

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1921

By: Representative Mahony

"AN ACT TO AUTHORIZE AND ESTABLISH THE PROCEDURE FOR THE  
CREATION OF IMPROVEMENT DISTRICTS FOR THE PURPOSE OF  
PROVIDING AMBULANCE SERVICES TO RESIDENTS OF THE DISTRICT."

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

SECTION 1. It is the purpose and intent of this Act to authorize the establishment and to prescribe the procedure for the establishment of improvement districts for the purpose of providing ambulance services to residents of the districts and to prescribe the procedure for assessing the property in the district to finance such services.

SECTION 2. Upon the petition of a majority in value and area of the owners of real property in any designated area, it shall be the duty of the county court to lay off into an improvement district the territory described in the petition, and to name three [3] commissioners of the district who are resident property holders in said district, all of whom shall be citizens of integrity and good business ability; the purpose of such district shall be the acquiring of appropriate vehicles and equipment for and maintaining and operating ambulance services for the use and benefit of the property holders within said district, and it is realized that said ambulance services would be a benefit to all the real property located in the district. The petition for and the court order creating the district shall designate the maximum amount that may be expended for vehicles, equipment, personal services and other expenses of providing ambulance services in the district during any one year.

SECTION 3. It shall be the duty of the county clerk to give notice of the filing of such petition, describing the territory to be affected and calling upon all persons who wish to be heard upon the question of the

establishment of the district to appear before the county court on a day to be fixed in the notice. Said notice shall be published once a week for two [2] consecutive weeks in some newspaper published and having a bonafide circulation in the county where the lands affected are situated. This notice may be in the following form:

"Notice is hereby given that a petition has been filed praying for the formation of an improvement district for the purpose of \_\_\_\_\_. Said petition is on file at the office of the County Clerk of \_\_\_\_\_ County, where it is open to inspection. All persons desiring to be heard on the question of formation of said district will be heard by the County Court at \_\_\_\_\_. M., on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. The following lands are affected: (Here give description of lands affected; the same may be described by using the largest subdivisions possible).

\_\_\_\_\_  
County Clerk

"

Any number of identical petitions may be circulated and identical petitions with identical names may be filed at any time until the county court acts. On the day named in the notice it shall be the duty of the county court to meet and to hear said petition and to determine whether those signing the same constitute such majority in value and area, and if the county court determines that a majority in value and area have petitioned for the establishment of the district, it shall enter its judgment laying off the district as defined in the petition and appointing the commissioners who shall serve without compensation. Said commissioners shall be appointed to serve for terms of one [1], two [2] and three [3] years, respectively, and the length of the term of each commissioner shall be stated in the order of the county court making such appointment. If it finds that a majority has not signed said petition, it shall enter its order denying the same. As the terms of the commissioners expire, the county court shall appoint successors to hold office for a term of three [3] years. The county court may reappoint a commissioner whose term is expiring. Any petitioner or any opponents of the petition may appeal from the judgment of the county court creating or refusing to create the district, but such appeal must be taken and perfected within 30

days. If no appeal is taken within that time, the judgment creating the district shall be final and conclusive upon all persons. The commissioners are hereby authorized to acquire such vehicles, equipment and other facilities and to employ such personnel as it deems necessary to provide adequate ambulance services to the residents of the district. The purpose of which the district is to be formed shall be stated in the petition, and the judgment establishing the district shall give it a name which shall be descriptive of the purpose, and it shall also receive a number to prevent its being confused with other districts for similar purposes.

SECTION 4. Within 30 days after their appointment, the commissioners shall take and file their oaths of office with the county clerk, in which they shall swear to support the Constitution of the United States and the Constitution of the State of Arkansas to faithfully discharge their duties as commissioners, and that they will not be interested directly or indirectly in any contract let by the board. Any commissioner failing to file such oath within said period shall be deemed to have declined the office, and the county court shall appoint some resident property holder as his successor who shall qualify in like manner within a like time. In case of a vacancy on the board of commissioners after said commissioners have organized, the county court shall appoint some resident property holder as his successor, who shall qualify in like manner and within a like time. The commissioners shall serve until their successors are appointed and qualified. Said board shall organize by electing one [1] of its members chairman, and it shall select a secretary. It may also employ such personnel as it deems best, and fix their compensation. Each district shall be a body corporate, with power to sue and be sued, and it shall have a corporate seal. The board shall also select some solvent bank or trust company as the depository of its funds, exacting of said depository a bond in an amount equal to the amount of money likely to come into its hands.

