

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

As Engrossed: S2/14/97 S2/21/97 S2/26/97

A Bill

ACT 690 OF 1997
SENATE BILL 379

4
5 By: Senator Scott
6
7

For An Act To Be Entitled

9 "AN ACT RELATING TO REGIONAL INTERMODAL FACILITIES
10 AND LOCAL GOVERNMENTS, PROVIDING FOR COOPERATIVE
11 ESTABLISHMENT OF REGIONAL INTERMODAL FACILITIES
12 AND REGIONAL INTERMODAL FACILITY AUTHORITIES BY
13 COUNTIES AND MUNICIPALITIES; TO DECLARE AN
14 EMERGENCY; AND FOR OTHER PURPOSES."
15

Subtitle

16
17 "TO PROVIDE FOR REGIONAL INTERMODAL
18 FACILITIES."
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. TITLE. This Act may be cited as the "Regional Intermodal
23 Facilities Act."
24

25 SECTION 2. DEFINITIONS. As used in this Act, unless the context
26 otherwise requires:

27 (1) "Authority" means any authority created under the provisions of
28 this Act;

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

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

33 (4) "Equip" means to install or place on or in any building or
34 structure, equipment of any and every kind, whether or not affixed, including,
35 without limiting the generality of the foregoing, building service equipment,
36 fixtures, heating equipment, air conditioning equipment, machinery, furniture,

1 furnishings, and personal property of every kind;

2 (5) "Sell" means to sell for such price, in such manner, and upon such
3 terms as the authority shall determine including, without limiting the
4 generality of the foregoing, private or public sale; and if public, pursuant
5 to such advertising as the authority shall determine, sale for cash or credit
6 payable in lump sum, or in installments over such period as the authority
7 shall determine; and if on credit, with or without interest and at such rate
8 or rates as the authority shall determine;

9 (6) "Lease" means to lease for such rentals, for such period or
10 periods, and upon such terms and conditions as the authority shall determine,
11 including, without limiting the generality of the foregoing, the granting of
12 such renewal or extension options for such rentals, for such periods, and upon
13 such terms and conditions as the authority shall determine and the granting of
14 such purchase options for such prices and upon such terms and conditions as
15 the authority shall determine;

16 (7) "Construct" means to acquire or build, in whole or in part, in such
17 manner and by such method, including contracting therefor, and if the latter,
18 by negotiation or bids upon such terms and pursuant to such advertising, as
19 the authority shall determine to be in the public interest and necessary under
20 the circumstances existing at the time to accomplish the purposes of and
21 authorities set forth in this Act;

22 (8) "Facilities" or "property" or "properties" means any real property,
23 personal property, or mixed property of any and every kind that can be used,
24 or that will be useful, to accomplish the purposes of, and powers set forth
25 in, this Act including, without limiting the generality of the foregoing,
26 rights-of-way, roads, streets, utilities, materials, equipment, fixtures,
27 machinery, furnishings, furniture, instrumentalities, and other real,
28 personal, or mixed property of every kind;

29 (9) "County" means any county in this state;

30 (10) "State" means the State of Arkansas;

31 (11) "Person" means any natural person, partnership, corporation,
32 association, organization, business trust, and public or private person or
33 entity;

34 (12) "Intermodal" means more than one mode of interconnected movement
35 of freight, commerce, or passengers;

36 (13) "Mode" means railway, highway, air, pipeline, waterway, transit,

1 and communication systems and related means of movement of freight, commerce,
2 or passengers; and

3 (14) 'Basic local exchange service' means the service provided to the
4 premises of residential or business customers composed of the following:

5 (a) voice grade access to the public switched network, with
6 ability to place and receive calls,

7 (b) touch tone service availability,

8 (c) flat rate residential local service and business local
9 service,

10 (d) access to emergency services (911/E911) where provided by
11 local authorities,

12 (e) access to basic operator services,

13 (f) a standard white page directory listing,

14 (g) access to basic local directory assistance,

15 (h) access to long distance toll service providers, and

16 (i) the minimum service quality as established and required by
17 the Public Service Commission on the effective date of Act 77.

18

19 SECTION 3. ESTABLISHMENT OF AUTHORITIES. (a)(1) Any two (2) or more
20 municipalities, any two (2) or more contiguous counties, or any one (1) or
21 more municipalities together with any one (1) or more contiguous counties, are
22 authorized to create and establish an authority as prescribed in this Act for
23 the purpose of acquiring, equipping, constructing, maintaining, and operating
24 regional intermodal facilities.

