

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

1 State of Arkansas *As Engrossed: S3/9/11 S3/14/11 S3/16/11 S3/24/11 S3/29/11*

2 88th General Assembly

3 Regular Session, 2011

SJR 5

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5 By: Senator Files

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SENATE JOINT RESOLUTION

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PROPOSING AN AMENDMENT TO THE ARKANSAS CONSTITUTION

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CONCERNING FINANCIAL REFORM FOR COUNTIES AND

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MUNICIPALITIES; PROPOSING AN AMENDMENT TO THE

11

ARKANSAS CONSTITUTION TO AUTHORIZE CITIES AND

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COUNTIES TO CREATE DISTRICTS WITHIN THE CITY OR

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COUNTY FOR DEVELOPMENT AND REDEVELOPMENT PROJECTS

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WITHIN THE DISTRICT AND TO ISSUE BONDS PAYABLE FROM

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THE INCREASED AMOUNT OF *CITY AND COUNTY* SALES AND USE

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TAX COLLECTED WITHIN THE DISTRICT FOR FINANCING SUCH

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PROJECTS; PROPOSING AN AMENDMENT TO THE ARKANSAS

18

CONSTITUTION TO AUTHORIZE A MUNICIPALITY OR COUNTY TO

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ISSUE BONDS AND LEVY A *LOCAL SALES* AND USE TAX FOR

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THE PURPOSE OF RETIRING UNFUNDED LIABILITIES OF

21

CLOSED LOCAL POLICE AND FIRE PENSION PLANS; AND

22

AMENDING AMENDMENT 78 OF THE ARKANSAS CONSTITUTION TO

23

PROVIDE THAT ANNUAL PRINCIPAL AND INTEREST PAYMENTS

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ON SHORT-TERM FINANCING OBLIGATIONS SHALL BE CHARGED

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AGAINST AND PAID FROM GENERAL REVENUES FOR THE FISCAL

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YEAR AND SPECIAL REVENUES AUTHORIZED TO BE USED FOR

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THE PROPERTY FINANCED.

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Subtitle

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PROPOSING AN AMENDMENT TO THE ARKANSAS

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CONSTITUTION CONCERNING FINANCIAL REFORM

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FOR COUNTIES AND MUNICIPALITIES.

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BE IT RESOLVED BY THE SENATE OF THE EIGHTY-EIGHTH GENERAL ASSEMBLY OF THE



1 STATE OF ARKANSAS AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL
2 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

3
4 THAT the following is proposed as an amendment to the Constitution of
5 the State of Arkansas, and upon being submitted to the electors of the state
6 for approval or rejection at the next general election for Representatives
7 and Senators, if a majority of the electors voting thereon at the election
8 adopt the amendment, the amendment shall become a part of the Constitution of
9 the State of Arkansas, to wit:

10
11 SECTION 1. The Arkansas Constitution is amended to read as follows:
12 Sales Tax Anticipated Revenue Bonds.

13 (a) A city or county may form one (1) or more districts for the
14 purpose of financing sales tax anticipated revenue bond projects within the
15 district as provided by this section.

16 (b)(1) A city or county which has formed a district under this section
17 may issue bonds for the purpose of financing certain costs related to a sales
18 tax anticipated revenue bond project within the district, as determined by
19 the General Assembly.

20 (2) The bonds may be secured by and be payable from all or a
21 portion of the division of city and county sales and use taxes collected
22 within the district under subsection (e) of this section.

23 (3) The bonds shall not be:

24 (A) Considered in calculating debt limits for bonds issued
25 pursuant to Article XII, § 4, of the Arkansas Constitution; or

26 (B) Subject to the provisions of Article XVI, § 1, of the
27 Arkansas Constitution or Amendments 62 or 65 to the Arkansas Constitution.

28 (c) For purposes of this section, the term "sales tax anticipated
29 revenue bond project" means an undertaking, including without limitation the
30 acquisition, development, redevelopment, and revitalization of land within
31 the district, for eliminating or preventing the development or spread of
32 slums or blighted, deteriorated, or deteriorating areas, for discouraging the
33 loss of commerce, industry, or employment, for increasing employment, or any
34 combination thereof, as may be defined by the General Assembly.

35 (d) Prior to a city or county's issuance of bonds for a sales tax
36 anticipated revenue bond project under subsection (b) of this section, the

1 sales tax anticipated revenue bond project shall be approved by an
2 appropriate state agency as may be determined by the General Assembly.

3 (e) The General Assembly may provide that all or a portion of the city
4 and county sales and use tax collected within a district may be divided so
5 that all or part of the increase in city and county sales and use tax
6 collected by taxpayers within the district after the date on which the
7 project plan has been approved by an appropriate state agency shall be used
8 to pay any indebtedness incurred for the sales tax anticipated revenue bond
9 project.

