

ARKANSAS SENATE
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of Senate Bill No. 427

"THE REGIONAL MOBILITY AUTHORITY ACT."

Amendment No. 1 to Senate Bill No. 427.

Amend Senate Bill No. 427 as originally introduced:

Page 1, delete line 27, and substitute the following:

"27-70-302. Legislative intent.

It is the intent of the Arkansas General Assembly that revenues raised in furtherance to this subchapter are supplemental to and not a substitute for the state and federal transportation funds normally invested within the boundaries of the various regional mobility authorities created under this subchapter.

27-70-303. Definitions."

AND

Page 2, delete lines 1 through 7, and substitute the following:

"(4) "Governing body" means the quorum court of a county;

(5) "Member" means any county that is a participant in an authority;"

AND

Page 2, line 8, delete "(7)" and substitute "(6)"

AND

Page 2, line 12, delete "Survey;" and substitute "Surveys;"

AND

Page 2, line 15, delete "(8)" and substitute "(7)"

AND

Page 3, delete lines 2 through 9, and substitute the following:

"27-70-304. Regional Mobility Authority – Creation.



(a) A single county or any combination of contiguous counties may create an authority.

AND

Page 3, line 27, delete "27-70-304." and substitute "27-70-305."

AND

Page 4, line 6, delete "27-70-305." and substitute "27-70-306."

AND

Page 4, line 7, delete "(1)" entirely

AND

Page 4, line 10, delete "(A)" and substitute "(1)"

AND

Page 4, delete lines 13 through 19, and substitute the following:

"(2) The mayor or designated representative of the mayor of each city of the first class within each county that is a member of an authority."

AND

Page 5, line 5, delete "27-70-306." and substitute "27-70-307."

AND

Page 5, line 30, delete "and" entirely

AND

Page 5, delete lines 31 through 32, and substitute the following:

"(12) To impose and collect tolls, charges, and rates on surface transportation systems owned or operated by the authority;

(13) To request and receive from time to time from counties or cities within the boundaries of the authority, funds to finance and support the authority, including county or city turnback funds as set forth in § 27-70-206 and § 27-70-207 for the purpose of matching federal transportation funds;

(14) To receive property or funds by gift or donation for the finance and support of the authority; and

(15) To do all things necessary or appropriate to carry out the powers and duties expressly granted or imposed under this subchapter."

AND

Page 5, line 34, delete "27-70-307." and substitute "27-70-308."

AND

Page 6, line 8, delete "27-70-308." and substitute "27-70-309."

AND

Page 6, line 36, delete "27-70-309." and substitute "27-70-310."

AND

Page 7, line 24, delete "27-70-310." and substitute "27-70-311."

AND

Page 8, delete lines 2 through 29 and substitute the following:

"27-70-312. Finance.

(a) Each authority may be financed or supported by receiving from time to time as revenue the following:

(1) All or any part of any proceeds derived from the levy and collection of a sales tax by a county that is a member of an authority, pursuant to § 26-74-201 et seq., § 26-74-301 et seq., and § 26-74-401 et seq.;

(2) All or any part of any proceeds derived from the levy and collection of a sales tax by a city that is within the boundaries of an authority, pursuant to § 26-75-201 et seq. and § 26-75-301 et seq.;

(3) Proceeds from a motor vehicle tax imposed by a county that is a member of an authority pursuant to § 26-78-101 et seq.;

(4) Proceeds from tolls, charges, and rates imposed on surface transportation systems owned or operated by the authority; and

(5) State turnback funds pursuant to § 27-70-206 and § 27-70-207 received from counties and cities.

(b) Taxes imposed under subdivisions (a)(1) through (3) of this section shall be approved by voters pursuant to all applicable election laws."

AND

Page 8, delete lines 31 through 36

AND

Page 9, delete lines 1 through 6

AND

Page 9, delete lines 8 through 18, and substitute the following:

"27-70-313. Approval.

Any design or proposal for road or highway improvements must be approved by the city or county government or the State Highway Commission that owns the roadway prior to the commencement of project development.

27-70-314. Improvement financing with bonds.

(a) Whenever any authority created under this subchapter shall own or operate a surface transportation system and shall desire to construct improvements, betterments, and extensions thereto the authority may issue revenue bonds under the provisions of this subchapter to pay the costs.

(b)(1) Bonds issued in accordance with this subchapter shall be authorized by resolution of the board of directors of the authority.

(2) The bonds may be issued as registered bonds and may be exchangeable for bonds of another denomination or in another form.

