

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

A Bill ACT 923 OF 1991

HOUSE BILL 1916

4 **By: Representative J. E. Miller**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ACT 235 OF 1991, THE CAPITOL MALL
9 FACILITY AND STATE AGENCIES FACILITIES ACT OF 1991, TO
10 GRANT TO THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY THE
11 BONDING POWER WHICH WAS GRANTED THE STATE BUILDING
12 SERVICES; AND FOR OTHER PURPOSES."

13

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

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16 SECTION 1. Subsection (b) of Section 2 of Uncodified Act 235 of 1991 is
17 hereby amended to read as follows:

18 "(b) Bonds or revenue bonds means any bonds, notes, debentures,
19 interim certificates, grant and revenue anticipation notes, interest in a
20 lease, lease certificate(s) of participation or evidences of indebtedness,
21 whether or not the interest on them is subject to federal income taxation."

22

23 SECTION 2. To amend Section 2 of Uncodified Act 235 of 1991 by
24 inserting an additional subsection at the end thereof to read as follows:

25 "(f) Authority means the Arkansas Development Finance Authority
26 created pursuant to Act 1062 of 1985, as amended."

27

28 SECTION 3. Sections 3 through 7 of Uncodified Act 235 of 1991 are
29 hereby amended to read as follows:

30 "SECTION 3. (a) CAPITOL MALL FACILITY. In addition to the purposes,
31 powers, and authority set forth elsewhere in this act or in other laws, the
32 State Building Services is hereby authorized and empowered to construct on the
33 State Capitol grounds the Capitol Mall Facility, as defined herein, with
34 construction of new enclosed buildings not to exceed a cumulative gross
35 building area of one hundred thousand (100,000) square feet commenced through
36 calendar year 1992, two hundred thousand (200,000) square feet commenced

1 through calendar year 1994, three hundred thousand (300,000) square feet
2 commenced through calendar year 1996, four hundred thousand (400,000) square
3 feet commenced through calendar year 1998, and five hundred thousand (500,000)
4 square feet commenced through calendar year 2000, with such restrictions to
5 apply to enclosed buildings only and shall not apply to square feet area of
6 parking structures or parking space required in connection with or
7 necessitated by the construction of new buildings or to meet the needs of
8 parking space on the State capitol grounds; and in furtherance thereof to:

9 (1) arrange for the housing in the Capitol Mall Facility of state
10 agencies to the extent that space and facilities are available for such
11 purpose, under such terms and conditions and for such rentals and charges as
12 State Building Services may determine;

13 (2) construct or cause to be constructed streets, curbs, gutters,
14 utilities, landscaping, and parking facilities to serve the facility;

15 (3) purchase, lease, or rent, and receive bequests or donations
16 of or otherwise acquire, sell, trade, or barter, any property (real, personal,
17 or mixed), and convert such property into money and/or other property;

18 (4) contract and be contracted with;

19 (5) apply for, receive, accept, and use any monies and property
20 from the government of the United States of America, provided by the General
21 Assembly, any agency, any state, or governmental body or political
22 subdivision, any public or private organization or corporation, of any nature,
23 or any individual;

24 (6) take such other actions not inconsistent with law as may be
25 necessary or desirable to carry out the powers, purposes, and authority as set
26 forth herein, in accordance with the duly promulgated policies of the State
27 Building Services as authorized by law.

28 (b) In addition to the purposes, powers and authority set forth
29 elsewhere in this act or in other laws, in connection with the construction
30 and equipping of the Capitol Mall Facility, as defined herein, the Authority
31 is hereby authorized:

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

1 and

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

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

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

10 (c) ACQUISITION OF BUILDINGS AND FACILITIES. In addition to the
11 purposes, powers, and authority set forth in subsection (a) of this section
12 and as set forth elsewhere in this act or in other laws, the State Building
13 Services is hereby authorized and empowered to acquire buildings and
14 facilities located in the city in which the seat of State Government is
15 located to house state agencies, and repair, remodel, and renovate such
16 buildings and facilities as State Building Services shall deem necessary and
17 appropriate to accommodate state agencies, provided that no single acquisition
18 may exceed a total cost of four million dollars (\$4,000,000) in value, whether
19 acquired by purchase, exchange, eminent domain, long-term lease, or other
20 means, exclusive of the cost of repairs, remodeling, and renovation of such
21 buildings and facilities as State Building Services deems necessary and
22 appropriate to accommodate state agencies, provided that the area of the
23 structure of any such existing building or facility is not expanded by more
24 than ten percent (10%) in connection therewith. All property acquired on a
25 specific site shall be considered as a part of a single acquisition. In
26 furtherance of the purposes authorized by this subsection, State Building
27 Services is hereby authorized and empowered to:

