

1 **State of Arkansas**
2 **78th General Assembly**
3 **First Extraordinary Session, 1992**
4 **By: Representative Day**
5
6

Call Item 8
A BILL ACT 63 OF 1992
HOUSE BILL 1003

For An Act To Be Entitled

8 "AN ACT TO AMEND THE REGIONAL AIRPORT ACT, TITLE 14,
9 CHAPTER 362 OF THE ARKANSAS CODE; TO PROVIDE FOR THE
10 PARTICIPATION OF THE STATE OF ARKANSAS IN REGIONAL AIRPORT
11 AUTHORITIES FOR MAJOR AIRPORT FACILITIES; DECLARING AN
12 EMERGENCY; AND FOR OTHER PURPOSES."
13

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

15

16 SECTION 1. Arkansas Code 14-362-102 is hereby amended to read as
17 follows:

18 "14-362-102. Definitions.

19 As used in this chapter, unless the context otherwise requires:

20 (1) Authority means any authority created under the provisions of
21 this chapter;

22 (2) Municipality or municipal corporation means a city of the first
23 class, a city of the second class, or an incorporated town;

24 (3) Governing body means the council, board of directors, or city
25 commission of any municipality or the county court of any county;

26 (4) Equip means to install or place on or in any building or
27 structure equipment of any and every kind, whether or not affixed, including,
28 without limiting the generality of the foregoing, building service equipment,
29 fixtures, heating equipment, air conditioning equipment, machinery, furniture,
30 furnishings, and personal property of every kind;

31 (5) Sell means to sell for such price, in such manner, and upon such
32 terms as the authority shall determine including, without limiting the
33 generality of the foregoing, private or public sale; and if public, pursuant
34 to such advertisement as the authority shall determine, sale for cash or
35 credit payable in lump sum, or in installments over such period as the
36 authority shall determine; and if on credit, with or without interest and at

1 such rate or rates as the authority shall determine;

2 (6) Lease means to lease for such rentals, for such period or
3 periods, and upon such terms and conditions as the authority shall determine,
4 including, without limiting the generality of the foregoing, the granting of
5 such renewal or extension options for such rentals, for such periods, and upon
6 such terms and conditions as the authority shall determine and the granting of
7 such purchase options for such prices and upon such terms and conditions as
8 the authority shall determine;

9 (7) Construct means to acquire or build, in whole or in part, in such
10 manner and by such method, including contracting therefor, and if the latter,
11 by negotiation or bids upon such terms and pursuant to such advertising, as
12 the authority shall determine to be in the public interest and necessary under
13 the circumstances existing at the time to accomplish the purposes of and
14 authorities set forth in this chapter;

15 (8) Facilities or property or properties means any real property,
16 personal property, or mixed property of any and every kind that can be used,
17 or that will be useful, to accomplish the purposes of, and powers set forth
18 in, this chapter including, without limiting the generality of the foregoing,
19 rights-of-way, roads, streets, utilities, materials, equipment, fixtures,
20 machinery, furnishings, furniture, instrumentalities, and other real,
21 personal, or mixed property of every kind;

22 (9) County means any county in this state;

23 (10) Major airport facility means a public airport with an active
24 runway at least seven thousand (7,000) feet long; and

25 (11) State means the State of Arkansas."
26

27 SECTION 2. Arkansas Code 14-362-103 is hereby amended to read as
28 follows:

29 "14-362-103. Establishment of authorities.

30 (a) Any two (2) or more municipalities , any two (2) or more contiguous
31 counties, or any one (1) or more municipalities together with any one (1) or
32 more contiguous counties, are authorized to create and establish an authority
33 as prescribed in this chapter for the purpose of acquiring, equipping,
34 constructing, maintaining, and operating regional airports.

35 No county or municipality shall participate in such authority

1 unless and until its governing body so provides, by ordinance, and enters into
2 an agreement with the other participating governmental units establishing the
3 terms and conditions for the operation of the authority within the limitations
4 provided in this chapter and such other laws of the State of Arkansas as may
5 be applicable.

6 (b) The state may join in the creation and establishment of any
7 authority if the regional airport to be acquired, equipped, constructed,
8 maintained or operated is a major airport facility. The state shall not
9 participate in any authority unless and until the Governor so provides, by
10 proclamation, and enters into the agreement with the other participating
11 governmental units. The agreement with the other participating governmental
12 units shall be executed by the Governor of the state.

13 (c) To the extent that it is consistent with this chapter, the
14 agreement shall specify the information provided for in §25-20-104(c).

