

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Senator Malone

SENATE BILL 365

"THE ARKANSAS COMPREHENSIVE IMPROVEMENT DISTRICT REVISION ACT
OF 1987"

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

SECTION 1. TITLE; INTENT. (a) This Act shall be known and cited as the Arkansas Comprehensive Improvement District Revision Act of 1987.

(b) It is the purpose and intent of this Act to authorize the establishment and to prescribe the procedure for the establishment and management of improvement districts, to prescribe the procedure for assessing the property in the district to finance the services, and to prescribe the procedure for the exercise of powers by the district. It is hereby found and determined that the present law governing improvement districts in Arkansas is confusing to the public, in that the numerous applicable statutes governing various types of improvement districts enacted over the past one hundred years lack a comprehensive and unified framework, resulting in duplicative and contradictory procedures for creating and governing such districts.

It is hereby found and determined that the present law governing improvement districts in the State of Arkansas is in need of revision and that the passage of this Act is necessary to provide the people of Arkansas with a comprehensive and unified procedure governing the practices of improvement districts.

SECTION 2. DEFINITIONS. (a) As used in this Act, the following terms shall have the meanings set forth below:

"Assessed Value" - The assessed value of each parcel of Land or Real Property lying within the boundaries of a District or proposed District, as shown on the books of the County Assessor of the applicable county at the time the District is or was formed.

"Board" - Any board of commissioners of a District existing on the effective date of this Act, and any board of commissioners appointed pursuant to this Act.

"Costs of Improvements" - Any cost related to the construction of the Improvements, including, but not limited to: acquisition of land, easements and rights-of-way, whether by purchase, lease or by exercise of eminent domain; building, locating and construction of any Improvements; planning; designing; engineering; inspection; assessment; appraisal; legal fees; construction period interest; connection fees; administration fees; loan acquisition costs; bond issuance costs; and related costs.

"District" - Any improvement district created pursuant to or subject to the provisions of, Title 20 of the Arkansas Statutes Annotated existing on the effective date of this Act, and any improvement district created under the provisions of this Act. Provided, however, District shall not mean a central business improvement district organized pursuant to the provisions of Act 162 of 1973, as amended, a property owners improvement district organized pursuant to Act 613 of 1983, as amended, or any improvement district formed under a special act or acts of the General Assembly of the State of Arkansas for the purpose of furnishing water, sewer or electric services, or any combination thereof, to consumers within the corporate limits of a municipality or its vicinity.

"Governing Body" - Any City Council, Town Council, municipal Board of Directors, County Court or Circuit Court which has created a District governed by this Act, or which hereafter creates a District pursuant to the provisions of this Act.

"Improvement" or "Improvements" - Any lands, structures, improvements, fixtures and appurtenant equipment acquired, constructed, improved and/or equipped by a District.

"Land" or "Real Property" - Land, and generally whatever is erected upon or affixed to land, and rights issuing out of, annexed to, and exercisable within or about land, including tenements, hereditaments, easements or rights-of-way, which are included within the boundaries of a District or proposed District, whether or not subject to real property taxes under the laws of the State of Arkansas. Provided, however, "Land" or "Real Property", shall not include property owned by the United States of America or utility lines, pumping stations and substations and appurtenances thereto whether above or

below ground level.

"Owner" - Any person who is the owner of record title as reflected by the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of the pertinent county of Real Property in any territory included or proposed to be included in a District. Provided, however, Owner shall not mean a Person who has contractual rights, whether recorded or unrecorded, which are not evidenced by a recorded deed.

"Person" - Any individual, corporation, partnership, association, trust or estate, firm, or other entity recognized by law as having capacity to own real property in the State of Arkansas. As used herein, "Person" shall also mean a husband and wife, or any group of individuals owning property jointly, and the signature of any one of such individuals shall be binding upon the entire joint ownership.