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

32 (2) arrange for the housing of state agencies in such buildings
33 and facilities to the extent that space and facilities are available for such
34 purpose, under such terms and conditions and for such rentals and charges as
35 State Building Services may determine;

1 (3) acquire, construct, or cause to be constructed parking
2 facilities to serve the facility;

3 (4) receive the necessary funds for accomplishing its powers,
4 purposes, and authority from any source or sources, including, without
5 limitation, the proceeds of revenue bonds issued hereunder and other funds as
6 may be appropriated or made available therefor;

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

10 (6) contract and be contracted with;

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

15 (8) invest and reinvest any of its money (in securities selected
16 by State Building Services);

17 (9) take such other actions not inconsistent with law as may be
18 necessary or desirable to carry out the powers, purposes, and authority as set
19 forth herein, in accordance with the duly promulgated policies of the State
20 Building Services Council.

21 (d) It is the intent of this section to authorize State Building
22 Services to undertake, in the manner and subject to the limitations set forth
23 in subsection (a), the construction of the Capitol Mall Facility and that,
24 excepting parking structures, new building construction shall not be permitted
25 under this act except to implement the Capitol Mall Facility as defined in
26 subsection (c) of Section 2 of this act. In addition, it is the purpose of
27 this act to authorize State Building Services to acquire buildings and
28 facilities (acquired structures) in the city in which the seat of State
29 Government is located in the manner authorized in subsection (b) of this
30 section and to provide that the repair, remodeling, and renovation of such
31 facilities by State Building Services shall not be considered new building
32 construction if such repair, remodeling, and renovation does not expand the
33 existing structure by more than ten percent (10%) in area. The restrictions
34 contained in subsection (a) of this section with respect to the limitations on
35 the square footage of new construction to be undertaken on the Capitol Mall

1 Facility during each biennium, and the restrictions on the cost of a single
2 acquired structure under subsection (b) of this section, shall not apply to
3 the acquisition, construction, or improvement of parking structures or parking
4 areas as authorized under subsection (a) of this section or in connection with
5 acquired structures under subsection (b) of this section.

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7 SECTION 4. REVENUE BONDS.

8 (a) Pursuant to the intention of the General Assembly expressed in
9 Arkansas Code Annotated §15-5-303, the Authority, in co-operation with State
10 Building Services, is hereby authorized and empowered to issue revenue bonds,
11 at one time or from time to time, and to use the proceeds thereof for
12 defraying the costs of accomplishing all or part of the powers, purposes and
13 authorities set forth in this act, pay all incidental expenses in connection
14 therewith, pay the expenses of authorizing and issuing the bonds, establishing
15 a debt service reserve to secure the payment of the bonds, if the Authority
16 deems such desirable, and making provision for the payment of interest and
17 trustee's fees on the bonds. The bonds outstanding under this act may be in
18 such principal amount as the Authority and State Building Services shall
19 determine to be necessary for the accomplishment of the purposes of this act.

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

26

27 SECTION 5. (a) It shall be plainly stated on the face of each bond
28 that it has been issued under the provisions of this act, that the bonds shall
29 be obligations only of the Authority, that in no event shall they constitute
30 indebtedness for which the faith and credit of the State of Arkansas or any of
31 its revenues (within the meaning of Amendment 20 to the Constitution of the
32 State of Arkansas) are pledged. No member of the Authority shall be
33 personally liable on the bonds.

34 (b) The principal of, premiums, if any, interest on, and trustees' and
35 paying agents' fees in connection with the bonds shall be secured by a lien on

1 and pledge of and shall be payable from the pledged revenues defined in
2 Section 6 hereof. The authorizing resolution or trust indenture shall set
3 forth details of the nature and extent of the lien and pledge, including
4 provisions for the use of surplus revenues, if any, for any other lawful
5 purposes.

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7 SECTION 6. The principal of, premiums, if any, interest on, and
8 trustees' and paying agents' fees in connection with all bonds issued under
9 this act shall be secured solely by a lien on and pledge of the gross revenues
10 derived from the leasing or renting to state agencies or other tenants of
11 space in the Capitol Mall Facility and in the buildings and facilities
12 acquired pursuant to this act and the pledging of such revenues (the "pledged
13 revenues") is hereby authorized. All pledged revenues are hereby specifically
14 declared to be cash funds restricted in their use and dedicated (and) to be
15 used solely as provided and authorized in this act. Commencing the first day
16 of the month succeeding the issuance of the bonds hereunder and so long as any
17 bonds are outstanding hereunder, the pledged revenues shall not be deposited
18 into the State Treasury and shall not be subject to legislative appropriation,
19 but, as and when received (by the Authority, or by any other state agency, as
20 the case may be) shall be deposited in a bank or banks selected by the
21 Authority, to the credit of funds designated the "Capitol Mall Facility and
22 State Agencies Facilities Revenue Bond Fund", with appropriate identification
23 for separate issues or series. So long as any bonds are outstanding
24 hereunder, all monies in any bond fund shall be used solely for the payment of
25 the principal of, premiums, if any, interest on, and trustees' and paying
26 agents' fees in connection with the bonds, with the maintenance of necessary
27 funds and reserves, except that the authorizing resolution or trust indenture
28 may provide for the withdrawal, for other purposes, of surplus monies, as
29 defined in the authorizing resolution or trust indenture. Nothing in this
30 section is intended to prohibit the Authority from investing monies received
31 hereunder, as provided in this act.