25 (2) No county or municipality shall participate in such authority
26 unless and until its governing body so provides by ordinance, and enters into
27 an agreement with the other participating governmental units establishing the
28 terms and conditions for the operation of the authority within the limitations
29 provided in this Act and such other laws of the State of Arkansas as may be
30 applicable.

31 (b) To the extent that it is consistent with this Act, the agreement
32 shall specify the information provided for in § 25-20-104(c).

33 (c) The agreement shall be filed with the Secretary of State.

34

35 SECTION 4. AUTHORITY AS PUBLIC CORPORATION. (a) Each authority when
36 created, and the members thereof, shall constitute a public corporation and,

1 as such, shall have perpetual succession, may contract and be contracted with,
2 sue and be sued, and have and use a common seal.

3 (b) The exercise of the powers and performance of duties provided for in
4 this Act by each authority and its officers, agents, and employees are
5 declared to be public and governmental functions, exercised for a public
6 purpose and matters of public necessity, conferring upon each authority
7 governmental immunity from suit in tort.

8
9 SECTION 5. APPOINTMENT OF BOARD. (a) Subject to such limitations as
10 may be contained in the agreement provided for in Section 3 of this Act, the
11 management and control of each authority and its property, operations,
12 business, and affairs shall be lodged in a board of not less than six (6) nor
13 more than twenty-four (24) persons who shall be appointed for terms of six (6)
14 years each as hereinafter provided.

15 (b) The number of members that each of the participating governmental
16 units is entitled to appoint to the board shall be set forth in the agreement
17 provided for in Section 3 of this Act. However, each of the participating
18 governmental units shall be entitled to appoint at least one (1) member to the
19 board. Appointments shall be made by the mayor of each participating
20 municipality and the county judge of each participating county.

21 (c) The members of the authority shall have staggered terms, as provided
22 in the agreement establishing the authority, as follows: One-third (1/3) of
23 the members for six-year terms; one-third (1/3) of the members for four-year
24 terms; and one-third (1/3) of the members for two-year terms. Thereafter, all
25 appointments shall be for six-year terms.

26 (d) All members of the board appointed by the participating
27 municipalities and counties shall be bona fide residents and qualified
28 electors of the county or municipality which the members represent.

29
30 SECTION 6. VACANCY ON BOARD. (a) If any member of an authority dies,
31 resigns, is removed, or for any other reason ceases to be a member of the
32 authority, the mayor or the county judge, as appropriate to the governmental
33 unit which the member represented, shall appoint another person to fill the
34 unexpired portion of the term of the member.

35 (b) A member of the authority once qualified shall not be removed during
36 his appointment except for cause by the mayor or the county judge, as

1 appropriate to the governmental unit which the member represents, or upon such
2 other conditions as shall be set forth in the agreement establishing the
3 authority.

4
5 SECTION 7. COMPENSATION PROHIBITED. REIMBURSEMENT OF EXPENSES. (a) No
6 member of the board of an authority shall receive any compensation, whether in
7 form of salary, per diem allowance, or otherwise, for or in connection with
8 his services as a member.

9 (b) Each member shall, however, be entitled to reimbursement by the
10 authority for any necessary expenditures in connection with the performance of
11 his general duties as a member.

12
13 SECTION 8. FACILITIES AUTHORIZED. Each authority is authorized and
14 empowered to acquire, equip, construct, maintain, and operate an intermodal
15 facility and appurtenant facilities or properties so located to best serve the
16 region in which they are located. Each authority is further authorized and
17 empowered to acquire, equip, construct, maintain, and operate industrial,
18 warehouse, distribution and related types of facilities, including education,
19 training, office and support facilities, located at or near an intermodal
20 facility for the purpose of securing and developing industry.