(b) It is understood that whenever the words "tax" or "taxes" are used in this Act in connection with the levy of special assessment collections by a District, such terms are used for convenience only and do not reflect that such levies are a tax under the laws of the State of Arkansas, but rather that such levies are the recoupment by a District of the general and special benefits conferred upon the property in the District by virtue of the construction of the District's Improvements.

SECTION 3. PURPOSES FOR WHICH DISTRICTS MAY BE ORGANIZED. Improvement districts may be organized for public purposes, including, but not limited to the following:

(a) establishing, acquiring, constructing, maintaining and operating transportation facilities, including grading, draining, graveling, paving, curbing and guttering roads, highways, viaducts, bridges and streets, acquiring any required rights-of-way, and marine services including barge terminals, ports, harbors, ferries, wharves and docks;

(b) establishing and operating public utilities, including acquiring, constructing, maintaining and operating water systems, wastewater treatment systems, sewer systems, gas systems and similar utilities;

(c) acquiring, constructing, maintaining and operating recreational facilities;

(d) establishing, constructing, acquiring, equipping, maintaining and operating fire departments or fire protection facilities;

(e) acquiring, building and maintaining a cemetery;

(f) acquiring, constructing, maintaining and operating public parking facilities;

(g) establishing, acquiring, constructing, and equipping, maintaining and operating ambulance systems or public transit systems;

(h) establishing, acquiring, constructing, maintaining and operating library facilities;

(i) establishing, acquiring, construction, maintaining and operating "capital improvements of a public nature" as that term is defined in Act 871 of the Acts of the General Assembly of the State of Arkansas for the year 1985, as the same now exists or may hereafter be amended;

(j) establishing flood and drainage facilities, including constructing, maintaining and operating levee and drainage Districts; and

(k) any combination of one or more of the above purposes.

Any of the powers contained in this Section, including construction of improvements and acquisition of rights-of-way may be exercised either within or without the boundaries of the District if the property within the District will be benefited thereby. This Section shall be construed liberally and broadly.

SECTION 4. PETITION FOR FORMATION - PUBLIC HEARING - NOTICE. (a) The petition for the creation of an improvement District shall be dated as of the date the first signature is placed on the petition, and shall contain the following: (a) a description of the contiguous real property to be included within the District, (b) the names of three proposed commissioners of the District, each of whom shall be an Owner, and (c) the purposes for which the District is to be formed. In addition, the petition shall be signed by the Owners of a majority of Assessed Value of realty in the territory to be included in the District, and either, (a) a majority of the number of realty Owners within the territory to be included in the District, or (b) the Owners of a majority of the realty, in area, of the territory to be included in the District. No petition with the requisite signatures shall be declared void on account of formal or insubstantial defects.

(b) Every petition shall contain on the front and near the top thereof the following notice which shall be in letters at least one-fourth (1/4) inch in height and shall be enclosed in a box in substantially the following form:

NOTICE

YOUR SIGNATURES HEREON SHOW THAT YOU FAVOR THE ESTABLISHMENT OF AN IMPROVEMENT DISTRICT. IF THE DISTRICT IS FORMED, YOU MAY BE CHARGED FOR THE COST OF THE IMPROVEMENTS.

(c) Prior to the filing of any petition for formation of a District, notice of the intent to form a District shall be mailed by first class mail to the address, as shown on the tax books of county in which the Land is located, of each Owner of realty within the boundaries of the proposed District. The notice shall be accompanied by a copy of the petition. The notice shall indicate the date and location of a public meeting to be held not less than ten (10) days nor more than thirty (30) days prior to filing the petition with the Governing Body. The letters of notification shall be mailed out not less than ten (10) days nor more than thirty (30) days prior to such public meeting. Such notice shall also be published in a newspaper having general circulation within each county wherein the proposed District is located. Such publication shall be once a week for two (2) consecutive weeks prior to the public meeting, and shall indicate the date, time and location of the public meeting. The public meeting shall be held within the boundaries of the proposed District unless public meeting facilities of sufficient size are not available. The purpose of the public meeting shall be to inform the affected Owners of the type of the proposed District, preliminary cost estimates and the basis thereof, and the purposes for which the District is proposed to be formed.

