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4

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A Bill

HOUSE BILL 1774

5 By: Representatives Tyler, D. Meeks, *Barnett*
6 By: Senators D. Wyatt, G. Baker, Bookout
7

For An Act To Be Entitled

9 AN ACT TO DEFINE "PUBLIC TRANSPORTATION" RELATED TO
10 CITY AND COUNTY TURNBACK FUNDS UNDER THE ARKANSAS
11 HIGHWAY REVENUE DISTRIBUTION LAW; AND FOR OTHER
12 PURPOSES.
13
14

Subtitle

15 TO DEFINE "PUBLIC TRANSPORTATION" RELATED
16 TO CITY AND COUNTY TURNBACK FUNDS UNDER
17 THE ARKANSAS HIGHWAY REVENUE DISTRIBUTION
18 LAW.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 27-70-207 is amended to read as follows:
25 27-70-207. Distribution to county and city funds.

26 (a) As used in this section, "public transportation" means a
27 conveyance of human passengers by bus, van, or any other ground surface
28 vehicle that is:

29 (1) Provided to the general public or selected groups of the
30 public on a regular or continuing basis; and

31 (2) Operated by a city, county, or any other person or entity
32 under a contract or agreement with a city or county.

33 ~~(a)(1)(A)(b)(1)(A)~~ With the exception of those revenues transferred
34 pursuant to Section 2 of the Highway Improvement Revenue Act of 2007, all
35 highway revenues transferred to the County Aid Fund under this subchapter
36 shall be paid over by the Treasurer of State to the treasurers of the



1 respective counties of this state for credit to the county highway fund,
2 *there to be used for transportation projects as deemed beneficial by the*
3 *county to include without limitation:*

4 *(i) ~~the~~ The maintenance, construction, and*
5 *reconstruction of roads and bridges in the county highway system and for*
6 *other surface transportation; ~~provided, however, that no more than twenty~~*
7 *~~percent (20%) of the revenues received by a county during any fiscal year may~~*
8 *~~also be used for public transportation.~~*

9 *(ii) Public transportation; or*

10 *(iii) Any other transportation system improvement or*
11 *service within the political subdivision, including without limitation those*
12 *projects defined as a transportation system under § 27-76-103(15) regardless*
13 *of whether or not the political subdivision is a member of a regional*
14 *mobility authority.*

15 (B) A county may also use these funds to construct and
16 maintain parking for county courthouses, county administration buildings,
17 county health units, and county parks and to construct and maintain sidewalks
18 that serve county courthouses, county administration buildings, county health
19 units, county parks, public schools, and other publicly owned property.

20 (C) A county may use these funds to pay for local projects
21 eligible for funding under state programs of the Arkansas State Highway and
22 Transportation Department and the State Highway Commission and under federal
23 programs of the Federal Highway *Administration* and the Federal Transit
24 Administration of the United States Department of Transportation.

25 (D) Furthermore, the funds may be used to install and
26 maintain traffic signals where needed to preserve public health, safety, and
27 welfare.

28 (E) A county may provide these funds to a regional
29 mobility authority to match federal transportation funds for the financing of
30 surface transportation system improvements on state highways, county roads,
31 and city streets.

32 (2)(A) Funds disbursed to the County Aid Fund pursuant to
33 Section 2 of the Highway Improvement Revenue Act of 2007 may be expended by
34 the counties on any legitimate county purpose and are not limited to the uses
35 set forth in subdivision ~~(a)(1)~~ (b)(1) of this section.

36 (B) Funds disbursed to the County Aid Fund pursuant to

1 Section 2 of the Highway Improvement Revenue Act of 2007 shall be distributed
2 to the various counties as are other funds contained in the County Aid Fund
3 pursuant to subdivision ~~(a)(3)~~ (b)(3) of this section.

4 (3) The Treasurer of State shall on or before the tenth day next
5 following the last day of each calendar month make distribution of the
6 revenues on the following basis:

7 (A) Thirty-one percent (31%) of the amount according to
8 area, with each county to receive the proportion that its area bears to the
9 area of the state;

10 (B) Seventeen and one-half percent (17.5%) of the amount
11 according to the amount of state motor vehicle license fees collected in the
12 calendar year next preceding any distribution as certified to the Treasurer
13 of State by the Director of the Department of Finance and Administration,
14 with each county to receive the proportion that the total of fees collected
15 from the county bears to the total of fees collected in the state;

16 (C) Seventeen and one-half percent (17.5%) of the amount
17 according to population based upon the most recent federal decennial census,
18 with each county to receive the proportion that its population bears to the
19 population of the state;

20 (D) Thirteen and one-half percent (13.5%) of the amount
21 according to rural population based upon the most recent federal decennial
22 census, with each county to receive the proportion that its rural population
23 bears to the rural population of the state; and

24 (E) Twenty and one-half percent (20.5%) of the amount
25 shall be divided equally among the seventy-five (75) counties.