(3) The bonds may:

(A) Be in such form and denominations;

(B) Have such date or dates;

(C) Be stated to mature at such time or times;

(D) Bear interest payable at such times and at such rate or rates;

(E) Be payable at such places within or without the state;

(F) Be subject to such terms of redemption in advance of maturity at such prices; and

(G) Contain such terms and conditions, all as the board of directors shall determine.

(4) The bonds shall have all of the qualities of and shall be deemed to be negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration as set forth in this subsection.

(5) The authorizing resolution may contain any other terms, covenants, and conditions that the board of directors deems reasonable and desirable, including, without limitation, those pertaining to:

(A) The maintenance of various funds and reserves;

(B) The nature and extent of any security for payment of the bonds;

(C) The custody and application of the proceeds of the

bonds;

(D) The collection and disposition of revenues;

(E) The investing for authorized purposes; and

(F) The rights, duties, and obligations of the public body and the holders and registered owners of the bonds.

(c)(1) The authorizing resolution may provide for the execution of a trust indenture between the authority and any financial institution within or without the State of Arkansas.

(2) The trust indenture may contain any terms, covenants, and conditions that are deemed desirable by the board of directors, including, without limitation, those pertaining to:

(A) The maintenance of various funds and reserves;

(B) The nature and extent of any security for the payment of the bonds;

(C) The custody and application of the proceeds of the

bonds;

(D) The collection and disposition of revenues;

(E) The investing and reinvesting of any moneys during periods not needed for authorized purposes; and

(F) The rights, duties, and obligations of the public body and the holders and registered owners of the bonds.

(d)(1) Any authorizing resolution and trust indenture relating to the

issuance and security of the bonds shall constitute a contract between the authority and holders and registered owners of the bonds.

(2) The contract and all covenants, agreements, and obligations therein shall be promptly performed in strict compliance with the terms and provisions of the contract, and the covenants, agreements, and obligations of the authority may be enforced by mandamus or other appropriate proceeding at law or in equity.

(e)(1) The resolution shall fix the minimum fees, fares, tolls, or charges to be collected prior to the payment of all of the bonds, with exceptions as may be provided in the resolution, and shall pledge the revenues derived from the authority's surface transportation system or any specified portion of the authority's surface transportation system for the purpose of paying the bonds and interest thereon.

(2) The rates to be charged for the use of the authority's surface transportation system shall be sufficient to provide for the payment of all principal of and interest on all bonds as and when due.

(f)(1) The proceeds derived from the sale of the bonds shall be used solely for the purpose of:

(A) Making betterments, improvements, and extensions to the surface transportation system owned and operated by the authority;

(B) Paying interest on the bonds during the period of construction of the betterments, improvements, and extensions;

(C) Establishing any necessary reserves for the bonds;

(D) Paying the costs of issuing the bonds; and

(E) Paying any other costs and expenditures of whatever nature incidental to the accomplishment of the betterments, improvements, and extensions.

(2) The terms "betterments", "improvements", and "extensions" include surface transportation systems as well as all other real and personal property, buildings, structures, or other improvements or facilities as may be necessary or advisable for the proper and efficient operation of the authority's surface transportation system.

(g)(1) Bonds issued under the provisions of this section shall be payable solely from revenues derived from the authority's surface transportation system.

(2) The bonds shall not in any event constitute an indebtedness of, nor pledge the faith and credit of, the State of Arkansas or the county or counties creating the authority within the meaning of any constitutional provisions or limitations.

(3) It shall be plainly stated on the face of each bond that it:

(A) Is issued under the provisions of this subchapter;

(B) Does not constitute an indebtedness of the State of Arkansas or the county or counties creating the authority within any constitutional provisions or limitations; and

(C) Is not backed by the full faith and credit of the State of Arkansas or the county or counties creating the authority.

(4) The bonds and the interest thereon shall be exempt from all state, county, and municipal taxation. This exemption includes income taxation and inheritance taxation.

(h)(1) The bonds may be sold in such manner, either at public or private sale, and upon such terms as the board of directors shall determine to be reasonable and expedient for effectuating the purposes of the

authority.

(2) The bonds may be sold at a price the board of directors may accept, including sale at discount.

(i)(1) The bonds shall be executed by manual or facsimile signature of the chair of the board of directors and the manual or facsimile signature of the secretary of the board of directors or any other officer of the authority authorized to do so by resolution of the board of directors.

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

(3) Each bond shall be impressed or imprinted with the seal of the public body.

27-70-315. Lien in favor of bondholders.

(a) The payment of the principal of bonds issued under this subchapter and the interest thereon may be secured by a lien on and security interest in the authority's surface transportation system or any specified portion of the authority's surface transportation system.

(b) It shall not be necessary to the perfection of the lien and pledge for such purposes that the trustee in connection with the bond issue or the holders of the bonds take possession of the collateral security.