(d) The petition shall be filed with the clerk of the Governing Body. Where a majority in area of the territory to be included in the District lies within the boundaries of an incorporated city or town, the Governing Body shall be the city or town council or board of directors. Where a majority in area of the territory to be included in the District lies outside the boundaries of any incorporated city or town, or within the boundaries of two incorporated cities or towns, the Governing Body shall be the county court. Where the territory to be included within the District embraces more than one

county, the Governing Body shall be the circuit court of the circuit in which the greater portion in area of the land lies.

The petition shall be accompanied by a certificate of a licensed independent abstractor, registered land surveyor or registered engineer, certifying that (a) a majority of the territory to be included within the boundaries of the District lies within the jurisdiction of the Governing Body, (b) the Owners whose names appear on the petition constitute the requisite statutory majority and number of Owners of real property within the proposed District as set forth in paragraph (a) of this Section, provided, however, that nothing in this paragraph shall be construed to require certification as to the veracity of the signatures appearing on the petition, and (c) notice of the public meeting required by paragraph (b) of this Section was duly given.

In addition, the certificate shall include a determination of (a) the number of Owners of Real Property in the territory to be included in the proposed District and the percentage of said Owners whose names appear on the petition, (b) the total area of Real Property to be included within the boundaries of the proposed District and the total percentage of said Real Property owned by Owners whose names appear on the petition, and (c) the total Assessed Value of Real Property to be included within the boundaries of the proposed district and the percentage of said total Assessed Value owned by Owners whose names appear on the petition. The portion of the certificate making the determinations required by this paragraph shall be in the following form:

	District	Percentage Represented
	Total	by Signers of Petition
Number of Owners		
Area		
Assessed Value		

Any number of identical petitions may be circulated, and identical petitions with additional names may be filed at any time until the Governing Body acts to form the District. Any Owner whose name appears on the petition may have his name removed from the petition at any time before the Governing Body acts to form the District upon written request to the Clerk of the Governing Body. Provided, however, that any identical petitions with additional names must be filed in conjunction with a certificate of a licensed independent

abstractor, registered land surveyor or registered engineer making the determinations required by the preceding two (2) paragraphs, revised to reflect the additional signatures included in the petition.

SECTION 5. NOTICE OF FILING OF PETITION. Upon the filing of the petition, the clerk of the Governing Body shall present the petition to the Governing Body and the Governing Body shall thereupon set a date and time, not earlier than ten (10) nor later than thirty (30) days after the date of the presentation of such petition to the Governing Body, for a hearing before the Governing Body for consideration of the petition., The clerk of the Governing Body shall thereupon give notice, 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 Governing Body on the date and time, and at the place to be fixed in the notice. Said notice shall be published in a newspaper of general circulation in each county wherein the proposed District is located at least ten (10) days and not more than thirty (30) days prior to the hearing before the Governing Body. Said notice shall also be mailed by first class mail to the address, as shown on the tax books of the county in which the Land is located, of each Owner of Real Property within the boundaries of the proposed District, and to the clerk of every incorporated city, town or county located within ten (10) miles of any boundary of the proposed District, not less than ten (10) days nor more than thirty (30) days prior to such public hearing.

SECTION 6. HEARING BEFORE THE GOVERNING BODY. On the day named in the notice, it shall be the duty of the Governing Body to meet and to hear said petition and ascertain whether the majority of the territory to be included in the District lies within the jurisdiction of the Governing Body, and whether those signing the petition constitute the requisite statutory majority and number set forth in Section 4(a) of this Act. If the Governing Body so determines, it shall enter its judgment laying off the District as defined in the petition and appointing the commissioners named in the petition, if those nominated as commissioners are Owners. If the Governing Body does not so determine, it shall enter its judgment denying formation of the District. In making the determinations required by this Section, the Governing Body shall disregard the signature of any Person which was placed on the petition more

than two (2) years before the date the petition was filed.

