

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
4

As Engrossed: S2/28/97

A Bill

ACT 590 OF 1997
SENATE BILL 512

5 *Senators Scott, Mahony, Hill and Hopkins*
6 *Representatives Lancaster, Faris, French, Jeffress, Ingram, Angel, Schexnayder and Rodgers*
7
8

For An Act To Be Entitled

9
10 "AN ACT PERTAINING TO RED IMPORTED FIRE ANT ABATEMENT
11 DISTRICTS; AND FOR OTHER PURPOSES."
12

Subtitle

13
14 "AN ACT PERTAINING TO RED IMPORTED FIRE
15 ANT ABATEMENT DISTRICTS; AND FOR OTHER
16 PURPOSES."
17

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

20 SECTION 1. For purposes of this act:

21 (1) "Red Imported Fire Ant" means Solenopsis invicta.

22 (2) "Board" means the Board of Commissioners of each Red Imported Fire
23 Ant abatement district.
24

25 SECTION 2. (a) The county board of commissioners shall call a special
26 election in the county, city, or designated area of the city to determine
27 whether a Red Imported Fire Ant abatement district shall be established for
28 the area upon the filing of petitions with the county court of any county
29 containing the signatures of ten percent (10%) or more of the qualified
30 electors of all or any defined part of any county, or all or any defined part
31 of any city, as determined by the total number of votes cast for Governor at
32 the last general election by the qualified electors of the county, city, or
33 designated portion thereof, requesting the establishment of a Red Imported
34 Fire Ant abatement district in the county or a designated portion of the
35 county or in the city or designated portion of the city and requesting that
36 assessed benefits be made on the property located in the district to finance

1 the operation of the district.

2 (b) Petitions filed pursuant to subsection (a) of this section shall
3 specifically define the area proposed to be included in the Red Imported Fire
4 Ant abatement district and shall specify the maximum assessed benefits which
5 may be levied against property within the district for the support of the
6 district. In no event shall the assessed benefits in any district exceed an
7 amount equal to one percent (1%) of the assessed valuation of real property in
8 the district.

9 (c) The quorum court of the county may on its own motion enact an
10 ordinance directing the county court to call a special election in the county,
11 city, or designated area of the city to determine whether a Red Imported Fire
12 Ant abatement district shall be established for the area.

13

14 SECTION 3. (a) The special election called by the county court to
15 submit the question of the establishment and financing of a Red Imported Fire
16 Ant abatement district to the electors of the proposed district shall be held
17 within ninety (90) days after the petitions requesting the election have been
18 filed with the county court.

19 (b) At the election, the question of establishing and financing the
20 district shall be placed on the ballot in substantially the following form:

21 "FOR the establishment of a Red Imported Fire Ant (Solenopsis invicta)
22 abatement district in _____ county, _____(city),
23 _____ (designated area) and the establishment of assessed
24 benefits on real property in the district in an amount not to exceed one
25 percent (1%) of the assessed valuation of real property in the district to
26 finance the district _____.

27 AGAINST the establishment of a Red Imported Fire Ant (Solenopsis invicta)
28 abatement district in _____ county, _____(city),
29 _____ (designated area) and the establishment of assessed
30 benefits on real property in the district in an amount not to exceed one
31 percent (1%) of the assessed valuation of real property in the district to
32 finance the district _____."

33

34 SECTION 4. (a) Upon approval by the voters of the Red Imported Fire
35 Ant abatement district and the levy of assessed benefits to support the
36 district, the county court shall enter an order establishing the district as

1 described in the petitions and shall appoint five (5) qualified electors of
2 the district as a board of commissioners for the district. Two (2) members of
3 the commission shall be appointed for terms of two (2) years and three (3)
4 members shall be appointed for terms of three (3) years.

5 (b) All successor members shall be appointed by the county court for
6 terms of three (3) years.

7 (c) Vacancies occurring on the board for reasons other than the
8 expiration of a term shall be filled by the county court for the unexpired
9 term.