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33 SECTION 7. Any authorizing resolution and trust indenture shall,
34 together with this act, constitute a contract between the Authority and the
35 holders and registered owners of the bonds, which contract, and all covenants,

1 agreements and obligations therein, shall be promptly performed in strict
2 compliance with the terms and provisions of such contract, and the covenants,
3 agreements, and obligations of the Authority may be enforced by mandamus or
4 other appropriate proceedings at law or in equity. In this regard, in
5 addition to other provisions referred to above, the Authority is hereby
6 expressly authorized to include in any authorizing resolution or trust
7 indenture all or any part of the following covenants:

8 (1) that, to the fullest extent possible, State Building Services will
9 continuously operate the Capitol Mall Facility and other buildings and
10 facilities acquired under this act as revenue-producing undertakings,
11 including the maintenance of occupancy and the use of facilities and space so
12 as to avoid any impairment of the security for the bonds; and

13 (2) that, to the fullest extent possible, State Building Services and
14 the Authority will always charge, impose and collect sufficient rentals and
15 other revenue to meet, as due, all debt service requirements, maintain
16 reserves at proper levels, and otherwise comply with any provisions of
17 authorizing resolutions or trust indentures concerning revenues and bonds."
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19 SECTION 4. Sections 9 and 10 of Uncodified Act 235 of 1991 are hereby
20 amended to read as follows:

21 "SECTION 9. The Authority shall include necessary provisions in the
22 authorizing resolution or trust indenture to provide for the deposit of the
23 proceeds of the bonds pursuant to the provisions of Arkansas Code Annotated
24 §15-5-209. The Authority may create and establish one or more special funds
25 in such depositories and make such investment as it may designate to provide
26 for the construction, secure the bonds, establish reserves, and fund other
27 necessary functions or activities authorized by the act.
28

29 SECTION 10. REFUNDING BONDS. Bonds may be issued for the purpose of
30 refunding any bonds issued under this act. Refunding bonds may be issued by
31 the Authority pursuant to the provisions of Arkansas Code §15-5-314."
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33 SECTION 5. Subsection (a) of Section 12 of Uncodified Act 235 of 1991
34 is hereby amended to read as follows:

35 "(a) The State Building Services is hereby authorized to supervise and

1 manage the Capitol Mall Facility and the other buildings and facilities
2 acquired pursuant to the authority granted herein and to manage, maintain and
3 repair said buildings and facilities to provide rental space to be made
4 available for the housing of state agencies, departments, boards, commissions
5 and institutions, or other tenants, at such rental rates as deemed necessary:

6 (i) to provide sufficient funds to enable the Authority to meet,
7 when due, the payment of principal of, interest on, and trustee's and paying
8 agents' fees in connection with all bonds issued under this act;

9 (ii) to enable the Authority to establish and maintain such
10 reserves, and other financial obligations in regard to the bonds issued under
11 the provisions of this act as shall be set forth in any authorizing resolution
12 or trust indenture utilized for that purpose; and

13 (iii) in addition thereto, to pay the costs of utilities,
14 insurance, janitorial supplies and services, building maintenance, upkeep,
15 repair, and remodeling as deemed necessary, including the accumulation of
16 reserves deemed necessary for such purposes as authorized under the provisions
17 of this act, and, in connection therewith, the State Building Services may
18 establish one or more accounts in one or more banks authorized to do business
19 in this state to accomplish such purposes."

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21 SECTION 6. Section 15 of Uncodified Act 235 of 1991 is hereby amended
22 to read as follows:

23 "SECTION 15. This act shall not create any right in any bondholder for
24 bonds issued pursuant to this act, and no right of such bondholder shall arise
25 under it, until bonds authorized by this act (of the initial issue or series)
26 shall have been sold and delivered by the Authority."

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28 SECTION 7. All provisions of this act of a general and permanent nature
29 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
30 Revision Commission shall incorporate the same in the Code.

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32 SECTION 8. 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

1 act are declared to be severable.

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3 SECTION 9. All laws and parts of laws in conflict with this act are
4 hereby repealed.

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APPROVED: 3/29/91

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