21
22 SECTION 9. POWERS OF AUTHORITY GENERALLY. (a) Each authority is given
23 power and authority as follows:

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

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

28 (3) To enter into contracts with any person, governmental
29 department, firm, or corporation, including both public and private
30 corporations, and generally to do any and all things necessary or convenient
31 for the purpose of acquiring, equipping, constructing, maintaining, improving,
32 extending, financing, and operating an intermodal facility including, without
33 limitation, railway-highway terminals, highway-railway terminals, shipping
34 facilities, railroad sidings, turnouts, spur branches, switches, yards tracks,
35 bridges and trestles, parks for industrial facilities, buildings, warehouses,
36 utilities, highways, roads, streets, roadways and approaches, bulk loading and

1 unloading facilities, elevators, tipples, compresses, refrigeration storage
2 plants, transfer equipment, and related improvements and facilities as it may
3 deem feasible for the expeditious and efficient handling of freight, commerce,
4 and passengers to and from any other part of the State or any other state and
5 foreign countries to best serve the region in which it is located;

6 (4) To assume the rights and responsibilities of the municipality
7 with respect to all existing and future permits and franchises with public
8 utilities for the supplying of public utility service to be intermodal
9 facility;

10 (5) To delegate any authority given to it by law to any of its
11 officers, committees, agents, or employees;

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

17 (7) To acquire lands and hold title thereto in its own name;

18 (8) To acquire, own, hold, lease as lessor or as lessee, sell,
19 encumber, dispose of, or otherwise deal in and with any facilities or real,
20 personal, or mixed property, wherever located;

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

26 (10) To raise funds by the issuance and sale of revenue bonds in
27 the manner and according to the terms set forth in this Act;

28 (11) To expend its funds in the execution of the powers and
29 authorities given in this Act and to invest and reinvest any of its funds
30 pending need therefor;

31 (12) To apply for, receive, and use loans, grants, donations,
32 technical assistance, and contributions from any agency of the federal
33 government or the State of Arkansas;

34 (13) To constitute the authority, or a committee thereof, as
35 improvement district commissioners and to create and operate an improvement
36 district, composed of the area encompassed within the jurisdictions of the

1 participating governing bodies, upon the petition of persons claiming to be
2 two-thirds (2/3) in value of the owners of real property in the area, as shown
3 by the last county assessment. The improvement district shall be for the
4 purpose of financing the construction, reconstruction, or repair of the
5 regional intermodal facilities. The creation and operation of an improvement
6 district shall, to the extent consistent with this Act, be in accordance with
7 the procedures established by the laws of this state for the creation and
8 operation of municipal improvement districts;

9 (14) To enforce all rules, regulations, and statutes relating to
10 its intermodal facilities;

11 (15) To plan, establish, develop, construct, enlarge, improve,
12 maintain, equip, operate, and regulate its intermodal facilities and auxiliary
13 services and facilities, and to establish minimum building codes and
14 regulations and to protect and police the intermodal facilities and other
15 facilities of the authority, in cooperation with the law enforcement agencies
16 and officers having jurisdiction in the area where the facilities of the
17 authority are located;

18 (16) To levy and collect a tax or fee, which tax or fee shall be
19 levied upon and collected from the shippers, transporters, or other users
20 loading or unloading freight, commerce or passengers at the terminal or other
21 facilities of the authority, and the authority is empowered to make reasonable
22 classifications of such shippers, transporters, or users for this purpose;

23 (17) To receive real and personal property from the United States
24 for intermodal facilities and related purposes, by donation, purchase, lease
25 or otherwise, and subject to such conditions and requirements relating thereto
26 as the United States may require and to which the authority may agree;

27 (18) To apply to the proper authorities of the United States
28 pursuant to appropriate law for the right to establish, operate, and maintain
29 foreign trade zones within the area of jurisdiction of the member
30 municipalities and/or counties and to establish, operate, and maintain such
31 foreign trade zones;

32 (19) To promote, advertise, and publicize the authority and its
33 facilities; provide information to shippers, transporters, users, operators
34 and other commercial interests; and to represent and promote the interests of
35 the authority; and

36 (20) To take such other action, not inconsistent with law, as may

1 be necessary or desirable to carry out the powers and authorities conferred by
2 this Act and the intent and purposes of it.

3 (b) The enumeration of these powers shall not limit or circumscribe the
4 broad objectives and purposes of this Act and the broad objectives of
5 developing to the utmost, intermodal facilities and necessary and desirable
6 related facilities or properties, in order to stimulate commercial
7 development.

8 (c) Nothing herein, however, authorizes this Authority or any
9 municipality, county, or state to provide, directly or indirectly, basic local
10 exchange service.

11

12 SECTION 10. ISSUANCE OF REVENUE BONDS. AUTHORIZATION. (a) Authorities
13 are authorized to use any available revenues for the accomplishment of the
14 purposes and the implementation of the powers authorized by this Act,
15 including the proceeds of revenue bonds issued from time to time pursuant to
16 the provisions of this Act, either alone or together with other available
17 funds and revenues.