10 (f) Any provision of the Constitution of the State of Arkansas in
11 conflict with this section is repealed insofar as it is in conflict with this
12 section.

13 (g) The General Assembly shall provide for the implementation of this
14 section by law.

15
16 SECTION 2. (a) As used in Section 2 of this amendment:

17 (1) "Bonds" means all bonds, notes, certificates, or other
18 interest-bearing instruments or evidences of indebtedness;

19 (2) "Closed local police and fire pension plan" means a police
20 officer's pension and relief fund or a firefighter's pension and relief fund
21 that:

22 (A) Was created by a municipality or county of the state;

23 (B) Does not cover police officers or firefighters first
24 hired by the employer on or after January 1, 1983; and

25 (C) Was consolidated with the Arkansas Local Police and
26 Fire Retirement System or its successor; and

27 (3) "Unfunded liability" means the amount by which the actuarial
28 accrued liability exceeds the actuarial value of assets.

29 (b)(1)(A) With the consent of a majority of the qualified electors
30 voting on the question at a special election called for that purpose or at a
31 general election, the legislative body of a municipality or county may
32 authorize the issuance of bonds for retiring the municipality's or county's
33 unfunded liabilities for a closed local police and fire pension plan in an
34 amount approved by a majority of those voting on the question either at a
35 special election called for that purpose or at a general election.

36 (B) The General Assembly shall prescribe a uniform method

1 of calling and holding the election and the terms upon which the bonds may be
2 issued.

3 (C) The election shall be held no earlier than thirty (30)
4 days after it is called by the legislative body.

5 (2)(A) With the consent of a majority of the qualified electors
6 voting on the question at an election called for that purpose, the
7 legislative body of a municipality or county may authorize the levy of a
8 local sales and use tax to pay the bonded indebtedness authorized in this
9 section.

10 (B) The maximum rate of any tax to pay bonded indebtedness
11 as authorized in this section shall be stated on the ballot.

12 (C) The General Assembly or the legislative body may
13 authorize other taxes to retire the bonds.

14 (3)(A) The limit of the principal amount of bonded indebtedness
15 of the municipality or county is the total amount of unfunded liability of
16 the municipality or county for a closed local police and fire pension plan.

17 (B) An election shall not be called to authorize the
18 issuance of bonds that would exceed the total amount of the unfunded
19 liability of the municipality or county for the closed local police and fire
20 pension plan either separately or combined with other bonds issued for the
21 purpose of retiring the municipality's or county's unfunded liabilities for a
22 closed local police and fire pension plan.

23 (c) The results of an election called under this section shall be
24 published in a newspaper of general circulation in the county or
25 municipality, and any contest of the election or the tabulation of the votes
26 in the election shall be brought within thirty (30) days after the
27 publication.

28 (d)(1) Bonds issued under this section shall be issued only for the
29 repayment of unfunded liability of a closed local police and fire pension
30 plan.

31 (2) The bonds issued under this section and the tax authorized
32 by this section shall not be used for any other purpose.

33 (e) The bonds described in subsection (b) of this section may be sold:

34 (1) At a public or private sale;

35 (2) Upon the terms that the municipality or county determines
36 are reasonable and expedient for effectuating the purpose of retiring the

1 unfunded liability of a closed local police and fire pension plan of the
2 municipality or county; and

3 (3) At a price the municipality or county determines to be
4 acceptable, including without limitation sale at a discount.

5 (f)(1)(A) The municipality or county may invest or reinvest the
6 proceeds from the sale of the bonds.

7 (B) The General Assembly shall prescribe the terms upon
8 which a municipality or county may invest or reinvest bonds for the purpose
9 of retiring the unfunded liability of a closed local police and fire pension
10 plan of the municipality or county.

11 (2)(A) After bonds have been issued under this section, a
12 municipality or county may issue bonds for the purpose of refunding the
13 principal of and interest on any outstanding bonds issued under this section.

14 (B)(i) The refunding bonds may be sold or delivered in
15 exchange for the bonds being refunded.

16 (ii) If sold, the refunding bonds shall be issued,
17 secured, and sold in accordance with this section.

18 (iii) If delivered in exchange, the municipality or
19 county may exchange the bonds only for bonds of like amount, rate, interest,
20 and length of issue.

21 (C) The proceeds derived from the sale of any refunding
22 bonds shall be used only for the purposes stated in this section.

23 (g) After the electorate has approved the bond issue and before the
24 issuance of the bonds, the municipality or county may borrow funds on an
25 interim basis, not to exceed three (3) years, and pledge to the payment of
26 the bonds the tax approved by the voters.

27 (h)(1) The revenues from the tax levied for payment of bonded
28 indebtedness authorized in this section constitute a special fund pledged
29 exclusively as security for the payment of the bonded indebtedness.

30 (2) The tax shall not be extended for any other purpose, and it
31 shall not be collected for a greater length of time than necessary to retire
32 the bonded indebtedness.