26 ~~(b)(1)(A)~~ (c)(1)(A) With the exception of those revenues transferred
27 pursuant to Section 2 of the Highway Improvement Revenue Act of 2007, all
28 highway revenues transferred to the Municipal Aid Fund under the provisions
29 of this subchapter shall be paid over by the Treasurer of State to the
30 treasurers of the respective cities of the first class, cities of the second
31 *class, and incorporated towns for credit to the street fund, there to be used*
32 *for transportation projects as deemed beneficial by the governing body of the*
33 *political subdivision to include without limitation:*

34 *(i) ~~the~~ The maintenance, construction, and*
35 *reconstruction of streets that are not continuations of state highways and*
36 *for other surface transportation;*

1 (ii) Public transportation; or
 2 (iii) Any other transportation system improvement or
 3 service within the political subdivision, including without limitation those
 4 projects defined as a transportation system under § 27-76-103(15) regardless
 5 of whether or not the political subdivision is a member of a regional
 6 mobility authority.

7 ~~(B)(i) Provided, however, that cities with a population in~~
 8 ~~excess of fifty thousand (50,000) inhabitants may use no more than ten~~
 9 ~~percent (10%) of the revenues for public transportation.~~

10 ~~(ii) All other cities may use no more than twenty~~
 11 ~~percent (20%) of the revenues for public transportation.~~

12 ~~(G)(B)~~ A city may provide these funds to a regional
 13 mobility authority to match federal transportation funds for the financing of
 14 surface transportation system improvements on state highways, county roads,
 15 and city streets.

16 (2) The Treasurer of State shall on or before the tenth day next
 17 following the last day of each calendar month make distribution of the funds
 18 on the basis of population according to the most recent federal census, with
 19 the amount to be paid over to each city or incorporated town in the
 20 proportion that its population bears to the total population of all cities
 21 and towns.

22 (3)(A) Funds disbursed to the Municipal Aid Fund pursuant to
 23 Section 2 of the Highway Improvement Revenue Act of 2007 may be expended by
 24 the cities on any legitimate municipal purpose and are not limited to the
 25 uses set forth in subdivision ~~(b)(1)~~ (c)(1) of this section.

26 (B) Funds disbursed to the Municipal Aid Fund pursuant to
 27 Section 2 of the Highway Improvement Revenue Act of 2007 shall be distributed
 28 to the various cities as are other funds contained in the Municipal Aid Fund
 29 pursuant to subdivision ~~(b)(2)~~ (c)(2) of this section.

30 ~~(e)(1)(d)(1)~~ All highway revenues transferred to the State Highway and
 31 Transportation Department Fund under the provisions of this subchapter shall
 32 be used for the construction, reconstruction, and maintenance of highways and
 33 bridges in the state highway system.

34 (2)(A) However, the Arkansas State Highway and Transportation
 35 Department may use highway revenues transferred to the State Highway and
 36 Transportation Department Fund for the installation, upgrading, or

1 improvement of any highway-railroad crossing safety device, railroad crossing
2 traffic control device, warning lights, crossing gates, or other railroad
3 crossing safety devices at public highway railroad crossings and for the
4 construction, reconstruction, and maintenance of any highway-railroad
5 crossing, including the construction or installation of any underpasses or
6 overpasses.

7 (B) Except for the construction or installation of
8 underpasses or overpasses, the department's goal is to expend one dollar
9 (\$1.00) of state funds for each dollar of federal funds received to improve
10 railroad crossing safety and to reduce railroad crossing accidents.

11 (C) It is the intent of this subdivision ~~(e)(2)(d)(2)~~ to
12 encourage the State Highway Commission to continue to upgrade the state's
13 highway-railway crossings with traffic control devices, warning lights,
14 crossing gates, and other appropriate devices in order to increase the safety
15 of persons using the state's highways.

