

*As Engrossed: 1/26/95 2/22/95 3/16/95*

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**  
4 **By: Senator Hardin**

# A Bill

**ACT 764 OF 1995**  
**SENATE BILL 64**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 14-199-301 TO AUTHORIZE  
9 CITIES TO CONTRACT FOR THE OPERATION OF MUNICIPAL  
10 WATERWORKS, SEWER, GAS OR ELECTRIC UTILITIES; AND FOR  
11 OTHER PURPOSES."

## Subtitle

14 "AN ACT TO AMEND ARKANSAS CODE 14-199-  
15 301 TO AUTHORIZE CITIES TO CONTRACT FOR  
16 THE OPERATION OF MUNICIPAL WATERWORKS,  
17 SEWER, GAS OR ELECTRIC UTILITIES."

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

21 SECTION 1. Arkansas Code 14-199-301 is amended to read as follows:

22 "§ 14-199-301. Lease or Contract.

23 (a) The council of any municipal corporation operating a system of  
24 waterworks or sewer or gas or electric plants belonging to and owned by any  
25 town or city may lease, or may contract for the operation of, the system of  
26 waterworks or sewer or gas or electric plants for such period of time and upon  
27 such terms and conditions as the council may deem for the best interest of the  
28 town or city.

29 (b) The lessees or parties with which the town or city has contracted  
30 shall be required to maintain, keep in repair, and return the plant to the  
31 town or city in as good condition as when received, ordinary wear and tear  
32 excepted, but the maintenance contemplated shall permit more modern or  
33 suitable machinery or equipment, equally as efficient to perform the service  
34 required, to be installed in place of machinery or equipment then in use.

35 (c) No lease shall be made, and no contract for the operation of any  
36 such system shall be entered into, except with persons, firms, or

**0109951540.rrs004**

1 corporations, both for profit and nonprofit, holding a franchise to operate a  
2 system of waterworks or sewer or gas or electric plants in the city or town in  
3 which the plant or system to be leased or operated is situated.

4 (d) No plant shall be taken over for operation under the provisions of  
5 this subchapter unless and until the lessee or the party with which the town  
6 or city contracts has filed with the town or city an approved bond, in such  
7 sum as the council may require, for the faithful fulfillment of the terms of  
8 the lease or contract."

9

10 SECTION 2. Chapter 199 of Title 14 of the Arkansas Code is amended by  
11 adding a new subchapter 7 to read as follows:

12 "14-199-701. Authority to Lease or Contract with Nonprofit Corporation.

13 (a) Any city of the first class, city of the second class, and  
14 incorporated town owning a waterworks system, sewer system, gas system,  
15 electric system, television signal distribution system, other municipal  
16 utility system, or any combination thereof, may lease such system or systems  
17 to any nonprofit corporation organized under the laws of the State of  
18 Arkansas, or may contract with any such nonprofit corporation, for the purpose  
19 of the management and operation of such system or systems for such period of  
20 time and upon such terms and conditions as may be deemed to be in the best  
21 interests of the city or town.

22 (b) The nonprofit corporation shall manage and operate the utility  
23 system or systems solely on behalf of the city or town and shall be deemed an  
24 instrumentality thereof for such purpose.

25 (c) No such lease or contract shall contain an option to purchase or  
26 otherwise transfer ownership to such utility system or systems, nor shall any  
27 such lease or contract have a term which is more than eighty (80) percent of  
28 the reasonably expected economic life of the utility system or systems.

29 (d) The directors of the nonprofit corporation shall be nominated by  
30 its members and the members and directors shall be approved by the council,  
31 board of directors, or other like body in which the legislative functions of a  
32 municipality are vested, and shall be residents of the city or town.

33 (e) The provisions of subsections (b) and (d) of this section shall not  
34 apply to nonprofit corporations formed under the provisions of title 23,  
35 chapter 18, subchapter 3 of the Arkansas Code, and nothing in this subchapter

1 shall act to prevent or prohibit a city or town from entering into a lease or  
2 contract with such a nonprofit corporation for the purposes set out in  
3 subsection (a) of this section.

4 14-199-702. Subchapter Supplemental. It is the specific intent of this  
5 subchapter that the provisions of this subchapter are supplemental to other  
6 constitutional or statutory provisions which may provide for the leasing or  
7 contracting for the management and operation of municipal utility systems."  
8

9 SECTION 3. All provisions of this act of a general and permanent nature  
10 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
11 Revision Commission shall incorporate the same in the Code.  
12

13 SECTION 4. If any provision of this act or the application thereof to  
14 any person or circumstance is held invalid, such invalidity shall not affect  
15 other provisions or applications of the act which can be given effect without  
16 the invalid provision or application, and to this end the provisions of this  
17 act are declared to be severable.  
18

19 SECTION 5. All laws and parts of laws in conflict with this act are  
20 hereby repealed.  
21

22 /s/Hardin  
23  
24

25 APPROVED: 3-24-95  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

***As Engrossed: 1/26/95 2/22/95 3/16/95***

**SB 64**

1

**0109951540.rrs004**