33 (3) Upon retirement of the bonded indebtedness, any surplus tax
34 collections that may have accumulated shall be transferred to the general
35 funds of the municipality or county.

36 (i) The General Assembly shall implement this section by appropriate

1 legislation at the next regular session or fiscal session following the
2 adoption of this amendment.

3 (j)(1) This section does not affect the taxes and bonds authorized for
4 other purposes before the adoption of this amendment.

5 (2) Taxes levied before the effective date of this amendment
6 continue in force until abolished, reduced, or increased as provided by law
7 for those taxes.

8 (3) All bonds and other evidences of indebtedness authorized
9 before the effective date of this amendment are governed by the
10 constitutional provisions and laws in effect at the time of the authorization
11 of those bonds.

12
13 SECTION 3. Section 2 of Amendment 78 to the Arkansas Constitution is
14 amended to read as follows:

15 § 2. [Short-term financing obligations].

16 (a)(1) For the purpose of acquiring, constructing, installing or
17 renting real property or tangible personal property having an expected useful
18 life of more than one (1) year, municipalities and counties may incur short-
19 term financing obligations maturing over a period of, or having a term, not
20 to exceed five (5) years. ~~Such obligations may bear interest at either:~~

21 ~~(1) a fixed rate throughout the term thereof, including a fixed~~
22 ~~interest rate which is to be determined by reference to an index or other~~
23 ~~formula, but not to exceed the maximum lawful rate of interest for fixed rate~~
24 ~~obligations, or~~

25 ~~(2) a rate which may vary at such times and under such~~
26 ~~circumstances as the parties may agree, whether or not the interest rate in~~
27 ~~fact varies, but not to exceed the maximum lawful rate of interest for~~
28 ~~variable rate obligations. The maximum lawful rate of interest for fixed rate~~
29 ~~obligations is the formula rate in effect on the date the obligation is~~
30 ~~incurred, regardless of when such interest is to begin to accrue. The maximum~~
31 ~~lawful rate of interest for variable rate obligations is the formula rate in~~
32 ~~effect on the date such interest accrues. The aggregate principal amount of~~
33 ~~short-term financing obligations incurred by a municipality or a county~~
34 ~~pursuant to this section shall not exceed five percent (5%) of the assessed~~
35 ~~value of taxable property located within the municipality or two and one half~~
36 ~~percent (2.5%) of the assessed value of taxable property located within the~~

1 county, as determined by the last tax assessment completed before the last
2 obligation was incurred by the city or county. The ~~total~~ annual principal and
3 interest payments in each fiscal year on ~~all~~ outstanding obligations of a
4 municipality or a county pursuant to this section shall be charged against
5 and paid from ~~the~~ general revenues for such fiscal year, ~~which may include~~
6 ~~road fund revenues. Tax revenues earmarked for solid waste disposal purposes~~
7 ~~may be used to pay printing and other costs associated with bonds issued~~
8 ~~under this amendment for solid waste disposal purposes~~ and special revenues
9 authorized to be used to acquire, construct, install, or rent the property
10 financed by such obligations.

11 (b) As used here~~t~~,

12 ~~(1) "Short-term~~ "short-term financing obligation" means a debt,
13 a note, an installment purchase agreement, a lease, a lease-purchase
14 contract, or any other similar agreement, whether secured or unsecured;
15 provided, that the obligation shall mature over a period of, or have a term,
16 not to exceed five (5) years~~t~~

17 ~~(2) "Formula rate"~~ means ~~that rate of interest which is five~~
18 ~~percentage points (5%) above the equivalent bond yield of one year United~~
19 ~~States Treasury Bills offered by the United States Treasury at the last~~
20 ~~auction during the immediately preceding calendar quarter, calculated by~~
21 ~~rounding up to the nearest one fourth of one percentage point (0.25%) (unless~~
22 ~~the equivalent bond yield is already by a multiple of one fourth of one~~
23 ~~percentage point), and announced by the State Bank Commissioner (or such~~
24 ~~successor official who may be performing substantially the same duties) from~~
25 ~~information available from the Federal Reserve System of the United States.~~
26 ~~The calculation of the formula rate shall be made on or before the tenth~~
27 ~~(10th) day of each calendar quarter. The formula rate so calculated shall be~~
28 ~~effective on the eleventh (11th) day of the calendar quarter and shall~~
29 ~~continue in effect until the formula rate for the succeeding calendar quarter~~
30 ~~shall have been calculated and becomes effective. If, for any reason, the~~
31 ~~United States ceases to issue one year Treasury Bills, such calculation shall~~
32 ~~be made using a debt instrument of the United States having substantially the~~
33 ~~same general character and maturity. The calculation and announcement of the~~
34 ~~formula rate by the State Bank Commissioner shall be final.~~

35 (c) The provisions of this section shall be self-executing.
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