15 (d) The agreement shall be filed with the Secretary of State."
16

17 SECTION 3. Arkansas Code 14-362-105 is hereby amended to read as
18 follows:

19 "14-362-105. Appointment of board.

20 (a) Subject to such limitations as may be contained in the agreement
21 provided for in §14-362-103, the management and control of each authority and
22 its property, operations, business, and affairs shall be lodged in a board of
23 not less than six (6) nor more than twenty-four (24) persons who shall be
24 appointed for terms of six (6) years each as hereinafter provided.

25 (b) The number of members that each of the participating governmental
26 units is entitled to appoint to the board shall be set forth in the agreement
27 provided for in §14-362-103. However, each of the participating governmental
28 units shall be entitled to appoint at least one (1) member to the board and,
29 if the state is a participant in the authority, the state shall be entitled to
30 appoint a majority of the members of the board. Appointments shall be made by
31 the mayor of each participating municipality, the county judge of each
32 participating county, and the Governor of the state.

33 (c) The members of the authority shall have staggered terms, as
34 provided in the agreement establishing the authority, as follows: One-third
35 (1/3) of the members for six-year terms; one-third (1/3) of the members for

1 four-year terms; and one-third (1/3) of the members for two-year terms.
2 Thereafter, all appointments shall be for six-year terms.

3 (d) All members of the board appointed by the participating
4 municipalities and counties shall be bona fide residents and qualified
5 electors of the county or municipality which the members represent. All
6 members of the board appointed by the state shall be bona fide residents of
7 the state."

8

9 SECTION 4. Arkansas Code 14-362-106 is hereby amended to read as
10 follows:

11 "14-362-106. Vacancy on board.

12 (a) If any member of an authority dies, resigns, is removed, or for any
13 other reason ceases to be a member of the authority, the mayor, the county
14 judge, or the Governor, as appropriate to the governmental unit which the
15 member represented, shall appoint another person to fill the unexpired portion
16 of the term of the member.

17 (b) A member of the authority once qualified shall not be removed
18 during his appointment except for cause by the mayor, the county judge, or the
19 Governor, as appropriate, which appointed him or upon such other conditions as
20 shall be set forth in the agreement establishing the authority."

21

22 SECTION 5. Arkansas Code 14-362-108 is hereby amended to read as
23 follows:

24 "14-362-108. Facilities authorized.

25 Each authority is authorized and empowered to acquire, equip, construct,
26 maintain, and operate a regional airport or landing field and appurtenant
27 facilities so located to best serve the region in which they are located.
28 Each authority in which the state is a participant is further authorized and
29 empowered to acquire, equip, construct, maintain, and operate industrial,
30 warehouse, distribution and related types of facilities, including education,
31 training, office and support facilities, located at a major airport facility
32 for the purpose of securing and developing industry within the state."

33

34 SECTION 6. Arkansas Code 14-362-109 is hereby amended to read as
35 follows:

1 "14-362-109. Powers of authority generally.

2 Each authority is given power and authority as follows:

3 (1) To make and adopt all necessary bylaws, rules, and regulations for
4 its organization and operations not inconsistent with law;

5 (2) To elect its own officers, to appoint committees, and to employ and
6 fix the compensation for personnel necessary for its operation;

7 (3) To enter into contracts with any person, governmental department,
8 firm, or corporation, including both public and private corporations, and
9 generally to do any and all things necessary or convenient for the purpose of
10 acquiring, equipping, constructing, maintaining, improving, extending,
11 financing, and operating a public airport to best serve the region in which it
12 is located;

13 (4) To delegate any authority given to it by law to any of its
14 officers, committees, agents, or employees;

15 (5) To apply for, receive, and use grants-in-aid, donations, and
16 contributions from any source, including, but not limited to, the federal
17 government, or any agency thereof, and the State of Arkansas, or any agency
18 thereof, and to accept and use bequests, devises, gifts, and donations from
19 any person, firm, or corporation;

20 (6) To acquire lands and hold title thereto in its own name;

21 (7) To acquire, own, hold, lease as lessor or as lessee, sell,
22 encumber, dispose of, or otherwise deal in and with any facilities or real,
23 personal, or mixed property, wherever located;

24 (8) To borrow money and execute and deliver negotiable notes, mortgage
25 bonds, other bonds, debentures, and other evidences of indebtedness therefor,
26 and give such security therefor as shall be requisite, including giving a
27 mortgage or deed of trust on its airport properties and facilities in
28 connection with the issuance of mortgage bonds;