10 (d) The members of the board shall serve without compensation, but
11 shall be entitled to actual expenses incurred in attending meetings in an
12 amount not to exceed fifty dollars (\$50.00) per day for each member of the
13 board.

14

15 SECTION 5. (a)(1) The board shall annually choose from among its
16 members a chairman and a secretary-treasurer.

17 (2) The chairman and secretary-treasurer shall furnish bonds
18 conditioned upon faithful performance of their duties in the amount of five
19 thousand dollars (\$5,000) each. The cost of securing and maintaining the
20 bonds shall be paid from funds of the district.

21 (b)(1) The board shall employ a director who shall have such training,
22 experience, and qualifications as may be prescribed by the Cooperative
23 Extension Service, and an entomologist associated with the University of
24 Arkansas system. The board may employ such other employees as it deems
25 necessary to carry out the purposes of the district.

26 (2) Employees of the board shall have such responsibilities and
27 receive such compensations as may be prescribed by the board.

28 (c) The county in which any district is located shall cooperate with
29 and assist the board by providing suitable office space and meeting facilities
30 for the board and its staff.

31 (d) The board shall meet at least quarterly and at such other times as
32 it may deem necessary to properly carry out its responsibilities.

33 (1) Meetings shall be called by the chairman or a majority of the
34 members of the board.

35 (2) Three (3) members of the board shall constitute a quorum and
36 any substantive action of the board shall require an affirmative vote of at

1 least three (3) members of the board.

2 (e) A Cooperative Extension Services specialist involved in fire ant
3 education and/or the county agent chairman shall serve as ex officio members
4 of the board and shall serve without compensation. The Cooperative Extension
5 Services specialist, the county agent or their representatives shall cooperate
6 with and assist the board by furnishing the board with such surveys, maps,
7 information, and advice as may be helpful to the board in carrying out its
8 responsibilities and to assist in such other manner as may be reasonably
9 requested by the board.

10 (f) The board shall be responsible for approving materials used in the
11 Red Imported Fire Ant abatement district and shall be responsible for
12 certifying applicators using those materials.

13

14 SECTION 6. Any county or city creating a Red Imported Fire Ant
15 abatement district will be responsible to the Fire Ant Advisory Board. The
16 board of commissioners of each Red Imported Fire Ant abatement district shall
17 submit to the Fire Ant Advisory Board an annual report of any abatement
18 program initiated including information regarding the techniques used, their
19 effectiveness, and any problems encountered in the program, the cost of such
20 techniques, and moneys collected.

21

22 SECTION 7. (a) As soon as is practical after its establishment, the
23 board shall prepare plans for providing Red Imported Fire Ant abatement
24 services and for acquiring the property and equipment necessary to carry out
25 the purposes of the district.

26 (b) The board shall thereupon appoint three (3) assessors to assess the
27 annual benefits which will accrue to the real property within the district as
28 a result of the Red Imported Fire Ant abatement services and shall fix their
29 compensation.

30 (1) The assessors shall take an oath that they will assess all
31 annual benefits that will accrue to the landowners of the district as a result
32 of the Red Imported Fire Ant abatement services.

33 (2) The assessors shall thereupon proceed to assess the annual
34 benefits to the lands within the district. They shall inscribe in a book each
35 tract of land and shall extend opposite each tract of land the amount of
36 annual benefits that will accrue each year to the land by reason of the

1 services.

2 (c) The original assessment of benefits and any reassessment shall be
3 advertised and equalized in the manner provided in this act, and owners of all
4 property whose assessment has been raised shall have the right to be heard and
5 to appeal from the decision of the assessors, as provided in this act.

6 (d) The assessors shall place opposite each tract the name of the
7 owner, as shown by the last county assessment, but a mistake in the name shall
8 not void the assessment, and the assessors shall correct errors which occur in
9 the county or district assessment list.

10 (e) The commissioners shall have the authority to fill any vacancy in
11 the position of assessor, and the assessors shall hold their office at the
12 pleasure of the board.

