

State of Arkansas

76th General Assembly

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HOUSE BILL 1222

By: Representatives Thicksten, Mahony and J. Miller AS ENGROSSED 2/3/87

AS ENGROSSED 3/19/87

"AN ACT PROVIDING THE PROCEDURES FOR THE ISSUANCE OF REVENUE BONDS BY A GOVERNMENTAL UNIT; AND FOR OTHER PURPOSES."

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

SECTION 1. TITLE. This Act shall be referred to and may be cited as the "Revenue Bond Act of 1987".

SECTION 2. LEGISLATIVE INTENT. The people of the State of Arkansas, by the adoption of Amendment No. 65 to the Constitution of the State of Arkansas have expressed their intention to provide governmental units expanded power and authority with respect to the creation of bonded indebtedness for capital improvements of a public nature, facilities for the securing and developing of industry or agriculture and such other purposes as defined and prescribed by the General Assembly.

SECTION 3. DEFINITIONS. Whenever used or referred to in this Act unless a different meaning clearly appears from the context:

(A) "Bonds" or "revenue bonds" means bonds issued pursuant to an Act of the General Assembly under the authority of Amendment No. 65, and means all bonds or other obligations the repayment of which are secured by rents, loan payments, user fees, charges, or other revenues derived from any special fund or source other than assessments for local improvements and taxes.

(B) "Capital improvements of a public nature" or "capital improvements" for the purpose of this Act means, whether obtained by purchase, lease, construction, reconstruction, restoration, improvement, alteration, repair or other means any physical public betterment or improvement or any preliminary plans, studies or surveys relative thereto; lands or rights in land (including, without limitations, leases, air rights, easements, rights-of-way or

licenses); and any furnishings, machinery, vehicles, apparatus or equipment for any public betterment or improvement which shall include, without limiting the generality of the foregoing definition, the following: any and all facilities for State agencies, city or town halls, courthouses and other administrative, executive or other public offices; court facilities; jails; firefighting facilities and apparatus; public health facilities and apparatus; hospitals, nursing homes and similar extended care facilities; residential housing for low and moderate income, elderly or handicapped persons and families; parking garages or other facilities; educational and training facilities for public employees; auditoriums, stadiums, convention halls and similar public meeting or entertainment facilities; ambulance and other emergency medical service facilities; civil defense facilities; air and water pollution control facilities; drainage and flood control facilities; storm sewers; arts and crafts centers; museums; libraries; public parks, playgrounds or other public open space; marinas; swimming pools, tennis courts, golf courses, camping facilities, gymnasiums and other recreational facilities; tourist information and assistance centers; historical, cultural, natural, or folklore sites; fair and exhibition facilities; streets and street lighting, alleys, sidewalks, roads, bridges, and viaducts; airports, passenger or freight terminals, hangars and related facilities; barge terminals, ports, harbors, ferries, wharves, docks and similar marine services; slack water harbors, water resource facilities, waterfront development facilities, and navigation facilities; public transportation facilities; public water systems and related transmission and distribution facilities, storage facilities, wells, impounding reservoirs, treatment plants, lakes, dams, watercourses, and water rights; sewage collection systems and treatment plants; maintenance and storage buildings and facilities; police and sheriff stations, apparatus and training facilities; incinerators; garbage and solid waste disposal, compacting and recycling facilities of every kind; gas and electric generation, transmission and distribution systems, including without limiting the generality of the foregoing: hydroelectric generating facilities, dams, powerhouses and related facilities; and social and rehabilitative facilities.

(C) "Industrial enterprise" shall mean and include facilities for manufacturing, producing, processing, assembling, repairing, extracting, warehousing, distributing, communications, computer services, transportation, corporate and management offices and services provided in connection with any

of the foregoing, in isolation or in any combination, that involve the creation of new or additional employment or the retention of existing employment, and industrial parks; provided, however that a shopping center, retail store or shop or other similar undertaking which is solely or predominantly of a commercial retail nature shall not be an industrial enterprise for the purposes of this Act.

(D) "Governmental unit" means (i) the State of Arkansas or any agency or other instrumentality of the State other than an institution of higher education, and (ii) any county, municipality, or other political subdivision of the State of Arkansas, or any agency or instrumentality thereof.

(E) "Governing body" means (i) with respect to any governmental unit described in subsection (D) (i) above, the Governor of the State of Arkansas, and, (ii) with respect to any governmental unit described in subsection (D) (ii) above, the county court of a county or the council, board of directors, board of commissioners, or similar elected body of a city or town.