If the Governing Body determines, after making specific findings of fact, that the proposed Improvements would not contribute to the public health, safety and welfare, then the Governing Body may properly deny formation of the District although the petition otherwise complies with the provisions of this Act.

SECTION 7. JUDICIAL REVIEW. Any petitioner or opponent of the petition may appeal from the judgment of the Governing Body creating or refusing to create the District, but such appeal must be taken and perfected within thirty (30) days.

If the Governing Body is not a Circuit Court, said appeal shall be made to the Chancery Court of the county in which a majority of the Land included in the District is located. If the Governing Body is a Circuit Court, appeal shall be taken in the manner prescribed by law. Any such appeal shall not be a trial de novo, and the scope of review of the reviewing court shall be limited to a determination of whether there was substantial evidence to support the findings of the Governing Body. Any such appeal shall be deemed to involve the public interest and shall be advanced by the reviewing court and heard at the earliest practical moment.

If no appeal is taken within thirty (30) days, said judgment shall be final and conclusive upon all Persons. Said judgment shall give the District a name which shall be descriptive of the purposes, and it shall also receive a number to prevent its being confused with other Districts for similar purposes.

SECTION 8. COMMISSIONERS; OATHS; TERM; VACANCIES; OFFICERS; STAFF; REMOVAL; IMMUNITY. (a) Within thirty (30) days after their appointment, the commissioners shall take and file with the clerk of the Governing Body their oath of office, in which they shall swear to support the Constitution of the United States and the Constitution of the State of Arkansas, and to discharge faithfully their duties as commissioners. Any commissioner failing to file such oath within said period shall be deemed to have declined the office and the Governing Body shall appoint some Owner as his successor, who shall qualify in like manner within a like time. In case of a vacancy on the Board of Commissioners, after the commissioners have organized, the successor shall

be appointed by the Governing Body and shall qualify by taking the oath of office as prescribed for the original commissioners. The Board shall organize by electing one of its members chairman and another as secretary. It shall also designate one of its members as having an initial term of six (6) years, one as having an initial term of five (5) years, and one as having an initial term of four (4) years. All successive terms shall be of five (5) years, and any commissioner may be reappointed for any number of successive terms by the Governing Body, or the Governing Body may appoint some other Owner who shall qualify by taking the oath of office as prescribed for the original commissioners. It also may employ such agents, servants, engineers and attorneys as it deems best and fix their compensation.

(b) Notwithstanding paragraph (a) of this Section, duly appointed commissioners qualified and serving on the Board of a District existing prior to the effective date of this Act may continue to serve as commissioners of such District until their resignation, death, incapacity or removal. Whenever, by reason of the resignation, death, incapacity or removal of commissioners of such a District there are only two (2) commissioners remaining on the Board of such District, the remaining commissioners shall elect a successor, who shall be an Owner in the District, and the person so selected shall qualify by taking the oath of office as prescribed in paragraph (a) of this Section.

(c) Commissioners may be removed for cause only. Upon the filing by a majority of the commissioners, or by one-third (1/3) in number of the Owners in the District, of a request to remove a commissioner with the Governing Body, the Governing Body shall set a date and time, and conduct a public hearing to determine if just grounds for removal of said commissioner exist. Said public hearing shall be judicial in nature, and if the Governing Body determines that just cause exists for the removal of said commissioner, it shall enter its judgment removing said commissioner and appointing a successor commissioner who shall qualify by taking the oath of office as prescribed for original commissioners.

(d) No member of the Board shall be interested, directly or indirectly, in any contract let by the Board except upon the approval of all the Owners of real property located in the District, unless such is approved by the Governing Body. Neither a member of the Board, nor anyone employed by the Board, shall buy bonds issued by the District, loan the funds of the District or be interested, directly or indirectly, in the purchase of any Lands sold

for the payment of delinquent taxes owed to the District.

