

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

SENATE BILL 501

4
5 By: Senators Malone, Altes, Argue, Bisbee, J. Bookout, Broadway, Brown, Capps, Critcher, Glover,
6 Gullett, Hendren, Higginbothom, Hill, Horn, G. Jeffress, J. Jeffress, B. Johnson, Lavery, Luker,
7 Madison, Miller, Salmon, T. Smith, Steele, Trusty, Wilkinson, Womack

For An Act To Be Entitled

11 AN ACT TO REQUIRE MUNICIPALITIES AND COUNTIES TO
12 NEGOTIATE IN LIEU OF TAX PAYMENTS WHEN
13 NEGOTIATING A CONTRACT FOR SALE OF PROPERTY OR
14 LEASE OF PROPERTY TO A PRIVATE, FOR PROFIT
15 ENTITY; AND FOR OTHER PURPOSES.

Subtitle

18 AN ACT TO REQUIRE MUNICIPALITIES AND
19 COUNTIES TO NEGOTIATE IN LIEU OF TAX
20 PAYMENTS WHEN NEGOTIATING A CONTRACT FOR
21 SALE OF PROPERTY OR LEASE OF PROPERTY TO
22 A PRIVATE, FOR PROFIT ENTITY.

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

27 SECTION 1. Arkansas Code § 14-164-703 is amended to read as follows:
28 14-164-703. Payments in lieu of taxes.

29 (a) In the event that a county or municipality and a lessee under a
30 lease, or a purchaser under a contract of sale, enter into an agreement for
31 payments in lieu of ad valorem taxes, each agreement shall provide, or, by
32 virtue of this subchapter, shall be interpreted as providing, that all in-
33 lieu-of-taxes payments shall be distributed to the local political
34 subdivisions which would have received ad valorem tax payments on the
35 industrial facilities if the interest involved had not been exempt from ad
36 valorem taxes in the proportions that the millage levied by each affected



1 local political subdivision bears to the millage levied by all affected
 2 political subdivisions, unless all such local political subdivisions,
 3 including the affected school district or districts, shall otherwise agree.

4 (b) Nothing in this section shall be construed as affecting in any
 5 manner the rights or obligations of any of the parties to any such agreements
 6 existing on the date of enactment of this subchapter providing for payments
 7 in lieu of ad valorem taxes.

8
 9 SECTION 2. Uncodified Sections(b) through (d) of Act 1629 of 2001, as
 10 amended, are amended to read as follows:

11 (b)(1) ~~From July 1, 2001 through June 30, 2003, when~~ When any city or
 12 county enters into a lease of city or county property or enters into a
 13 contract for sale of city or county property to a private for-profit entity
 14 under this subchapter or any other provision of law or the Constitution of
 15 Arkansas for the purpose of securing and developing industry, the lease or
 16 contract for sale shall include an obligation that the lessee or purchaser
 17 make payments in lieu of property taxes in an amount as negotiated between
 18 the parties except the aggregate amount of the payments during the initial
 19 term of the lease or contract for sale shall be not less than thirty-five
 20 percent (35%) of the aggregate amount of ad valorem taxes that would be paid
 21 if the property were on the tax rolls, unless the Director of the Department
 22 of Economic Development and the Chief Fiscal Officer of the State approve a
 23 lesser amount.

24 (2)(A) The aggregate amount of ad valorem taxes that would be
 25 paid if the property were on the tax rolls during the initial term of the
 26 lease or contract for sale may be determined based on:

27 (i) The millage and assessment rates in effect at
 28 the time the obligation to make in lieu of property taxes is entered into;

29 (ii) The projected installed costs of the taxable
 30 real and personal property subject to or to be subject to the lease or
 31 contract for sale, which may be evidenced by an affidavit of a duly
 32 authorized officer of the private for profit entity; and

33 (iii) Depreciation guidelines for personal property
 34 published by the Arkansas Assesment Coordination Department.

35 (B) The aggregate amount determined under subdivision
 36 (b)(2) of this section shall be adjusted based on the actual installed costs

1 of the taxable real and personal property at the time the lease or contract
2 for sale, whichever is later.

3 (3) The obligation may be contained in a separate agreement at
4 the option of the parties to the lease or contract for sale.

5 (c) ~~From July 1, 2001 through June 30, 2003, prior~~ Prior to meeting of
6 city or county officials where action might be taken regarding approval of
7 in-lieu-of-tax payments, the city or county shall give at least ten (10) days
8 notice to the superintendent of each school district in which all or any part
9 of the property which is subject to the lease or contract of sale is located,
10 and to the Chief Fiscal Officer of the State as to the date, time, and place
11 of the meeting.

12 (d) Subsection (b) and (c) of this section shall not apply to:

13 (1) Any agreement existing prior to July 1, 2001;

14 (2) Any agreement entered into on or after July 1, 2001 pursuant
15 to a memorandum of intent or agreement to issue bonds authorized by any city
16 or county prior to July 1, 2001;

17 (3) Any agreement entered into on or after July 1, 2001 related
18 to a project covered by a financial incentive proposal from the Arkansas
19 Department of Economic Development, or by resolution of the governing body of
20 a city or a county designating the project by name for the purposes of this
21 exemption, dated prior to July 1, 2001; and

22 (4) Any reissue or refinancing of bonds which are subject to an
23 existing in-lieu-of-tax ~~agreement;~~ and agreement.

24 ~~(5) Any lease or contract for sale with a qualified manufacturer~~
25 ~~of steel as defined in § 26-52-901 or in Act 541 of 2001.~~

26
27 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
28 General Assembly of the State of Arkansas that the Arkansas Supreme Court has
29 ruled that the current system of education in Arkansas is inadequate and
30 inequitable; that the Arkansas Supreme Court has found portions of the
31 current public school funding formula to be unconstitutional; that the
32 Arkansas Supreme Court has instructed the General Assembly to devise a remedy
33 and has provided a stay on the ruling until January 1, 2004; that public
34 schools are currently in dire need of additional funding; that this act is
35 immediately necessary to enable public schools to receive additional funding.
36 Therefore, an emergency is declared to exist and this act being immediately

1 necessary for the preservation of the public peace, health, and safety shall
2 become effective on:

3 (1) The date of its approval by the Governor;

4 (2) If the bill is neither approved nor vetoed by the Governor,
5 the expiration of the period of time during which the Governor may veto the
6 bill; or

7 (3) If the bill is vetoed by the Governor and the veto is
8 overridden, the date the last house overrides the veto.

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