31 right of a quorum to exercise all the rights and perform all the duties of the
32 board.

33 (b)(1) The secretary of the board shall keep a record of the
34 proceedings of the board and shall be custodian of all books, documents, and
35 papers filed with the board and of the minute book or journal of the board and
36 of its official seal.

1 (2) The secretary may cause copies to be made of all minutes and
2 other records and documents of the board. He may give certificates under the
3 official seal of the board to the effect that the copies are true copies, and
4 all persons dealing with the board may rely upon the certificates.

5 (3) ~~County public~~ Public facilities boards ~~located in counties~~
6 ~~having a population of one hundred fifty thousand (150,000) or more persons~~
7 ~~according to the most recent federal decennial census~~ shall preserve and
8 maintain their records and documents at such locations and in such manner as
9 prescribed by ordinance of the municipality or county which created the
10 boards."

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12 SECTION 3. Arkansas Code § 14-137-115 is amended to read as follows:

13 "14-137-115. Use of funds and revenue - Bonds.

14 (a) Public facilities boards are authorized to use any available funds
15 and revenues for the accomplishment of all or a portion of public facilities
16 projects and may issue bonds, as authorized by this chapter, for the
17 accomplishment of all or a portion of public facilities projects, either alone
18 or together with other available funds and revenues.

19 (b) Bonds may be issued in principal amounts as shall be sufficient to
20 pay the costs of issuing bonds, the amount necessary for a reserve, if deemed
21 desirable, the amount necessary to provide for debt service until revenues for
22 the payment thereof are available, the amount necessary to acquire a contract
23 providing for payments to the board at a rate or rates at least sufficient to
24 provide for, alone or with any other revenues that may be pledged, debt
25 service on the bonds, if deemed desirable, and to pay any other costs and
26 expenditures of whatever nature incidental to the accomplishment of all or a
27 portion of the public facilities project involved and the placing of it in
28 operation.

29 (c) Each county public facilities board ~~in a county having a population~~
30 ~~of one hundred fifty thousand (150,000) or more according to the most recent~~
31 ~~federal decennial census~~ and each public facilities board established by a
32 municipality ~~having a population of more than one hundred thousand (100,000)~~
33 ~~according to the most recent federal decennial census~~, regardless of where
34 located, shall annually contract with a certified public accountant to perform
35 an audit of the board's revenues which are not pledged to outstanding bonded
36 indebtedness. The board shall furnish a copy of the audit report to the

1 governing body of the municipality or county which created the board and the
2 board shall make the audit report available to the public for inspection under
3 the Freedom of Information Act, §§ 25-19-101 et seq."

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

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9 SECTION 5. If any provisions of this act or the application thereof to
10 any person or circumstance is held invalid, the invalidity shall not affect
11 other provisions or applications of the act which can be given effect without
12 the invalid provisions or application, and to this end the provisions of this
13 act are declared to be severable.

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15 SECTION 6. All laws and parts of laws in conflict with this act are
16 hereby repealed.

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19 /s/Rep. Beatty, et al

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