(e) No member of the Board shall be liable for any damages in connection with his activities as a commissioner unless he acted with a corrupt and malicious intent.

(f) If the Commissioners of any District governed by this Act fail or refuse to file or cause to be filed the annual financial report required by this Act, such failure shall, in addition to any other penalty prescribed by law, constitute misfeasance in office and shall be grounds for removal of the Commissioners from office.

SECTION 9. POWERS OF THE DISTRICT. (a) Each District shall be a body corporate with power to sue and to 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. In addition to and not by way of limitation of the above powers, the Board shall have the power to:

- (1) Make and execute all contracts, leases, conveyances and other instruments of the District;
- (2) Join with any other political subdivision, municipality, District or government agency, either state or federal, in the acquisition, construction, maintenance, operation and financing of any of the facilities, works or operations authorized by this Act or as to the performance of any of its functions;
- (3) Establish rules and regulations for the transaction of the District's business and for the services, use and right to use of its facilities or services or both or to effectuate any purpose of this Act;
- (4) Do all things incidental or auxiliary to the exercise of the express powers granted by this Act; and
- (5) Perform all acts useful to carry out the purposes of this Act, unlimited by any express provision hereof.

(b) The District shall be immune from liability in accord with Act 165 of 1969 as the same now exists or may hereafter be amended. No tort action shall lie against the District on account of the acts of its agents or employees.

SECTION 10. PLANNING; ASSESSMENT AND REASSESSMENT OF BENEFITS AND DAMAGES. (a) The Board shall form plans relative to the acceptance, purchase or construction of the Improvements, and to that end it may employ such engineers, attorneys and other assistants as it may find necessary, and it shall file copies of pertinent plans, reports and actions by the Board with the clerk of the Governing Body. All such plans shall contain a narrative description of the Improvements contemplated, and a schedule of estimated Costs of the Improvements.

(b) In the event that the Board shall have voted to accept any offer of gift, or have voted to purchase any Improvement, or shall have voted to construct any Improvement, it shall thereupon appoint an assessor to assess the benefits which will accrue to the Real Property within the District from the acceptance of such gift of Improvement, or the purchase of such Improvement or the construction of such Improvement. Such assessor shall be a licensed real estate broker, licensed attorney, or a certified MAI appraiser. In addition, such assessor shall be independent, shall not be an Owner, and shall not serve the District in any professional capacity other than assessor. Such assessor shall take an oath that he will well and truly assess all benefits that will accrue to the landowners of the District by reason of the acceptance, purchase or construction of the proposed Improvement, and that he has assisted in the assessment of at least two other Districts. He shall thereupon proceed to assess the Lands within the District, and shall inscribe in a book each tract of Land and shall place in one (1) column his valuation of each tract or parcel of Land prior to such Improvement, which column may be marked "Assessed value of lands before improvements," and in another column he shall place what, in his opinion, shall be the value of each tract or parcel of Land after the Improvement, which column may be marked "Assessed value of land after improvements," and if the "Assessed value of land after improvements" is greater than the "Assessed value of land before improvements," as assessed by the assessor for the District, then the difference between the two shall be the assessed benefits that will accrue to each tract by reason of the Improvement. If the assessed value of Land as assessed by the assessor of the District after the Improvement is acquired or made is less than the assessed value of Land before Improvements are acquired or made, as assessed by the assessor for the District, then the difference between the two shall be the assessed damages that will accrue to the particular parcel or tract of Land by