18 (b) The amount of each issue of bonds issued may be sufficient to pay:

19 (1) The costs of accomplishing the purposes for which it is being
20 issued;

21 (2) The cost of issuing the bonds;

22 (3) The amount necessary for a reserve, if it is determined to be
23 desirable in favorably marketing the bonds;

24 (4) The amount, if any, necessary to provide for debt service on
25 the bonds until revenues for the payment thereof are available; and

26 (5) Any other costs and expenditures of whatever nature incidental
27 to the accomplishment of the specified purposes.

28

29 SECTION 11. ISSUANCE OF REVENUE BONDS. RESOLUTION OF AUTHORITY.

30 NATURE OF BONDS. (a) The issuance of revenue bonds shall be by resolution of
31 the authority.

32 (b) The bonds of each issue may:

33 (1) Be coupon bonds payable to bearer or may be registrable as to
34 principal only or as to both principal and interest;

35 (2) Be in such form and denominations;

36 (3) Be made payable at such places within or without the state;

1 (4) Be issued in one (1) or more series;
2 (5) Bear such date or dates;
3 (6) Mature at such time or times, not exceeding forty (40) years
4 from their respective dates;
5 (7) Bear interest at such rate or rates;
6 (8) Be payable in such medium of payment;
7 (9) Be subject to such terms of redemption; and
8 (10) Contain such terms, covenants, and conditions as the
9 resolution authorizing their issuance may provide including, without
10 limitation, those pertaining to:
11 (A) The custody and application of the proceeds of the
12 bonds;
13 (B) The collection and disposition of revenues;
14 (C) The maintenance and investment of various funds and
15 reserves;
16 (D) The imposition and maintenance of taxes, fees, rates and
17 charges for the use of the terminal and other facilities;
18 (E) The nature and extent of the security;
19 (F) The rights, duties, and obligations of the authority and
20 the trustee for the holders and registered owners of the bonds; and
21 (G) The rights of the holders and registered owners of the
22 bonds.
23 (c)(1) There may be successive bond issues for the purpose of financing
24 the same project. There may also be successive bond issues for financing the
25 cost of reconstructing, replacing, constructing additions to, extending,
26 improving, and equipping projects already in existence, whether or not
27 originally financed by bonds issued under this Act, with each successive issue
28 to be authorized as provided by this Act.
29 (2) Priority between and among issues and successive issues as to
30 security, the pledge of revenues and lien on and security interest in the
31 land, buildings, and facilities involved, may be controlled by the resolutions
32 authorizing the issuance of bonds under this Act.
33 (d) Subject to the provisions of this Section and Sections 10 and 12
34 through 18 of this Act pertaining to registration, the bonds shall have all
35 the qualities of negotiable instruments under the laws of the State of
36 Arkansas.

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SECTION 12. ISSUANCE OF REVENUE BONDS. INDENTURE. (a) The resolution authorizing the bonds may provide for the execution by the authority of an indenture which defines the rights of the holders and registered owners of the bonds and provides for the appointment of a trustee for the holders and registered owners of the bonds.

(b) Indenture may control the priority between successive issues and may contain any other terms, covenants, and conditions that are deemed desirable, including, without limitation, those pertaining to:

- (1) The custody and application of the proceeds of the bonds;
- (2) The collection and disposition of revenues;
- (3) The maintenance of various funds and reserves;
- (4) The imposition and maintenance of taxes, fees, rates and charges for the use of regional intermodal facilities and other facilities of the authority;
- (5) The nature and extent of the security;
- (6) The rights, duties, and obligations of the authority and the trustee; and
- (7) The rights of the holders and registered owners of the bonds.

SECTION 13. ISSUANCE OF REVENUE BONDS. PRICE AND MANNER SOLD. The bonds may be sold for such price, including sale at a discount, and in such manner as the authority may determine by resolution.

SECTION 14. ISSUANCE OF REVENUE BONDS. EXECUTION. (a)(1) The bonds shall be executed by the manual or facsimile signatures of the chairman and secretary of the authority.

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

(b) The coupons attached to the bonds may be executed by the facsimile signature of the chairman of the authority.

SECTION 15. ISSUANCE OF REVENUE BONDS. OBLIGATION OF AUTHORITY. (a) The revenue bonds issued under this Act shall be obligations only of the

1 authority and shall not be general obligations of any county or municipality,
2 or the state.