29 (9) To raise funds by the issuance and sale of revenue bonds in the
30 manner and according to the terms set forth in this chapter;

31 (10) To expend its funds in the execution of the powers and authorities
32 given in this chapter and to invest and reinvest any of its funds pending need
33 therefor;

34 (11) To apply for, receive, and use loans, grants, donations, technical
35 assistance, and contributions from any regional or area commissions that may

1 be established and any agency of the federal government or the State of
2 Arkansas;

3 (12) To constitute the authority, or a committee thereof, as
4 improvement district commissioners and to create and operate an improvement
5 district, composed of the area encompassed within the jurisdictions of the
6 participating governing bodies, upon the petition of persons claiming to be
7 two-thirds (2/3) in value of the owners of real property in the area, as
8 shown by the last county assessment. The improvement district shall be for the
9 purpose of financing the construction, reconstruction, or repair of the
10 regional airport and its facilities. The creation and operation of an
11 improvement district shall, to the extent consistent with this chapter, be in
12 accordance with the procedures established by the laws of this state for the
13 creation and operation of municipal improvement districts;

14 (13) To enforce all rules, regulations, and statutes relating to its
15 airports, including airport zoning regulations. In this connection, the
16 authority is empowered and authorized to exercise the powers and privileges of
17 the signatory parties under §14-363-201 et seq. and the board of directors of
18 the authority is designated by the signatory parties as the zoning board for
19 the purposes and powers under these provisions;

20 (14) To levy and collect a tax on aviation fuel sold at an airport or
21 airports of the authority as is provided for in §§14-364-101 and 14-364-102;

22 (15) To plan, establish, develop, construct, enlarge, improve,
23 maintain, equip, operate, and regulate its airports and auxiliary services and
24 facilities, and to establish minimum building codes and regulations and to
25 protect and police the airports of the authority, in cooperation with the law
26 enforcement agencies and officers having jurisdiction in the area where the
27 facilities of the authority are located;

28 (16) To levy and collect a tax, in an amount not to exceed one dollar
29 (\$1.00) per passenger, on the boarding or disembarking of aircraft at the
30 airport or airports of the authority. The tax shall be levied upon and
31 collected from the passengers boarding or disembarking from the aircraft or
32 the airlines operating the aircraft, and the authority is empowered to make
33 reasonable classifications of passengers for this purpose;

34 (17) To receive real and personal property from the United State for
35 airport and related purposes, by donation, purchase, lease or otherwise, and

1 subject to such conditions and requirements relating thereto as the United
2 State may require and to which the authority may agree;

3 (18) To apply to the proper authorities of the United States pursuant
4 to appropriate law for the right to establish, operate, and maintain foreign
5 trade zones within the area of jurisdiction of the member municipalities
6 and/or counties and to establish, operate, and maintain such foreign trade
7 zones;

8 (19) To promote, advertise, and publicize the authority and its
9 facilities; provide information to shippers, operators and other commercial
10 interests; and to represent and promote the interests of the authority; and

11 (20) To take such other action, not inconsistent with law, as may be
12 necessary or desirable to carry out the powers and authorities conferred by
13 this chapter and the intent and purposes of it."

14

15 SECTION 7. Arkansas Code 14-362-114(a)(1) is hereby amended to read as
16 follows:

17 "(a)(1) The bonds shall be executed by the manual or facsimile
18 signatures of the chairman and secretary of the authority."

19

20 SECTION 8. Arkansas Code 14-362-115 is hereby amended to read as
21 follows:

22 "14-362-115. Issuance of revenue bonds - Obligation of authority.

23 (a) The revenue bonds issued under this chapter shall be obligations
24 only of the authority and shall not be general obligations of any county,
25 municipality or the state.

26 (b)(1) In no event shall the revenue bonds constitute an indebtedness
27 of any county, municipality or the state within the meaning of any
28 constitutional or statutory limitation.

29 (2) It shall be plainly stated on the face of each bond that it
30 has been issued under the provisions of this chapter and that it does not
31 constitute an indebtedness of any county, municipality or the state within any
32 constitutional or statutory limitation.