reason of the Improvement, and the assessor shall enter such assessment of benefits or damages opposite the description of each piece of property in appropriate columns, one of which may be marked "Assessed Benefits" and the other may be marked "Assessed Damages." All Real Property within the District shall be deemed, by virtue of being in the District, to receive some benefit or damage resulting from the improvements. No assessment shall apply against any pipelines or other improvements which are extensions of or connected to the pipeline distribution system or other improvements within any city adjacent to the District. The assessor shall place opposite each tract the name of the supposed Owner as indicated by the deed records, but a mistake in name shall not vitiate the assessment. The assessor shall also assess all damages that will accrue to any landowner by reason of the proposed Improvement, including all injury to Lands taken or damages and where he returns no such damages to any tract of Land, it shall be deemed a finding by him that no damages will be sustained. The assessor shall hold his office at the pleasure of the Board, which can fill any vacancy in the position of assessor.

The book of the assessments of the Land within the District required to be made pursuant to this Section 10(b) may be in substantially the following form:

Assessed Value of Lands	Assessed Value of Lands	Assessed	Assessed
Prior to Improvement	After Improvements	Benefits	Damages .

SECTION 11. ALLOWANCE OF SET OFF FOR PRIVATE IMPROVEMENTS. If in the construction of or making other improvements any Owner shall be found to have improved his own property in such manner that his improvement may be profitably made a part of the general improvement of the kind and quality in the District, the assessor shall appraise the value of the improvement made by the Owner, and shall allow its value as a set-off against the Owner's Assessment of Benefits. In such cases the Commissioners shall issue to the Owner a certificate showing the amount of set-off allowed, which certificate shall be received by the collector in lieu of money for the amount named therein charged against the property of the Owner. Such certificate shall be reflected in the assessment roll of the District and shall be made a part of the official records of the District. In the alternative, the Commissioners

may reduce the Assessment of Benefits attributed to said parcel at the hearing of the Board of Equalization required in Section 12 of this Act by the amount of such set-off.

SECTION 12. FILING OF ASSESSMENT; PUBLICATION OF NOTICE; NOTICE TO OWNERS; HEARING BY BOARD OF EQUALIZATION. The assessment shall be filed with the clerk of the Governing Body, 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 bona fide circulation in each county in which the District is located. This notice shall be in the following form:

Notice is hereby given that the assessment of benefits and damages of _____ District Number _____ has been filed in the office of the _____ Clerk of _____, and where it is open to inspection. All Persons wishing to be heard on said assessment will be heard by the commissioners and the assessor of the District between the hours of 10 a.m. and 4 p.m., at _____, in the City of _____, Arkansas, on the _____ day of _____, 19____.

Secretary.

The Secretary of the District shall likewise mail, by first class mail to the address shown on the tax books of the county in which the Land is located, a copy of said notice to each Owner within the District, said notice to be mailed not less than ten (10) days nor more than thirty (30) days prior to the date of the equalization hearing. Said notice shall be accompanied by a notice to each Owner containing the amount of the Assessment of Benefits or damages to each parcel of Land owned by said Owner.

On the day named in said notice, it shall be the duty of the commissioners and assessor to meet together at the place named as a board of equalization 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 of the county in which a majority in area of the territory within the District lies, within thirty (30) days to

review it.

SECTION 13. ASSESSMENT FOR MAINTENANCE AND OPERATION. Provided that the petition for formation of the District provides therefor or the Owners of Real Property in such Districts agree thereto, Districts may levy an additional tax for the purpose of preserving, maintaining and operating the Improvement, replacing equipment, paying salaries to employees and performing any other functions or services herein authorized. To this end, the commissioners may, from time to time, make such additional levies based upon the Assessment of Benefits as may be necessary for such purposes, or, if necessary, may assess the value of all benefits to be received by the Land contained in the District by reason of the maintenance and keeping in repair of the Improvements. Such assessment shall be made, advertised, equalized, levied and collected in the same manner as provided herein for making the original assessment.