16

17 SECTION 2. Arkansas Code § 10-4-304(12), concerning laws within the
18 purview of the Arkansas Governmental Compliance Act, Arkansas Code § 10-4-301
19 et seq., is amended to read as follows:

20 (12) Sections 26-79-104(b) and 27-70-207~~(b)(c)~~;

21

22 SECTION 3. Arkansas Code § 27-64-203(5)(B), concerning the definition
23 of "designated revenues" under the Arkansas Highway Financing Act of 1999, is
24 amended to read as follows:

25 (B) Revenues derived from the increase in taxes levied on
26 distillate special fuels pursuant to § 26-56-201 and transferred to the State
27 Highway and Transportation Department Fund pursuant to § 27-70-207~~(e)(d)~~ in
28 accordance with § 26-56-201 and § 26-55-1006; and

29

30 SECTION 4. Arkansas Code § 27-64-206(b)(2)(B), concerning the election
31 under the Arkansas Highway Financing Act of 1999, is amended to read as
32 follows:

33 (B) The bonds shall be general obligations of the State of
34 Arkansas, payable from certain designated revenues and also secured by the
35 full faith and credit of the State of Arkansas, including its general
36 revenues. Pursuant to this subchapter, the "Bond Act", the bonds will be

1 repaid first from revenues derived from federal highway assistance funding
2 allocated to the State of Arkansas designated as federal highway interstate
3 maintenance funds, and, if needed, that portion of national highway system
4 funds authorized by State Highway Commission Minute Order 98-214 adopted
5 September 22, 1998, and, second, from revenue derived from the increase in
6 the excise tax levied on distillate special fuels and diesel pursuant § 26-
7 56-201(e) and transferred to the State Highway and Transportation Department
8 Fund pursuant to § 27-70-207~~(e)~~(d) in accordance with § 26-56-201(f) and §
9 26-55-1006(d). To the extent that designated revenues are insufficient to
10 make timely payment of debt service on the bonds, such payment shall be made
11 from the general revenues of the State of Arkansas. The bonds shall be issued
12 pursuant to the authority of and the terms set forth in this subchapter.
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14 SECTION 5. Arkansas Code § 27-64-206(b)(2)(D), concerning the election
15 under the Arkansas Highway Financing Act of 1999, is amended to read as
16 follows:

17 (D) Pursuant to this subchapter, "designated revenues" are
18 defined as that portion designated by the commission of all funds received or
19 to be received from the federal government of the United States as federal
20 highway interstate maintenance funds, and, if needed, that portion of
21 national highway system funds authorized by State Highway Commission Minute
22 Order 98-214 adopted September 22, 1998, and revenues derived from the
23 increase in taxes levied on distillate special fuels pursuant to § 26-56-
24 201(e) and transferred to the State Highway and Transportation Department
25 Fund pursuant to § 27-70-207~~(e)~~(d) in accordance with § 26-56-201(f) and §
26 26-55-1006(d). Designated revenues shall not include the revenues derived
27 from the increase in tax on motor fuel, gasoline, resulting from the Arkansas
28 Distillate Special Fuel Excise Tax Act of 1999 and the Motor Fuel Excise Tax
29 Act of 1999, §§ 26-55-1005, 26-55-1006, 26-56-201, and 27-72-305. The bonds
30 are further secured by the full faith and credit of the State of Arkansas,
31 and to the extent that designated revenues are insufficient to make timely
32 payment of debt service on the bonds, the general revenues of the state shall
33 be used to pay debt service on the bonds. Pursuant § 26-56-201, the excise
34 tax on distillate special fuels, in addition to the taxes levied pursuant to
35 §§ 26-56-201, 26-56-502, and 26-56-601, will increase by two cents (2¢) per
36 gallon on the April 1, 1999, and the additional tax levied by § 26-56-201(e)

1 shall increase to four cents (4¢) per gallon on the first anniversary of such
2 date.

3

4 SECTION 6. Arkansas Code § 27-64-211(a)(2)(B), concerning the sources
5 of repayment under the Arkansas Highway Financing Act of 1999, is amended to
6 read as follows:

7 (B) Revenues derived from the increase in taxes levied on
8 distillate special fuels pursuant § 26-56-201 and transferred to the State
9 Highway and Transportation Department Fund pursuant to § 27-70-207~~(e)~~(d) in
10 accordance with § 26-56-201(f) and § 26-55-1006(d).

11

12 SECTION 7. Arkansas Code § 27-64-405(b), concerning the election under
13 the Arkansas Highway Financing Act of 2007, is amended to read as follows:

14 (b) The notice of election shall state that the election is to be held
15 for the purpose of submitting to the people the following proposition in
16 substantially the form set forth in this subsection:

17 "Authorizing the State Highway Commission to issue State of Arkansas Federal
18 Highway Grant Anticipation and Tax Revenue Bonds (the 'Bonds') from time to
19 time provided that the total principal amount outstanding from the issuance
20 of such bonds, together with the total principal amount outstanding from the
21 issuance of bonds pursuant to the Arkansas Highway Financing Act of 1999, §
22 27-64-201 et seq., shall not, at any time, exceed five hundred seventy-five
23 million dollars (\$575,000,000). If approved, the bonds will be issued in one
24 or more series of various principal amounts with the last series being issued
25 no later than December 31, 2015. The bonds shall be issued for the purpose of
26 paying the cost of constructing and renovating improvements to interstate
27 highways and related facilities in the State of Arkansas.

