

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1421

By: Representatives McGinnis, Calhoun and Schexnayder

"AN ACT TO AMEND ACT NO. 439 OF 1961, AS AMENDED, TO AUTHORIZE METROPOLITAN PORT AUTHORITIES TO APPLY A MAJOR PORTION OF THE PROCEEDS OF AN ISSUE OF REVENUE BONDS TO THE ACQUISITION OF AN INVESTMENT CONTRACT OR CONTRACTS FOR THE PURPOSE OF SECURING SUCH REVENUE BONDS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 9 (a) of Act 439 of 1961, as amended, the same being Arkansas Statutes 21-1509 (a), is hereby amended to read as follows:

"(a) Port authorities are hereby authorized and empowered to enter into the necessary contracts for the borrowing of funds, pursuant to the provisions of this Act, which they may determine will be required to carry out the powers of port authorities and to carry out the purposes of this Act. In this regard, port authorities are authorized to issue bonds and to use the proceeds thereof for the carrying out of the powers of port authorities and the accomplishment of the purposes of this Act, either alone or together with other available funds and revenues. Bonds may be issued from time to time for the acquisition, construction and equipment of facilities, and the reconstructing, extending, improving, equipping of re-equipping of facilities. There may be separate issues involving different facilities and there may be successive issues involving the same facilities. Each issue shall be in the principal amount sufficient, together with other available funds, for the acquisition, construction and equipping of facilities or the reconstruction, extension, improvement, equipping or re-equipping of facilities, all costs of issuing bonds, the amount necessary for a reserve, if deemed desirable by the port authority issuing the bonds, the amount necessary to provide for debt service on the bonds until revenues for the payment thereof are available, and

any cost of whatever nature necessarily incidental thereto. Any port authority is also authorized to issue revenue bonds under the provisions of this Act for the purpose of applying a major portion of the proceeds of such revenue bonds to the acquisition of an investment contract or contracts at a rate or rates of interest at least sufficient to provide for, alone or with other revenues that may be pledged, principal, premium, if any, and interest on such revenue bonds, as due, in consideration of the receipt of a portion of such proceeds for application by the port authority to one or more of the purposes authorized by this Act."

SECTION 2. Section 10 of Act 439 of 1961, as amended, the same being Arkansas Statute 21-1510, is hereby amended to read as follows:

"Section 10. The principal of, premium, if any, or, interest on, and trustee's and paying agent's fees in connection with each issue of bonds issued by a port authority under this Act shall be secured by a pledge of and shall be payable from the revenues derived from the lands, buildings, and/or facilities acquired, constructed, reconstructed, extended, improved or equipped in whole or in part with the proceeds of the bonds of the particular issue. In addition, the port authority issuing the bonds is authorized to pledge to and use for the payment of the principal of, premium, if any, or, interest on, and trustee's and paying agent's fees in connection with a particular issue of bonds, revenues derived from other lands, buildings and/or facilities owned or held by the port authority and/or an investment contract or contracts entered into by the port authority for the purpose of paying and securing such bonds, and any revenues to be derived from such contract or contracts. The port authority issuing the bonds may, by the resolution and/or indenture, among other things, control the subsequent issuance of additional bonds and the priority, between and among issues, of the pledge of revenue and of the mortgage lien, provide for the use of surplus pledged revenues, and provide for the creation of special trust funds to be maintained in such banks as the port authority issuing the bonds may select. The moneys in such special trust funds shall be secured and disbursed as determined by the port authority. Such special trust funds may, without limitation, include a bond fund, a depreciation fund, an operation and maintenance fund, and such reserve funds as the port authority issuing the bonds may determine to be in the best interests of the port authority in accomplishing the purposes of this

Act. It shall be plainly stated on the face of each bond issued under this Act that the same has been issued under the provisions of this Act, and bonds issued hereunder shall be general or special obligations only of the port authority issuing the bonds, and in no event shall they constitute an indebtedness for which the faith and credit of the State of Arkansas or the faith and credit of any municipality or county or other political subdivision of the State of Arkansas or any of their revenues are pledged. No member of any port authority shall be personally liable on the bonds, or for any damages sustained by anyone in connection with the contracts with the holders and registered owners of the bonds or the construction, reconstruction, extension, improvement or equipping of buildings and/or facilities unless such member shall have acted with a corrupt intent. All covenants and agreements entered into and made by a port authority shall be binding in all respects on the port authority and the members thereof and their successors from time to time in accordance with the terms of such covenants and agreements, and all of the provisions thereof shall be enforceable by mandamus or other appropriate proceedings at law or in equity. This Act shall be the sole authority required for the issuance of bonds hereunder and for the exercise of the powers of port authorities established under this Act, and it shall not be necessary for the municipalities and counties represented on the boards of directors of port authorities to take any action authorizing or approving the issuance of bonds or the exercise of any other powers by port authorities."

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. It has been found and it is hereby declared that at least one port authority project pending in this State can be financed only upon the terms expressly permitted by this Act, and that such project is essential to the continued development of the economy of a substantial part of the State. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace and safety, shall be in force upon its passage and approval.

