

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S3/11/09

A Bill

HOUSE BILL 1705

5 By: Representative Reep
6
7

For An Act To Be Entitled

9 AN ACT TO ALLOW A PLANNING AND DEVELOPMENT
10 DISTRICT TO INCORPORATE AND ACT AS A PUBLIC
11 CORPORATION; TO PROVIDE AN ADDITIONAL METHOD FOR
12 THE DISSOLUTION OF THE PUBLIC CORPORATION; TO
13 PROVIDE FOR THE RESCISSION OF A PLANNING AND
14 DEVELOPMENT DISTRICT'S AUTHORIZATION TO ACT AS A
15 PUBLIC CORPORATION; AND FOR OTHER PURPOSES.
16

Subtitle

17 TO ALLOW A PLANNING AND DEVELOPMENT
18 DISTRICT TO INCORPORATE AS A PUBLIC
19 CORPORATION; TO PROVIDE ANOTHER METHOD
20 FOR DISSOLVING THE PUBLIC CORPORATION;
21 AND TO PROVIDE FOR THE RESCISSION OF THE
22 DISTRICT'S DELEGATED AUTHORITY.
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25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 14-138-102(9)(A), concerning the
29 definitions related to public corporations for municipal facilities, is
30 amended to read as follows:

31 (9)(A) "Project" means equipment to be utilized within or near or one
32 (1) or more buildings located or to be located within or near the
33 municipality and designed for use ~~and~~ or occupancy by a lessee, as defined in
34 this section, for any one of the following public purposes:
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36 SECTION 2. Arkansas Code § 14-138-102(9)(A)(vii), concerning a public



1 purpose for a project's design, is amended to read as follows:

2 (vii)(a) Fire stations and substations, and, sewage,
3 garbage, and solid waste disposal facilities; and

4 (b) A system for the management of a project
5 described in subdivision (9)(A)(vii)(a) of this section;

6
7 SECTION 3. Arkansas Code § 14-138-105 is amended to read as follows:
8 14-138-105. Authority and procedure to incorporate.

9 (a)(1)(A) If ~~Whenever~~ three (3) or more ~~natural persons shall~~
10 qualified electors file with the governing body an application in writing for
11 authority to incorporate a public corporation under this chapter, ~~if it is~~
12 ~~made to appear to the governing body that each of the persons is a duly~~
13 ~~qualified elector of the municipality and if the governing body adopts~~ may
14 adopt a resolution ~~that declares~~ declaring that it ~~will be~~ is wise,
15 expedient, and necessary that a public corporation be formed and ~~that~~ the
16 persons filing the application may proceed to form a the public corporation.

17 (B) After the adoption of the resolution under subdivision
18 (a)(1)(A) of this subsection, then the persons ~~shall~~ authorized to become the
19 incorporators of the public corporation ~~and shall proceed to~~ may incorporate
20 the public corporation in the manner provided in this chapter.

21 (2)(A) If approved by an ordinance of the governing body of the
22 municipality, the board of directors of a planning and development district
23 created under § 14-166-201 et seq. may file with the governing body of the
24 municipality an application in writing to be designated and to act as a
25 public corporation for one or more projects.

26 (B)(i) If the application under subdivision (a)(2)(A) of
27 this section is approved by an ordinance of the governing body of the
28 municipality, the district authorized to act as a public corporation under
29 subdivision (a)(2)(A) of this section shall maintain detailed records of its
30 activities, including without limitation financial records.

31 (ii) A district that is authorized to act as a
32 public corporation under subdivision (a)(2)(B)(i) of this section may also be
33 designated as a public corporation by another municipality for a separate
34 project or a joint project if the designation is approved by an ordinance of
35 the governing body of each municipality.

36 (iii) §§ 14-38-105 – 14-38-109, and 14-138-123 do

1 not apply to a district that is authorized to act as a public corporation
 2 under subdivisions (a)(2)(B)(i) and (a)(2)(B)(ii) of this section.

3 (b)(1) ~~No~~ A corporation shall not be designated or formed under
 4 this chapter unless the:

5 (A) Application ~~application~~ provided for in this
 6 section ~~shall be~~ has been made; and

7 (B) Resolution ~~unless the resolution~~ provided for in
 8 this section ~~shall be~~ has been adopted.

9 (2) Regardless of whether or not the project or facility
 10 being financed qualifies as a project under § 14-138-102(9)(A), a
 11 municipality may designate a district or a newly formed public corporation to
 12 act for it as a municipality under the "Municipalities and Counties
 13 Industrial Development Revenue Bond Law", § 14-164-201 et seq., or with
 14 respect to Ark. Const. Amend. 62 or Const. Amend. 65.

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 16 SECTION 4. Arkansas Code § 14-138-123(a), concerning the dissolution
 17 of a public corporation, is amended to add additional subdivisions to read as
 18 follows:

19 (a)(1)(A) ~~If At any time when~~ the public corporation does not have any
 20 bonds outstanding, the board may adopt a resolution, which shall be ~~duly~~
 21 entered ~~upon~~ in its minutes, declaring that the public corporation shall be
 22 dissolved; or

23 (B) If directed by its governing body, the board shall
 24 adopt a resolution to dissolve the public corporation.

25 (2) Upon the filing for record of a certified copy of ~~the~~ a
 26 resolution made under subdivision (a)(1) of this section in the office of the
 27 county clerk of the county in which the municipality is located, the public
 28 corporation ~~shall thereupon stand~~ is dissolved.

29 (3) After its dissolution, the ~~At the time of its dissolution,~~
 30 ~~the title to all its~~ the property ~~shall thereupon vest~~ of a dissolved public
 31 corporation vests in the lessee.

32
 33 SECTION 5. Arkansas Code § 14-138-123, concerning the dissolution of a
 34 public corporation, is amended to add an additional subdivision to read as
 35 follows:

36 (d) By giving a written notice to the district's board, the governing

1 body of a municipality may rescind a planning and development district's
2 designation and authority to act as a public corporation for a municipal
3 facility under § 14-138-105(a)(2)(B) when the district does not have any
4 bonds outstanding.

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/s/ Reep