

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

A Bill

ACT 1127 OF 1995
HOUSE BILL 1944

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE §§ 14-94-105, 14-94-106,
14-94-107 AND 14-94-108 TO PROVIDE THAT MEMBERS OF A BOARD
OF COMMISSIONERS FOR A MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT SHALL BE PROPERTY OWNERS FROM WITHIN
THE DISTRICT; AND FOR OTHER PURPOSES."

Subtitle

"TO PROVIDE THAT MEMBERS OF A BOARD OF
COMMISSIONERS FOR A MUNICIPAL PROPERTY
OWNERS' IMPROVEMENT DISTRICT SHALL BE
PROPERTY OWNERS OF THE DISTRICT."

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

SECTION 1. Arkansas Code § 14-94-105(a) is amended to read as follows:

"(a) Upon the petition of all the owners of the record title as reflected by the deed records in the office of the circuit clerk and ex officio recorder of the pertinent county, all the real property of which territory is owned by twenty-five (25) or fewer persons, it shall be the duty of the governing body to:

(1) Lay off into an improvement district the territory described in the petition for the purpose of purchasing, accepting as a gift, constructing, or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electric and telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one (1) of those purposes; and

(2) Name as commissioners of the district the three (3)

1 individuals whose names appear in the petition if the petition contains those
2 names and, if not, then three (3) individuals of integrity and good business
3 ability who own real property in the district, or are *creditors of the*
4 *district or live in the district. In the event that a property owner or*
5 *creditor is a corporation, partnership, trust or other legal entity, any*
6 *officer, director, trustee, employee or other designated representative of the*
7 *entity may be named and appointed as a commissioner."*

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9 SECTION 2. Arkansas Code § 14-94-106 is amended to read as follows:

10 "14-94-106. Hearing on petition and determination.

11 (a) (1) Upon the filing of the petition with the clerk, it shall be the
12 duty of the clerk to present the petition to the mayor.

13 (2) The mayor shall thereupon set a date and time, not later than
14 fifteen (15) days after the date of the presentation of the petition to the
15 mayor, for a hearing before the governing body for consideration of the
16 petition.

17 (b) (1) At the hearing, it shall be the duty of the governing body to
18 hear the petition and to ascertain whether those signing the petition
19 constitute all the owners of the real property to be located in the district.

20 (2) (A) If the governing body determines that all the owners of
21 the real property to be located in the district have petitioned for the
22 improvements, it shall then be its duty by ordinance to establish and lay off
23 the district as defined in the petition and to appoint the commissioners as
24 named in the petition if commissioners are named in the petition and are
25 *property owners in or creditors of the district, or as is otherwise provided*
26 *from among such property owners or creditors.*

27 (B) The petition shall state the specific purposes for
28 which the district is to be formed, and the ordinance establishing the
29 district shall give it a name which shall be descriptive of the purpose. It
30 shall also receive a number to prevent its being confused with other districts
31 for similar purposes.

32 (c) The ordinance establishing the district shall be published within
33 thirty (30) days after its adoption by one (1) insertion in some newspaper of
34 general circulation in the municipality in which the district lies.

35 (d) The findings of the governing body shall be conclusive unless

1 attacked by a suit in the chancery court of the county in which the
2 municipality is located, which suit brought within thirty (30) days after the
3 publication."

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5 SECTION 3. Arkansas Code § 14-94-107(a) is amended to read as follows:

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7 "(a) (1) (A) Within thirty (30) days after their appointment, the
8 commissioners shall take and file with the clerk their oath of office, in
9 which they shall swear to support the Constitution of the United States and
10 the Constitution of the State of Arkansas, to discharge faithfully their
11 duties as commissioners, and to not be interested, directly or indirectly, in
12 any contract let by the board except upon the approval of all the owners of
13 real property located in the district.

14 (B) Any commissioner failing to file the oath within this
15 period shall be deemed to have declined the office, and the governing body
16 shall appoint some property owner his successor, who shall qualify in like
17 manner within a like time.

18 (2) (A) In case of a vacancy on the board after the commissioners
19 have organized, except as set forth in § 14-94-108, the remaining
20 commissioners shall select some property owner in the district *or creditors of*
21 *the district* as a successor, *provided however that if all improvements in the*
22 *district have been completed, then the governing body shall select the*
23 *successor.*

24 (B) The person so selected shall qualify by taking the oath of
25 office as prescribed for the original commissioners."

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27 SECTION 4. Arkansas Code § 14-94-108 is amended to read as follows:

28 "14-94-108. Removal of board members.

29 (a) When the owners of two-thirds (2/3) in assessed value of the real
30 property located within any district shall sign a petition stating that the
31 petitioners believe it to be in the best interest of the district that the
32 board, or any member thereof, be removed and shall file the petition with the
33 governing body, the governing body shall set a date for a hearing on the
34 petition and shall give notice of the hearing by one (1) publication in a
35 newspaper of general circulation in the district at least ten (10) days before

1 the date of the hearing.

2 (b)(1) The purpose of the hearing shall be to determine the sufficiency
3 of the petition.

4 (2) Any property owner of the district may appear and present
5 evidence either in support of or against the sufficiency of the petition.

6 (c) If, after hearing, based upon the evidence presented, the governing
7 body shall determine that the petition is signed by at least two-thirds (2/3)
8 in assessed value of the real property owners in the district, the governing
9 body shall immediately adopt a resolution removing the member of the board in
10 accordance with the petition and appoint some property owner in the district
11 or *creditors of the district* as a successor to fill the vacancy created by his
12 removal.

13 (d) No member of the board shall be liable for any damages unless he or
14 she shall have acted with a corrupt intent."

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16 SECTION 5. All provisions of this act of general and permanent nature
17 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
18 Revision Commission shall incorporate the same in the Code.

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20 SECTION 6. If any provisions of this act or the application thereof to
21 any person or circumstance is held invalid, the invalidity shall not affect
22 other provisions or applications of the act which can be given effect without
23 the invalid provisions or application, and to this end the provisions of this
24 act are declared to be severable.

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26 SECTION 7. All laws and parts of laws in conflict with this act are
27 hereby repealed.

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30 /s/Rep. Vess

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32 APPROVED: 4-10-95

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As Engrossed: 3/17/95 3/30/95

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