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

6 (2) It shall be plainly stated on the face of each bond that it
7 has been issued under the provisions of this Act and that it does not
8 constitute an indebtedness of any county or municipality, or the state within
9 any constitutional or statutory limitation.

10 (c) The principal of and interest on the bonds may be secured, to the
11 extent set forth in the resolution or indenture securing the bonds, by a
12 pledge of and payable from all or any part of revenues derived from the use of
13 facilities of the authority, including, without limitation:

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

16 (2) Revenues derived from taxes or fees levied under subsection
17 (15) of Section 9 of this Act; and

18 (3) Lease rentals under leases or payments under security
19 agreements or other instruments entered into under this Act.

20

21 SECTION 16. ISSUANCE OF REVENUE BONDS. REFUNDING BONDS. (a)(1)
22 Revenue bonds may be issued under this Act for the purpose of refunding any
23 obligations issued under this Act.

24 (2) The refunding bonds may be combined with bonds issued into a
25 single issue.

26 (b)(1) When bonds are issued under this section for refunding purposes,
27 the bonds may either be sold or delivered in exchange for the outstanding
28 obligations.

29 (2) If sold, the proceeds may be either applied to the payment of
30 the obligations refunded or deposited in escrow for the retirement of them.

31 (c)(1) All refunding bonds issued under this Act shall, in all respects,
32 be authorized, issued, and secured in the manner provided for other bonds
33 issued under this Act and shall have all the attributes of these bonds.

34 (2) The resolution under which these refunding bonds are issued
35 may provide that any of the refunding bonds shall have the same priority of
36 lien on the revenues pledged for their payment as was enjoyed by the

1 obligations refunded by them.

2

3 SECTION 17. ISSUANCE OF REVENUE BONDS. MORTGAGE LIEN. (a) The
4 resolution or indenture securing the bonds may impose a forecloseable mortgage
5 lien upon or security interest in the facilities of the authority, or any
6 portion thereof, and the extent of the mortgage lien or security interest may
7 be controlled by the resolution or indenture including, without limitation,
8 provisions pertaining to the release of all or part of the facilities subject
9 to the mortgage lien or security interest in the event of successive issues of
10 bonds.

11 (b) Subject to the terms, conditions, and restrictions contained in the
12 resolution or indenture, any holder of any of the bonds, or of any coupon
13 attached thereto, or a trustee on behalf of the holders may, either at law or
14 in equity, enforce the mortgage lien or security interest and may, by proper
15 suit, compel the performance of the duties of the officials of the authority
16 set forth in this Act and set forth in the resolution or indenture.

17

18 SECTION 18. ISSUANCE OF REVENUE BONDS. DEFAULT. (a)(1) In the event
19 of a default in the payment of the principal of or interest on any bonds
20 issued under this Act, any court having jurisdiction may appoint a receiver to
21 take charge of any facilities upon or in which there is a mortgage lien or
22 security interest securing the bonds in default.

23 (2) The receiver shall have the power to operate and maintain the
24 facilities in receivership and to charge and collect taxes, fees, rates and
25 rents sufficient to provide for the payment of any costs of receivership and
26 operating expenses of the facilities in receivership and to apply the revenues
27 derived from the facilities in receivership in conformity with this Act and
28 the resolution or indenture securing the bonds in default.

29 (3) When the default has been cured, the receivership shall be
30 ended and the facilities returned to the authority.

31 (b) The relief provided for in this section shall be construed to be in
32 addition and as supplemental to the remedies that may be provided for in the
33 resolution or indenture securing the bonds and shall be so granted and
34 administered as to accord full recognition to priority rights of bondholders
35 as to the pledge of revenues from, mortgage lien on, and security interest in
36 facilities as specified in and fixed by the resolution or indenture securing

1 successive issues of bonds.

2

3 SECTION 19. AGREEMENTS TO OBTAIN FUNDS. Each authority may, in
4 connection with obtaining funds for its purposes, enter into any agreement
5 with any person, firm, or corporation including the federal government, or any
6 agency or subdivision thereof, containing such provisions, covenants, terms,
7 and conditions as the authority may deem advisable.