SECTION 4. Whenever a governmental unit shall determine the need to issue revenue bonds for capital improvements of a public nature or industrial enterprise, the governing body shall authorize the issuance of such bonds by proclamation, order or ordinance clearly stating the purpose or purposes for which the bonds are to be issued and the principal amount of bonds applicable to each purpose. Only upon such proclamation, order or ordinance of the governing body shall the governmental unit be authorized to issue such bonds.

SECTION 5. No proclamation, order or ordinance prescribed by Section 4 of this Act shall be entered by the governing body until the governing body, the governmental unit or the delegate or either shall have conducted a public hearing in the locality to be affected by the issuance of the bonds. At least fourteen (14) days before the date set for such public hearing, notice thereof shall be published one (1) time in a newspaper or general circulation in the locality to be affected. Such notice shall contain a general description of the purpose or purposes for which the bonds are to be issued, the principal amount thereof, and shall state the date, time and place of such public hearing.

SECTION 6. SEVERABILITY. Notwithstanding any other evidence of legislative intent, it is hereby declared that the provisions of this Act are

severable and if any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SECTION 7. SUPPLEMENTAL NATURE OF THIS ACT. It is the specific intent of this Act that the provisions hereof are procedural only and are supplemental to other Constitutional or statutory provisions now existing or hereafter adopted which may authorize the issuance of revenue bonds for the financing of capital improvements. Nothing contained in this Act shall be deemed to be a restriction or limitation upon alternative means of financing previously available or hereafter made available to municipalities or counties for the purposes herein set forth.

SECTION 8. LIBERAL CONSTRUCTION. This Act shall be construed liberally to effectuate the legislative intent and the purposes of this Act as complete and independent authority for the performance of each and every act and thing herein authorized and all powers herein granted shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

/s/ Edward Thicksten et al

(D) The bonds may be sold at public or private sale for such price, including, without limitation, sale at a discount, and in such manner as the governing body of the issuer may determine.

(E) The bonds shall be executed in the manner provided by the Registered Public Obligations Act of Arkansas as the same may be amended.

SECTION 8. REFUNDING BONDS. Bonds may be issued under this Act to refund any outstanding bonds issued pursuant to this Act or to refund any outstanding bonds issued pursuant to any other law for the purpose of financing capital improvements. Such refunding bonds may be either sold for cash or delivered in exchange for the outstanding obligations. If sold for cash, the proceeds may be either applied to the payment of the obligations refunded or deposited in irrevocable trust for the retirement thereof either at maturity or on an authorized redemption date. Refunding bonds shall in all respects be authorized, issued and secured in the manner provided herein. The ordinance or resolution under which such refunding bonds are issued may provide that any refunding bonds shall have the same priority of lien on project revenues as originally pledged for payment of the obligation refunded thereby.

SECTION 9. TAX EXEMPTION. Bonds issued under the provisions of this Act and the income thereon shall be exempt from all state, county and municipal taxes, including, without limitation, all income, property and inheritance taxes.

SECTION 10. BONDS ARE NEGOTIABLE INSTRUMENTS. All bonds issued under the provisions of this Act shall be and are hereby declared to be negotiable instruments within the meaning of the negotiable instruments law of this State.

SECTION 11. NON-LIABILITY. No officer, employee or member of the governing body of the issuer shall be personally liable on any bonds issued under the provisions of this Act or for any damages sustained by any person in connection with any contracts entered into to carry out the purposes and intent of this Act unless such person shall have acted with a corrupt intent.

SECTION 12. All rents, user fees, charges, or other revenues pledged for payment of the bond indebtedness shall be deposited in a bank or banks by the treasurer of the issuing governmental unit into a trust fund to be held apart from the general revenues of the governmental unit and the fund shall be administered by the treasurer in addition to other duties of the treasurer.

SECTION 13. SEVERABILITY. Notwithstanding any other evidence of legislative intent, it is hereby declared that the provisions of this Act are severable and if any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SECTION 14. SUPPLEMENTAL NATURE OF THIS ACT. It is the specific intent of this Act that the provisions hereof are supplemental to other Constitutional or statutory provisions now existing or hereafter adopted which may provide for the financing of capital improvements. Nothing contained in this Act shall be deemed to be a restriction or limitation upon alternative means of financing previously available or hereafter made available to municipalities or counties for the purposes herein set forth.

SECTION 15. LIBERAL CONSTRUCTION. This Act shall be construed liberally to effectuate the legislative intent and the purposes of this Act as complete and independent authority for the performance of each and every act and thing herein authorized and all powers herein granted shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