33 (c) The principal of and interest on the bonds may be secured, to the
34 extent set forth in the resolution or indenture securing the bonds, by a
35 pledge of and payable from all or any part of revenues derived from the use of

1 facilities of the authority, including, without limitation:

2 (1) Revenues derived from rates and charges imposed and
3 maintained for the use of facilities of the authority;

4 (2) Revenues derived from taxes levied under §14-362-109(14) and
5 (16); and

6 (3) Lease rentals under leases or payments under security
7 agreements or other instruments entered into under this chapter."
8

9 SECTION 9. Arkansas Code 14-362-122 is hereby amended to read as
10 follows:

11 "14-362-122. Use of surplus funds.

12 (a) If an authority should realize a surplus, whether from operating
13 the airport or leasing it for operation, over and above the amount required
14 for the maintenance, improvement, and operation of the airport and for meeting
15 all required payments on its obligations, it shall set aside the reserve for
16 future operations, improvements, and contingencies as it shall deem proper and
17 shall then apply the residue of the surplus, if any, to the payment of any
18 recognized and established obligations not then due.

19 (b) After all the recognized and established obligations have been paid
20 off and discharged in full, the authority shall, at the end of each fiscal
21 year, set aside the reserve for future operations, improvements, and
22 contingencies as prescribed in subsection (a) and then pay the residue of the
23 surplus, if any, to the counties, municipalities and the state in direct
24 proportion to their financial contribution, provided that no such distribution
25 of said residue of the surplus shall violate United States law or the terms of
26 any deed, grant agreement or other agreement with the United States."
27

28 SECTION 10. Arkansas Code 14-362-125 is hereby amended to read as
29 follows:

30 "14-362-125. County, municipal and state authority.

31 (a) Counties, municipalities and the state are authorized and empowered
32 to appoint members of the authorities and to contribute to the cost of
33 acquiring, constructing, equipping, maintaining, and operating the regional
34 airports and appurtenant facilities.

35 (b) Counties, municipalities and the state are authorized and empowered

1 to transfer and convey to the authorities property of any kind acquired by the
2 counties, municipalities and the state for airport purposes."

3

4 SECTION 11. Arkansas Code 14-362-127 is hereby amended to read as
5 follows:

6 "14-362-127. Sale of assets.

7 In the event the board shall so determine, any authority may make sale
8 of all or any part of its properties and assets and distribute the proceeds
9 among the participating municipalities, counties and the state in the
10 proportion each such unit contributed to the authority's funds or otherwise in
11 the manner set forth in the agreement establishing the authority, provided no
12 authority in which the state is a participant shall sell all or substantially
13 all of its properties or assets without the consent of the Governor of the
14 state, and further provided that no sale of properties or assets and no
15 distribution of proceeds of such sale shall be done in a manner which violates
16 United States law or the terms of any deed, grant agreement or other agreement
17 with the United States."

18

19 SECTION 12. Arkansas Code Title 14, Chapter 362 is hereby amended by
20 adding a new section 14-362-130 to read as follows:

21 "14-362-130. Authorized investors.

22 Any municipality, or any board, commission, or other authority duly
23 established by ordinance of any municipality, or the boards of trustees,
24 respectively, of the firemen's relief and pension fund and the policemen's
25 pension and relief fund of any such municipality, or the board of trustees of
26 any retirement system created by the General Assembly of the State of
27 Arkansas, may, in its discretion, invest any of its funds not immediately
28 needed for its purposes, in bonds issued under the provisions of this chapter,
29 and bonds issued under the provisions of this chapter shall be eligible to
30 secure the deposit of public funds."

31

32 SECTION 13. Arkansas Code Title 14, Chapter 362 is hereby amended by
33 adding a new section 14-362-131 to read as follows:

34 "14-362-131. Construction. This chapter shall be liberally construed
35 to accomplish its intent and purposes and shall be the sole authority required

1 for the accomplishment of its purpose. To this end, (i) it shall not be
2 necessary to comply with the general provisions of other laws dealing with
3 public facilities, their acquisition, construction, leasing, encumbering, or
4 disposition, and (ii) section 15-5-303 shall not apply."

5

6 SECTION 14. Any existing regional airport authority previously created
7 in conformance with the provisions then contained in the Regional Airport Act
8 may continue as originally organized notwithstanding the provisions of this
9 act.

10

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

14

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

20

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

23

24 SECTION 18. EMERGENCY. It is hereby found and determined that there is
25 an immediate need to facilitate the acquisition and operation of major airport
26 facilities by regional airport authorities for the purpose of securing a
27 developing industry within the State of Arkansas. Therefore, an emergency is
28 hereby declared to exist, and this act being immediately necessary for the
29 preservation of the public peace, health and safety shall be in full force and
30 effect from and after its passage and approval.

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APPROVED: 2-27-92

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