8

9 SECTION 20. ACQUISITION OF PROPERTY. (a) Whenever it shall be deemed
10 necessary by an authority, in connection with the exercise of its powers
11 conferred in this Act, to take or acquire any lands, structures, buildings, or
12 other rights, either in fee or as easements, for the purposes set forth in
13 this Act, the authority may purchase them directly or through its agents from
14 the owners thereof, or failing to agree with the owners, the authority may
15 exercise the power of eminent domain, and these purposes are declared to be
16 public uses for which private property may be taken or damaged.

17 (b) Should an authority elect to exercise the right of eminent domain,
18 condemnation proceedings shall be maintained by and in the name of the
19 authority, and it may proceed in the manner provided by the general laws of
20 the State of Arkansas for the procedure by any county, municipality, or
21 authority organized under the laws of this State, or by railroad corporations,
22 as the authority may, in its discretion, elect.

23

24 SECTION 21. EXEMPTION FROM TAXATION. (a) Each authority shall be
25 exempt from the payment of any taxes or fees to the state, or any subdivision
26 thereof, or to any office or employee of the state, or of any subdivision
27 thereof; however, each authority shall withhold and remit state income taxes
28 as prescribed by § 26-51-901 et seq.

29 (b)(1) The property of each authority shall be exempt from all local and
30 municipal taxes.

31 (2) Bonds, notes, debentures, and other evidence of indebtedness
32 of the authority are declared to be issued for a public purpose and to be
33 public instrumentalities and, together with interest thereon, shall be exempt
34 from all State, county, and municipal taxes, including, but without
35 limitation, income, inheritance and estate taxes.

36

1 SECTION 22. USE OF SURPLUS FUNDS. (a) If an authority should realize a
2 surplus, whether from operating the intermodal facilities and other facilities
3 or leasing it or them for operation, over and above the amount required for
4 the maintenance, improvement, and operation of the intermodal facility and
5 other facilities and for meeting all required payments on its obligations, it
6 shall set aside the reserve for future operations, improvements, and
7 contingencies as it shall deem proper and shall then apply the residue of the
8 surplus, if any, to the payment of any recognized and established obligations
9 not then due.

10 (b) After all the recognized and established obligations have been paid
11 off and discharged in full, the authority shall, at the end of each fiscal
12 year, set aside the reserve for future operations, improvements, and
13 contingencies as prescribed in subsection (a) and then pay the residue of the
14 surplus, if any, to the counties and municipalities in direct proportion to
15 their financial contribution, provided that no such distribution of said
16 residue of the surplus shall violate United States law or the terms of any
17 deed, grant agreement or other agreement with the United States.

18

19 SECTION 23. PUBLIC AND PRIVATE CONTRIBUTIONS. (a) Contributions may be
20 made to authorities from time to time by the counties, municipalities, and the
21 state and persons, firms, or corporations that shall desire to do so.

22 (b) In order to afford maximum opportunities for contributions, the
23 agreement provided for under Section 3 of this Act may be treated as a
24 cooperative agreement under the provisions of the Interlocal Cooperation Act,
25 25-20-101 et seq., and may contain language enabling the agreement to be
26 treated as a formal compact under 14-165-201 - 14-165-204 in which case the
27 authority shall hold title to property in its powers and capacity as a public
28 corporation rather than as a commission-trustee as provided in 14-165-201 -
29 14-165-204, or may be treated as a less formal arrangement for the cooperative
30 use of industrial development bond funds, all to the end that the counties and
31 municipalities may contribute to the authority funds derived from general
32 obligation bonds under Arkansas Constitution Amendments 13 and 49, from
33 revenue bonds under 14-164-201 - 14-164-206 from other available sources, and
34 may contribute funds derived from a combination of these sources.

35

36 SECTION 24. ACCOUNTS AND REPORTS. (a)(1) All funds received by an

1 authority shall be deposited in such banks as the authority may direct and
2 shall be withdrawn therefrom in such manner as the authority may direct.

3 (2)(A) Each authority shall keep strict account of all of its
4 receipts and expenditures and shall each quarter make a report to those
5 participating entities which have made contributions.

6 (B)(i) The report shall contain an itemized account of its
7 receipts and disbursements during the preceding quarter.

8 (ii) The report shall be made within sixty (60) days
9 after the termination of the quarter.

10 (b)(1) Within sixty (60) days after the end of each fiscal year, each
11 authority shall cause an annual audit to be made by an independent certified
12 public accountant and shall file a copy of the resulting audit report with
13 each of the governing bodies participating in the authority. This audit shall
14 contain an itemized statement of its receipts and disbursements for the
15 preceding year.