13

14 SECTION 8. (a) The assessment shall be filed with the county clerk of
15 the county in which the property is located, and the secretary of the board
16 shall thereupon give notice of its filing by publication one (1) time a week
17 for two (2) weeks in a newspaper of general circulation in the county. The
18 notice shall be in the following form:

19 "Notice is hereby given that the assessment of annual benefits of
20 _____ District Number _____ has been filed in the office of the County
21 Clerk of _____ where it is open for inspection. All person wishing to be
22 heard regarding the assessment will be heard by the assessors of the district
23 in the office of the county clerk between the hours of one (1:00) p.m. and
24 four (4:00) p.m., at _____ on the _____, 19__.

25 (b) On the day named by the notice, it shall be the duty of the
26 assessors to meet, at the place named, as a board of assessors, to hear all
27 complaints against the assessment, and to equalize and adjust the assessments.
28 The determination shall be final unless suit is brought in the chancery court
29 within thirty (30) days after the original determination by the assessors. If
30 the board is unable to hear all complaints submitted between the hours
31 designated in this act, the assessors shall adjourn over from day to day until
32 all parties have been heard.

33

34 SECTION 9. (a) The commissioners shall one (1) time a year order the
35 assessors to reassess the annual benefits of the district, provided there have
36 been improvements made or improvements destroyed or removed from one (1) or

1 more tracts of land in the district, making it necessary to have the annual
2 benefits revised.

3 (b)(1) Whereupon, it shall be the duty of the assessors to reassess the
4 benefits of the district, and the annual benefits assessed may be raised or
5 lowered as conditions of the property change.

6 (2) However, the annual benefits extended against any piece of
7 property shall not be increased from the annual benefits originally extended
8 unless improvements are made to the land that will be benefited by the Red
9 Imported Fire Ant abatement services provided by the district.

10

11 SECTION 10. (a) The original assessment record or any reassessment
12 record shall be filed with the county clerk, whose duty it shall be to extend
13 the annual benefit assessment annually upon the tax books of the county until
14 the district is dissolved.

15 (b) It shall then be the duty of the county collector to collect each
16 year the annual benefit assessment extended upon the book along with the other
17 taxes, and the taxes shall be paid over by the collector to the depository of
18 the district at the same time the collector pays over the county funds.

19 (c)(1) If there is any change in the annual benefits assessed, a
20 certified copy of the revised assessment shall be filed with the county clerk
21 who shall extend the revised assessment annually upon the tax books until a
22 new assessment is made, which shall be extended upon the tax books in a
23 similar manner. The power to reassess and extend the assessment upon the tax
24 books shall be a continuing power as long as the district continues to exist.
25 It shall be the duty of the county collector to collect the taxes so
26 extended.

27 (2) In lieu of filing the reassessment, the assessors may make the
28 changes in the assessment in red ink on the assessment already on file, or the
29 assessment record may contain many columns at the head of which the year shall
30 be designated and, in the column, the new annual benefits may be shown in red
31 ink which will indicate any increase or decrease in the original annual
32 benefits extended. When the change is made, a red ink line shall be drawn
33 through the figures showing the original annual benefits extended.

34

35 SECTION 11. (a) Funds of the district shall be expended only upon the
36 order of the board and upon a voucher check signed by the chairman and

1 secretary/treasurer of the board.

2 (1) Every voucher check shall state upon its face to whom the
3 amount is payable, and the purpose for which it is issued.

4 (2) All voucher checks shall be dated and shall be numbered
5 consecutively in a record to be kept by the board of the number and amount of
6 the check.

7 (b) All proceedings and transactions of the board shall be a matter of
8 public record and shall be open to the inspection of the public.

9 (c) The board shall file with the county clerk in January of each year
10 a certified itemized report showing all moneys received, the date of receipt,
11 and the source from which received; and all moneys paid out, date paid, to
12 whom paid, and for what purpose, during the preceding year, together with an
13 itemized list of all delinquent assessments showing owner, description of
14 property, years for which the assessment is delinquent, and the amount of the
15 total delinquency.

