

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1906

By: Representative Mahony

"AN ACT TO AMEND SECTION 5 OF ACT NO. 173 OF 1967, AS AMENDED (ARK. STATS. 9-563), TO ESTABLISH PROCEDURES FOR PRELIMINARY STAFF AND COMMITTEE REVIEW OF APPLICATIONS FILED WITH THE ARKANSAS INDUSTRIAL DEVELOPMENT COMMISSION BY COUNTIES OR MUNICIPALITIES UNDER THE INDUSTRIAL REVENUE BOND GUARANTY LAW, AND TO PROVIDE FOR CONFIDENTIALITY OF SUCH APPLICATIONS AND THE PRELIMINARY REVIEW THEREOF; AND FOR OTHER PURPOSES."

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

SECTION 1. That Section 5 of Act 173 of 1967, as amended, the same being Section 9-563 of the Arkansas Statutes, is hereby amended to read as follows:

"Section 5.(a) Each county or municipality requesting a guaranty here under shall submit to the Arkansas Industrial Development Commission supporting documents, instruments, contractor's costs or estimated costs of improvements, land costs, and other evidence showing conformity with Act No. 9 as hereinabove identified, and a one-time premium payment to the Revenue Bond Guaranty Reserve Account in an amount equal to either (i) three percent (3%) of the amount of the total principal and interest requirements from date to maturity of the Act No. 9 bonds guaranteed or (ii) five percent (5%) of the principal amount of the Act No. 9 bonds guaranteed, whichever is the larger amount. Such premium payment may be collected by the county or municipality from the lessee of the industrial project involved.

(b) All applications filed with the Arkansas Industrial Development Commission under the provisions of this Act shall first be reviewed by the appropriate designated staff officials of the Arkansas Industrial Development Commission and/or by a committee consisting of members of the Arkansas Industrial Development Commission for preliminary review and recommendation

prior to being submitted for consideration by the Arkansas Industrial Development Commission. All applications submitted to the Arkansas Industrial Development Commission, and all supporting documents, instruments, proposed contracts, estimated costs, or other evidence submitted therewith shall be confidential and shall not be open to public review except as provided herein, and all staff meetings and/or meetings of the review committee of members of the Arkansas Industrial Development Commission established for the purpose of giving preliminary review of such applications, shall be confidential and shall not be open to the public. Upon conclusion of the preliminary review of each request for a guaranty hereunder, if the request for guaranty is submitted to the Arkansas Industrial Development Commission with a recommendation that it be approved, the application and all supporting documents, including the findings and the recommendations resulting from the staff and/or review committee thereof, shall be an open public record available for inspection during all regular business hours. In the event that an application from a municipality or county requesting a guaranty hereunder is not recommended for approval by the Arkansas Industrial Development Commission hereunder, that application and all supporting documents, including all findings and recommendations in regard thereto by the staff and/or review committee, shall continue to be confidential and not open to public inspection. The municipality or county shall be notified in writing of any staff and/or review committee determination that the application is not being submitted to the Arkansas Industrial Development Commission with a recommendation that it be approved, which notice shall advise the municipality or county that the application will be kept confidential unless the municipality or county shall, within thirty days from the date of receipt of the written notice, file a petition with the Arkansas Industrial Development Commission requesting that the Arkansas Industrial Development Commission hold a hearing in regard to the application, in which event the application and all supporting documents shall become public information available for public inspection.

The membership of a review committee, when acting in that capacity, shall never be considered to constitute a quorum of the Arkansas Industrial Development Commission for the purpose of approving an application for guaranty hereunder.

No provision of this Section shall be interpreted to create any private right against any member of the Arkansas Industrial Development Commission or

any member of the staff thereof."

SECTION 2. REPEALING CLAUSE. In the case of any conflict between the provisions of this Act and any other law pertaining to meetings of or the disclosure of information by public agencies, the provisions of this Act shall control. All laws and parts of laws in conflict with this Act are hereby repealed to the extent of such conflict.

SECTION 3. It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1183 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