SECTION 5. Upon the qualification of the commissioners, they shall form plans for the providing of ambulance improvements they intend to make and the property and equipment they intend to purchase. They shall thereupon appoint three [3] assessors to assess the annual benefits which will accrue to the real property within the district from the providing of ambulance services and

shall fix their compensation. Such assessors shall take an oath that they will well and truly assess all annual benefits that will accrue to the land-owners of the district by the providing of ambulance services. The assessors shall thereupon proceed to assess the annual benefits to the lands within the district, and shall inscribe in a book each tract of land and shall extend opposite each tract of land the amount of annual benefits that will accrue each year to said land by reason of said services. In case of any reassessment, the same shall be advertised and equalized in the same manner as provided herein for making the original assessment; an owners of all property whose assessment has been raised shall have the right to be heard and to appeal from the decision of the assessors, as in the original assessment. The assessors shall place opposite each tract the name of the supposed owner, as shown by the last county assessment, but a mistake in the name shall not void the assessment, and the assessors shall correct errors which occur in the county assessment list. The commissioners shall have the authority to fill any vacancy in the position of assessor and said assessors shall hold their office at the pleasure of the board.

SECTION 6. The assessment shall be filed with the county clerk of the county and the secretary of the board shall thereupon give notice of its filing by publication once a week for two [2] weeks in a newspaper published and having a bonafide circulation in the county. This notice may be in the following form:

"Notice is hereby given that the assessment of annual benefits of \_\_\_\_\_ District Number \_\_\_\_\_ has been filed in the office of the County Clerk of \_\_\_\_\_ County, where it is open for inspection. All persons wishing to be heard on said assessment will be heard by the assessors of said district in the office of the County Clerk between the hours of 1 P.M. and 4 P.M., as \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_."

On the day named by said notice, it shall be the duty of the assessors to meet at the place named as a board of assessors, and to hear all complaints against said assessment and to equalize and adjust the same and their determination shall be final, unless suit is brought in the chancery court within

30 days to review it. If the board is unable to hear all complaints between the hours designated, they shall adjourn over from day to day until all parties have been heard.

SECTION 7. The Commissioners shall once a year order the assessors to reassess the annual benefits of the district, provided there have been improvements made or improvements destroyed or removed from one (1) or more tracts of land in the district, making it necessary to have the annual benefits revised. Whereupon, it shall be the duty of the assessors to reassess the benefits of said district and the annual benefits assessed may be raised or lowered as conditions of the property change; provided that the annual benefits extended against any piece of property shall not be increased from the annual benefits originally extended unless improvements are made to the land that will be benefited by the ambulance services provided by the district.

SECTION 8. The board of commissioners of the district shall at the time that the annual benefit assessment is equalized, or at any time thereafter, enter upon its records an order which shall have all the force of a judgement, providing that there shall be assessed upon the real property of the district and collected annually, the annual benefit assessment set opposite each tract of land described, which annual benefit is to be paid by the real property in the district, payable as provided in such order. The uncollected annual benefit assessment as extended shall be a lien upon the real property in the district against which it is extended from the time the same is levied, and shall be entitled to preference over all demands, executions, encumbrances or liens whensoever created, and shall continue until such assessment, with any penalty and costs that may accrue thereon, shall have been paid. Notice of the amount due shall be given to each landowner, who fails to pay his assessment on or before the third Monday in April, at his last known address by mail. The remedy against such annual benefit assessment shall be by suit in chancery, and such suits must be brought within 30 days from the time that said notice is mailed and on such appeal, the presumption shall be in favor of the legality of the annual benefit assessment.