(c) Subject to whatever restrictions may be contained in the resolution or indenture governing the bonds, any holder of bonds issued under the provisions of this subchapter may enforce either at law or in equity the mortgage lien and may compel by proper suit the performance of the duties of the officers of the issuing authority set forth in this subchapter.

(d) If there be default in the payment of the principal of or interest on any of the bonds, any court having jurisdiction in any proper action may appoint a receiver to administer the authority's surface transportation system or the specified portion of the authority's surface transportation system pledged to the payment of the bonds on behalf of the public body, with power to charge and collect rates sufficient to provide for the payment of the bonds and the interest thereon and for the payment of the operating expenses and to apply the income and revenues in conformity with this subchapter and the resolution or indenture providing for the issuance of the bonds.

27-70-316. Refunding bonds.

(a) Bonds may be issued for the purpose of refunding any obligations issued under this subchapter or otherwise. The refunding bonds may be combined with bonds issued under the provisions of § 27-70-314 into a single issue.

(b) When bonds are issued under this section for refunding purposes, the bonds may either be sold or delivered in exchange for the outstanding obligations. If sold, the proceeds may be either applied to the payment of the obligations refunded or deposited in escrow for the retirement thereof either at maturity or upon any authorized redemption date.

(c)(1) All bonds issued under this section shall in all respects be authorized, issued, and secured in the manner provided for other bonds issued under this subchapter and shall have all the attributes of such bonds.

(2) The resolution or indenture under which the refunding bonds are issued may provide that any of the refunding bonds shall have the same

priority of lien on the revenues pledged for their payment as was enjoyed by the obligations refunded thereby.

SECTION 2. Arkansas Code § 26-74-203(2), regarding definitions for sales and use tax for capital improvements, is amended to read as follows:

(2) "Capital improvements of a public nature" means:

- (A) Streets;
- (B) Roads;
- (C) Public parks;
- (D) Port facilities;
- (E) Tourism facilities;
- (F) Airport facilities;
- (G) Sewerage facilities;
- (H) Waterworks facilities;
- (I) Fire protection facilities;
- (J) Convention center facilities;
- (K) Courthouses;
- (L) Police facilities;
- (M) Public transit facilities;
- (N) Auditoriums;
- (O) Prisons;
- (P) Libraries;
- (Q) Hospital and nursing home facilities;
- (R) Solid waste facilities;
- (S) Sanitation facilities;
- (T) Bridges;
- (U) Electric facilities;
- (V) Hydroelectric facilities;
- (W) Facilities for the securing and developing of

industry;

- (X) Natural gas facilities;
- (Y) Parking facilities;
- (Z) Public housing facilities;
- (AA) Pollution control facilities;
- (BB) Public education facilities;
- (CC) Drainage facilities;
- (DD) Pedestrian facilities;
- (EE) Lakes;
- (FF) Dams; ~~and~~
- (GG) Waterways; and
- (HH) Regional mobility authority surface transportation

systems;

SECTION 3. Arkansas Code § 26-74-303(2), regarding definitions for sales tax for capital improvements, is amended to read as follows:

(2) "Capital improvements of a public nature" means:

- (A) Streets;
- (B) Roads;
- (C) Public parks;
- (D) Port facilities;
- (E) Tourism facilities;
- (F) Airport facilities;

(G) Sewerage facilities;
(H) Waterworks facilities;
(I) Fire protection facilities;
(J) Convention center facilities;
(K) Courthouses;
(L) Police facilities;
(M) Public transit facilities;
(N) Auditoriums;
(O) Prisons;
(P) Libraries;
(Q) Hospital and nursing home facilities;
(R) Solid waste facilities;
(S) Sanitation facilities;
(T) Bridges;
(U) Electric facilities;
(V) Hydroelectric facilities;
(W) Facilities for the securing and developing of
industry;
(X) Natural gas facilities;
(Y) Parking facilities;
(Z) Public housing facilities;
(AA) Pollution control facilities;
(BB) Public education facilities;
(CC) Drainage facilities;
(DD) Pedestrian facilities;
(EE) Lakes;
(FF) Dams; ~~and~~
(GG) Waterways; and
(HH) Regional mobility authority surface transportation
systems;

SECTION 4. Arkansas Code § 26-75-203(3), regarding definitions for sales tax for capital improvements, is amended to read as follows:

(3) "Capital improvements of a public nature" means:

- (A) Streets;
- (B) Roads;
- (C) Public parks;
- (D) Port facilities;
- (E) Tourism facilities;
- (F) Airport facilities;
- (G) Sewerage facilities;
- (H) Waterworks facilities;
- (I) Fire protection facilities;
- (J) Convention center facilities;
- (K) City halls;
- (L) Courthouses;
- (M) Police facilities;
- (N) Public transit facilities;
- (O) Auditoriums;
- (P) Prisons;
- (Q) Libraries;
- (R) Hospital and nursing home facilities;

(S) Solid waste facilities;
 (T) Sanitation facilities;
 (U) Bridges;
 (V) Electric facilities;
 (W) Hydroelectric facilities;
 (X) Facilities for the securing and developing of
 industry;
 (Y) Natural gas facilities;
 (Z) Parking facilities;
 (AA) Public housing facilities;
 (BB) Pollution control facilities;
 (CC) Public education facilities;
 (DD) Drainage facilities;
 (EE) Pedestrian facilities;
 (FF) Lakes;
 (GG) Dams; ~~and~~
 (HH) Waterways; and
(II) Regional mobility authority surface transportation
systems;

SECTION 5. Arkansas Code § 26-75-303(3), regarding definitions for sales tax for capital improvements, is amended to read as follows:

(3) "Capital improvements of a public nature" means:

(A) Streets;
 (B) Roads;
 (C) Public parks;
 (D) Port facilities;
 (E) Tourism facilities;
 (F) Airport facilities;
 (G) Sewerage facilities;
 (H) Waterworks facilities;
 (I) Fire protection facilities;
 (J) Convention center facilities;
 (K) City halls;
 (L) Courthouses;
 (M) Police facilities;
 (N) Public transit facilities;
 (O) Auditoriums;
 (P) Prisons;
 (Q) Libraries;
 (R) Hospital and nursing home facilities;
 (S) Solid waste facilities;
 (T) Sanitation facilities;
 (U) Bridges;
 (V) Electric facilities;
 (W) Hydroelectric facilities;
 (X) Facilities for the securing and developing of
 industry;
 (Y) Natural gas facilities;
 (Z) Parking facilities;
 (AA) Public housing facilities;
 (BB) Pollution control facilities;

- (CC) Public education facilities;
- (DD) Drainage facilities;
- (EE) Pedestrian facilities;
- (FF) Lakes;
- (GG) Dams; ~~and~~
- (HH) Waterways; and
- (II) Regional mobility authority surface transportation

systems;

SECTION 6. Arkansas Code Title 26, Chapter 78 is amended to add an additional section to read as follows:

26-78-120. Authority to levy a tax to finance or support a regional mobility authority.

(a)(1) In addition to all other taxes imposed under this subchapter for the privilege of using and operating vehicles, a county that is a member of a regional mobility authority may impose an additional tax upon the owners of motor vehicles for the privilege of operating vehicles upon the public roads, streets, and other public ways in the county.

(2) The revenues collected under this section shall be used only for the finance or support of the regional mobility authority.

(b) The tax shall be collected by the county tax collector pursuant to § 26-78-105 and § 26-78-106.

(c) Notwithstanding the provisions of § 26-78-104, the amount of the tax collected under this section shall be determined by the county quorum court and may exceed the maximum amount set forth in § 26-78-104.

SECTION 7. Arkansas Code § 27-70-207 is amended to read as follows:
27-70-207. Distribution to county funds.

(a)(1)(A) All highway revenues transferred to the County Aid Fund under this subchapter shall be paid over by the Treasurer of State to the treasurers of the respective counties of this state for credit to the county highway fund, there to be used for the maintenance, construction, and reconstruction of roads and bridges in the county highway system, provided, however, that no more than twenty percent (20%) of the revenues received by a county during any fiscal year may also be used for public transportation.

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

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

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

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

(2) The Treasurer of State shall on or before the tenth day next

following the last day of each calendar month make distribution of the revenues on the following basis:

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

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

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

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

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

(b)(1)(A) All highway revenues transferred to the Municipal Aid Fund under the provisions of this subchapter shall be paid over by the Treasurer of State to the treasurers of the respective cities of the first class, cities of the second class, and incorporated towns for credit to the street fund, there to be used for the maintenance, construction, and reconstruction of streets which are not continuations of state highways.

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

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

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

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

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

(2)(A) However, the department may use highway revenues transferred to the State Highway and Transportation Department Fund for the installation, upgrading, or improvement of any highway-railroad crossing safety device, railroad crossing traffic control device, warning lights, crossing gates, or other railroad crossing safety devices at public highway railroad crossings and for the construction, reconstruction, and maintenance

of any highway-railroad crossing, including the construction or installation of any underpasses or overpasses.

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

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

The Amendment was read the first time, rules suspended and read the second time and _____
By: Senator Steele
JSE/VLH - 03-30-2005 09:49
JSE553 _____ Secretary