16 (2) The books, records, and accounts of each authority shall be
17 subject to audit and examination by any proper public official or body in the
18 manner provided by law.

19 (c) The agreement provided for in Section 3 of this Act may also provide
20 for each authority to furnish the participating governing bodies copies of its
21 annual budget for examination and approval.

22

23 SECTION 25. COUNTY, MUNICIPAL, AND STATE AUTHORITY. (a) Counties and
24 municipalities are authorized and empowered to appoint members of the
25 authorities and counties, municipalities, and the state are authorized and
26 empowered to contribute to the cost of acquiring, constructing, equipping,
27 maintaining, and operating the regional intermodal facilities and appurtenant
28 facilities.

29 (b) Counties, municipalities, and the state are authorized and empowered
30 to transfer and convey to the authorities property of any kind acquired by the
31 counties, municipalities, and the state for transportation purposes.

32

33 SECTION 26. LEASE OF FACILITIES. (a) Each authority may lease its
34 intermodal facilities and all or any part of its appurtenances and facilities
35 to any available lessee at such rental and upon such terms and conditions as
36 the authority shall deem proper.

1 (b) Leases shall be for some purpose associated with intermodal
2 transportation activities.

3
4 SECTION 27. SALE OF ASSETS. In the event the board shall so determine,
5 any authority may make sale of all or any part of its properties and assets
6 and distribute the proceeds among the participating municipalities and the
7 counties in the proportion each such unit contributed to the authority's funds
8 or otherwise in the manner set forth in the agreement establishing the
9 authority, provided, no sale of properties or assets and no distribution of
10 proceeds of such sale shall be done in a manner which violates United States
11 law or the terms of any deed, grant agreement, or other agreement with the
12 United States.

13
14 SECTION 28. AUTHORIZED INVESTORS. Any municipality, or any board,
15 commission, or other authority duly established by ordinance of any
16 municipality, or the boards of trustees, respectively, of the firemen's relief
17 and pension fund and the policemen's pension and relief fund of any such
18 municipality, or the board of trustees of any retirement system created by the
19 General Assembly of the State of Arkansas, may, in its discretion, invest any
20 of its funds not immediately needed for its purposes, in bonds issued under
21 the provisions of this Act, and bonds issued under the provisions of this Act
22 shall be eligible to secure the deposit of public funds.

23
24 SECTION 29. CONSTRUCTION. This Act shall be liberally construed to
25 accomplish its intent and purposes and shall be the sole authority required
26 for the accomplishment of its purpose. To this end:

27 (1) It shall not be necessary to comply with the general provisions of
28 other laws dealing with public facilities, their acquisition, construction,
29 leasing, encumbering, or disposition, except to the extent provided for in
30 Arkansas Code Ann. 14-206-101, et. seq., 14-207-101, et seq., and 18-15-501,
31 et seq.; and

32 (2) Section 15-5-303 shall not apply.

33
34 SECTION 30. INCORPORATION INTO CODE. All provisions of this Act of a
35 general and permanent nature are amendatory to the Arkansas Code of 1987
36 Annotated and the Arkansas Code Revision Commission shall incorporate the same

1 in the Code.

2

3 SECTION 31. SEVERABILITY. If any provision of this Act or the
4 application thereof to any person or circumstance is held invalid, such
5 invalidity shall not affect other provisions or applications of the Act which
6 can be given effect without the invalid provision or application, and to this
7 end the provisions of this Act are declared to be severable.

8

9 SECTION 32. GENERAL REPEALER. All laws and parts of laws in conflict
10 with this Act are hereby repealed. However, to the extent any provisions of
11 this act conflict with the provisions of Act 77 of 1997, the provisions of Act
12 77 shall prevail.

13

14

15 SECTION 33. EMERGENCY. It is hereby found and determined by the
16 General Assembly that there is currently no specific authority for the
17 creation of regional intermodal facilities through cooperative efforts of
18 municipalities and counties, that the passage of this Act and its immediate
19 effectiveness will make it possible to provide necessary intermodal facilities
20 on a regional basis to meet the transportation needs of the public.
21 Therefore, in order to meet these needs, an emergency is hereby declared to
22 exist, and this Act being necessary for the immediate preservation of the
23 public peace, health, and safety, shall be in full force and effect from and
24 after its passage and approval.

25

/s/Scott

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APPROVED:3-19-97

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