SECTION 9. The original assessment record or any reassessment record, shall be filed with the county clerk, whose duty it shall be to extend said

annual benefit assessment annually upon the tax books of said county until the district is dissolved. It shall then be the duty of the collector to collect each year the annual benefit assessment extended upon said book along with the other taxes, and said taxes shall by the collector be paid over to the depository of the district at the same time that he pays over the county funds. If there is any change in the annual benefits assessed, a certified copy of the revised assessment shall be filed with the county clerk, who shall extend the same annually upon the tax books until a new assessment is made, which shall be extended upon the tax books in like manner; and the power to reassess and extend the assessment upon the tax books shall be a continuing power as long as the district continues to exist; and it shall be the duty of the county collector to collect the taxes so extended. In lieu of filing the reassessment, the assessors may make the changes in the assessments in red ink on the assessment already on file, or the assessment record may contain many columns, at the head of which the year shall be designated and in said column the new annual benefits may be shown in red ink, which will indicate any increase or decrease in the original annual benefits extended. When such change is made, a red ink line shall be drawn through the figures showing the original annual benefits extended.

SECTION 10. All annual benefits extended and levied under the terms of this act shall be payable between the third Monday in February and the third Monday in April of each year, and if any annual benefit assessments levied by the board in pursuance to this act are not paid at maturity the collector shall not embrace such assessments in the taxes for which he shall sell the lands, but he shall report such delinquencies to the board of commissioners of said district, who shall add the amount of the annual benefit assessment a penalty of ten percent (10%); and said board of commissioners shall enforce the collection by chancery proceedings in the chancery court of the county in the manner provided by Act 279, Arkansas Acts of 1909, Sections 23 and 24; but the owner of property sold for taxes thereunder shall have the right to redeem it at any time within two (2) years from the time when his lands have been stricken off the commissioner making sale.

SECTION 11. The depository shall pay out no money except upon the order of the board and upon a voucher check signed by at least two (2) of the com-

missioners. Every voucher check shall state upon its face to whom payable, the amount and the purpose for which it is used. All voucher checks shall be dated and shall be numbered consecutively in a record to be kept by the board of the number and amount of each. All proceeding and transactions of board shall be a matter of public record and shall be open to the inspection of the public. The board of commissioners shall file with the county clerk in January of each year a certified itemized report showing all moneys received, the date of receipt, and the source from which received; and all moneys paid out, date paid, to whom paid, and for what purpose, during the preceding year, together with an itemized list of all delinquent taxes, showing owner, description of property, years for which same is delinquent, and amount of total delinquency.

SECTION 12. In order to acquire equipment and to do the work the board may issue the negotiable notes of the district signed by the members of the board and bearing a rate of interest not exceeding six percent (6%) per annum, and may pledge and mortgage a portion of future annual benefit assessments as collected for the payment thereof. Any petitions for the creation of a district and the court order creating same, shall limit the total amount of notes that may be outstanding at any one time to twenty thousand dollars (\$20,000.00). The district shall have no authority to issue bonds.

SECTION 13. No member of said board of improvement shall be liable for any damages unless it shall be made to appear that he had acted with a corrupt and malicious intent.

SECTION 14. The district shall continue to exist for the purpose of operating and maintaining ambulance services until such time as the owners of a two-thirds majority in value of the real property within the district petition the county court for dissolution of the district. Publication of the petition for dissolution, as provided for in creating the district, shall be made, and if the county court finds that a two-thirds majority in value of the real property in the district have petitioned for the dissolving of the district, the same shall be dissolved; and parties for or against the dissolution shall have the same right of appeal as in the creation of the district.

SECTION 15. All cases involving the validity of such districts or the annual benefit assessments and all suits to foreclose the lien of annual benefit assessments, shall be deemed matters of public interest, and shall be advanced and disposed of at the earliest possible moment; and all appeals therefrom must be taken and perfected within 30 days.

SECTION 16. The collector of taxes in any county, in collecting annual benefits assessments in any district created under this act, shall deduct one percent (1%) of the annual benefit assessments or taxes so collected, and retain one-half (1/2) of said one percent (1%) as the fee of the collector for collecting said assessments or taxes and pay over the remaining one-half (1/2) of one percent (1%) of such assessments or taxes collected to the county clerk of said county as the fee of the county clerk for extending on the assessment records of the county said annual benefit assessments or taxes.

SECTION 17. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 18. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 19. 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 1221 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 safety, shall be in full force and effect from and after its passage and approval.