28 "The bonds shall be general obligations of the State of Arkansas, payable
29 from certain designated revenues and also secured by the full faith and
30 credit of the State of Arkansas, including its general revenues. Pursuant to
31 the Arkansas Interstate Highway Financing Act of 2007 (the 'Bond Act'), § 27-
32 64-401 et seq., the bonds will be repaid first from: (1) revenues derived
33 from federal highway assistance funding allocated to the State of Arkansas
34 designated as federal highway interstate maintenance funds, and (2) revenue
35 derived from the increase in the excise tax levied on distillate special
36 fuels (diesel) pursuant to § 26-56-201(e) and transferred to the State

1 Highway and Transportation Department Fund pursuant to § 27-70-207~~(e)~~(d) in
2 accordance with § 26-55-1006(d). To the extent that designated revenues are
3 insufficient to make timely payment of debt service on the bonds, such
4 payment shall be made from the general revenues of the State of Arkansas. The
5 bonds shall be issued pursuant to the authority of and the terms set forth in
6 the Bond Act, § 27-64-401 et seq.

7 “Pursuant to the Bond Act, § 27-64-401 et seq., the highway improvements to
8 be financed are limited to the restoration and improvements to all of the
9 interstate highway system within the state, including roadways, bridges, or
10 rights-of-way under jurisdiction of the State Highway Commission, which shall
11 also include the acquisition, construction, reconstruction, and renovation of
12 such interstate highway system and facilities appurtenant or pertaining
13 thereto.

14 “Pursuant to the Bond Act, § 27-64-401 et seq., ‘designated revenues’ are
15 defined as: (1) that portion designated by the commission of all funds
16 received or to be received from the federal government as federal highway
17 interstate maintenance funds, and (2) revenues derived from the increase in
18 taxes levied on distillate special fuels pursuant to § 26-56-201(e) and
19 transferred to the State Highway and Transportation Department Fund pursuant
20 to Arkansas Code § 27-70-207~~(e)~~(d) in accordance with § 26-55-1005(d).

21 Designated revenues shall not include the revenues derived from the increase
22 in tax on motor fuel (gasoline) resulting from the ‘Arkansas Distillate
23 Special Fuel Excise Tax Act of 1999’ and the ‘Motor Fuel Excise Tax Act of
24 1999’, §§ 26-55-1005, 26-55-1006, 26-56-201, and 27-72-305. The bonds are
25 further secured by the full faith and credit of the State of Arkansas, and to
26 the extent ‘designated revenues’ are insufficient to make timely payment of
27 debt service on the bonds, the general revenues of the state shall be used to
28 pay debt service on the bonds.”

29
30 SECTION 8. Arkansas Code § 27-64-410 is amended to read as follows:
31 27-64-410. Sources of repayment.

32 The bonds shall be general obligations of the State of Arkansas secured
33 and payable from the designated revenues, as defined herein, and the general
34 revenues of the state. The bonds will be payable first from certain
35 designated revenues, specifically: (1) that portion designated by the State
36 Highway Commission of funds received or to be received from the federal

1 government as federal highway assistance funding allocated to the state
2 designated as federal highway interstate maintenance funds, and (2) revenues
3 derived from the increase in taxes levied on distillate special fuels
4 pursuant to section 2 of the "Arkansas Distillate Special Fuel Excise Tax Act
5 of 1999" and the "Motor Fuel Excise Tax Act of 1999", §§ 26-55-1005, 26-55-
6 1006, 26-56-201, and 27-72-305 and transferred to the State Highway and
7 Transportation Department Fund pursuant to § 27-70-207~~(e)~~(d) in accordance
8 with § 26-55-1005(d). To the extent that designated revenues are insufficient
9 to make timely payment of debt service on the bonds, such payment shall be
10 made from the general revenues of the State of Arkansas. In order to secure
11 the payment of debt service, any trust instrument, resolution, or other
12 document setting forth the security for the bondholders may provide for the
13 direct payment of the federal highway assistance funds that are designated
14 revenues directly into a trust fund, or to a paying agent, for the payment of
15 debt service on the bonds and it shall not be necessary for such funds to be
16 deposited into the State Treasury.

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18 */s/Tyler*

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21 **APPROVED: 03/28/2011**
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