16

17 SECTION 12. (a) The board shall have the authority to issue negotiable
18 bonds or certificates of indebtedness to secure funds for the expenses of the
19 district including office supplies and salaries, the purchase of equipment,
20 facilities, chemicals, and such other items as may be necessary to carry out
21 the purposes of the district.

22 (1) Bonds issued by the board shall be for a term not more than
23 twenty (20) years and shall bear interest at a rate not to exceed the
24 constitutional maximum.

25 (2) To secure the bonds, the board may pledge all or a portion of
26 the benefit assessed against real property in the district.

27 (b) Bonds of the districts shall be authorized by resolution of the
28 board and may be registrable as to principal only or as to principal and
29 interest and may be made exchangeable for bonds of another denomination; may
30 be in such form and denomination; may have such date or dates; may be stated
31 to mature at such times; may bear interest payable at such times and at such
32 rate or rates, provided that no bond may bear interest at a rate exceeding the
33 constitutional maximum; may be payable at such places within or without the
34 State of Arkansas; may be made subject to such terms of redemption in advance
35 of maturity at such prices; and may contain such terms and conditions, as the
36 board shall determine.

1 (1) The bonds shall have all the qualities of negotiable
2 instruments under the laws of the State of Arkansas, subject to provisions as
3 to registration as set forth in this act.

4 (2) The authorizing resolution may contain any of the terms,
5 covenants and conditions that are deemed desirable by the board including,
6 without limitation, those pertaining to the maintenance of various funds and
7 reserves, the nature and extent of the security, the issuance of additional
8 bonds and the nature of the lien and pledge, parity or priority, in that
9 event, the custody and application of the proceeds of the bonds, the
10 collection and disposition of revenues, the investing and reinvesting in
11 securities specified by the board of any moneys during the periods not needed
12 for the authorized purposes, and the rights, duties, and obligations of the
13 district, the board, and of the holders and registered owners of the bonds.

14 (c) The authorizing resolution may provide for the execution of a trust
15 indenture by the district with a bank or trust company within or without the
16 State or Arkansas. The trust indenture may contain any terms, covenants, and
17 conditions that are deemed desirable by the board including, without
18 limitation, those pertaining to the maintenance of various funds and reserves,
19 the nature and extent of the security, the issuance of additional bonds and
20 the nature of the lien and pledge, parity or priority, in that event, the
21 custody and application of the proceeds of the bonds, the collections and
22 disposition of assessments and of revenues, the investing and reinvesting in
23 securities specified by the board of any moneys during the periods not needed
24 for authorized purposes, and the rights, duties, and obligations of the board
25 and the holders and registered owners of the bonds.

26 (d) The bonds shall be sold at a public sale through sealed bids.

27 (1) Notice of the sale shall be published one (1) time a week for
28 at least two (2) consecutive weeks in a newspaper having a general circulation
29 throughout the State of Arkansas, with the first publication to be at least
30 twenty (20) days prior to the date of sale and may be published in such other
31 publications as the district may determine.

32 (2) The bonds may be sold at such price as the board may accept
33 including sale at a discount, but in no event shall any bid be accepted which
34 results in a net interest cost, which is determined by computing the aggregate
35 interest cost from the date to maturity at the rate or rates bid and deducting
36 any premium or adding any amount of any discount, in excess of the interest

1 cost computed at par for bonds bearing interest at the maximum rate prescribed
2 by the Arkansas Constitution.

3 (3) The award, if made, shall be to the bidder whose bid results
4 in the lowest net interest cost.

5 (e)(1) The bonds shall be executed by the manual or facsimile signature
6 of the chairman of the board and by the manual signature of the
7 secretary/treasurer of the board.

8 (2) In case any of the officers whose signature appear on the
9 bonds shall cease to be officers before the delivery of the bonds, their
10 signatures shall, nevertheless, be valid and sufficient for all purposes.

11 (f) The district shall adopt and use a seal in the execution and
12 issuance of the bonds, and each bond shall be sealed with the seal of the
13 district.

14
15 SECTION 13. (a)(1) It shall be plainly stated on the face of each bond
16 that it has been issued under the provisions of this act, that the bonds shall
17 be obligations only of the district, and that in no event shall they
18 constitute any indebtedness for which the faith and credit of the state or any
19 county or municipality or any of the revenues of the state or any county or
20 municipality are pledged.

21 (2) No member of the board shall be personally liable on the bonds
22 or for any damages sustained by anyone in connection with any contracts
23 entered into in carrying out the purpose and intent of this act, unless the
24 board member has not acted as a reasonably prudent person would.

25 (b)(1) The principal of, interest on, and paying agent's fees in
26 connection with the bonds shall be secured by a lien on, and pledge of, and
27 shall be payable from the assessments levied against the real property within
28 the district.

29 (2) The right to issue subsequent issues of bonds can, if the
30 district so determines, be reserved in any authorizing resolution or trust
31 indenture on either a parity or subordinate lien basis and upon such terms and
32 conditions as the district may determine and specify in the particular
33 authorizing resolution or trust indenture.

34
35 SECTION 14. (a) Bonds may be issued for the purpose of refunding any
36 bonds issued under this act.

1 (b) Refunding bonds may be either sold or delivered in exchange for the
 2 bonds being refunded. If sold, the proceeds may be either applied to the
 3 payment of the bonds being refunded or deposited in trust and there be
 4 maintained in cash or investments for the retirement of the bonds being
 5 refunded, as shall be specified by the district in the resolution or trust
 6 indenture securing the bonds.

7 (c) The resolution or trust indenture securing the refunding bonds may
 8 provide that the refunding bonds shall have the same priority on assessments
 9 or revenues pledged for their payment as possessed by the bonds refunded.

10 (d) Refunding bonds shall be sold and secured in accordance with the
 11 provisions of this act pertaining to the sale and security bonds.

12

13 SECTION 15. Bonds issued under the provisions of this act, and the
 14 interest thereon, shall be exempt from all state, county, and municipal taxes.
 15 This exemption shall include income, inheritance, and estate taxes.

16

17 SECTION 16. (a) A Red Imported Fire Ant abatement district created
 18 under this act may be dissolved upon a vote of a majority of the qualified
 19 electors of the district, and the question of dissolution of the district may
 20 be submitted to the electors in the same manner as is prescribed in this act
 21 submitting the question of the establishment of the district.

22 (b) If any district having outstanding bonds or other indebtedness is
 23 dissolved, the assessed benefits being levied at the time of dissolution shall
 24 continue to be levied and collected until the outstanding bonds or their
 25 indebtedness are paid.

26 (c) No election on the question of dissolution of a Red Imported Fire
 27 Ant abatement district may be held within the first three (3) years after the
 28 establishment of the district.

29

30 SECTION 17. All provisions of this act of a general and permanent
 31 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
 32 Code Revision Commission shall incorporate the same in the Code.

33

34 SECTION 18. If any provision of this act or the application thereof to
 35 any person or circumstance is held invalid, such invalidity shall not affect
 36 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this
2 act are declared to be severable.

3

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

6

7 SECTION 20. EMERGENCY. It is hereby found and determined by the
8 General Assembly that there is an urgent need for legislation to grant the
9 authority to establish Red Imported Fire Ant abatement districts in certain
10 areas of this state and to provide a procedure for financing the activities of
11 such districts; that this act is designed to grant such authority and to
12 prescribe the procedure therefor and to authorize such districts to issue
13 bonds to fund the activities of the district; and that this act should be
14 given immediate effect to enable the electors in various areas of this state
15 to immediately take appropriate steps to establish such districts. Therefore,
16 an emergency is declared to exist and this act being immediately necessary for
17 the preservation of the public peace, health and safety shall become effective
18 on the date of its approval by the Governor. If the bill is neither approved
19 nor vetoed by the Governor, it shall become effective on the expiration of the
20 period of time during which the Governor may veto the bill. If the bill is
21 vetoed by the Governor and the veto is overridden, it shall become effective
22 on the date the last house overrides the veto.

23

24 /s/Scott et al

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26 APPROVED:3-17-97

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