SECTION 14. REASSESSMENT. The Board may, not more often than once a year, require the assessor to reassess the benefits in said District, but in the event the District shall have incurred any indebtedness or issued bonds, the total mount of assessed benefits shall never be diminished. The Board shall, upon written request of ten (10) percent in number of the Owners, proceed with such reassessment, provided no reassessment has been undertaken pursuant to this Section in the current year. Such reassessment shall be made, advertised and equalized in the same manner as provided herein for making the original assessment.

SECTION 15. LEVY OF TAX; LIEN; PUBLICATION OF NOTICE; CONTEST. The Board of the District shall at the same time that the assessment of benefits is equalized, or at any time thereafter, enter upon its records an order, which shall have all the force of a judgment, providing that there shall be levied upon the Real Property of the District a tax sufficient to pay the estimated cost of the Improvement with a reasonable amount added for unforeseen contingencies, which tax is to be paid by the Real Property in the District in the proportion to the amount of the assessment of benefits thereon, and which is to be paid in annual installments, as provided in this Act. The tax so levied shall be a lien upon all the Real Property in the District from the time the same is levied, shall be entitled to preference

over all demands, executions, encumbrances or liens whensoever created, shall continue until such levy, with any penalty costs that may accrue thereon, shall have been paid, and may be enforced through foreclosure proceedings by the District. The remedy against such levy of taxes shall be by suit in chancery court in the county in which a majority of area of the land included in the District lies, and such suit must be brought within thirty (30) days from the time of notice that the levy was made and on such appeal the presumption shall be in favor of the legality of the tax. Provided, however, that the Board shall, promptly after entry of an order levying such tax, publish once a week for two (2) consecutive weeks in some newspaper having general circulation in the District, a notice setting forth such order of levy and warning all Persons affected thereby that same shall become final unless suit is brought to contest same within thirty (30) days of the date of first publication of such notice, and no property owner shall be barred from contest of such levy within such thirty (30) day publication period.

SECTION 16. EXTENSION OF TAX LEVY; COLLECTION; COMMISSIONS OF COLLECTOR; ENFORCEMENT; INSTALLMENT. (a) When the Board shall make the levy of taxes, it shall be the duty of the assessor to extend the amount levied and set same opposite each benefit assessed in a column marked "Annual Collection." The assessed benefits and tax levy shall be filed with the county clerk of each county which includes a portion of the District, and it shall be the duty of the county clerk of the county to extend such taxes annually upon the tax books of the county until the levy is exhausted, and for his services, he shall receive a commission of one and one-half percent (1 1/2%) of the amount so extended. It shall then be the duty of the collector of the county to collect each year the taxes extended upon the tax books along with the other taxes until the entire levy is exhausted, and for his services in making such collections, the collector shall receive a commission of one and one-half percent (1 1/2%), and the taxes shall by the collector be paid over to the depository of the District at the same time he pays over the county funds. In counties operating under the unit tax ledger system, the collector shall receive a commission of one and one-half percent (1 1/2%) for extending the taxes and a commission of an additional one and one-half percent (1 1/2%) for collecting the taxes. County clerks and tax collectors are hereby authorized to employ an additional deputy or deputies to do the addi-

tional work imposed by the terms of this Act, and they may pay such deputy or deputies reasonable salaries, but such salaries shall never exceed the receipts from the commissions allowed by this Act.

(b) The County collector of each county in which is located all or part of a District shall collect the annual installments of the Assessment of Benefits by such District and such amount shall be collected along with and at the same time as ad valorem real property taxes. The collector shall not accept payment of ad valorem real property taxes unless accompanied by payment of annual installments of the taxes by such District. When the State Land Commissioner collects payment of delinquent annual installments of such taxes, he shall transmit the same, less a proportionate part of the cost of collection to the District. The county collector shall transmit all taxes thus collected to the District on a monthly basis. If requested in writing by the District, the County Collector shall on a monthly basis provide the District with information showing, on a tract-by-tract basis for all tracts of Land included in the District, the amount of all such taxes which have been paid in the current year.

(c) Notwithstanding the foregoing paragraph (a), any District existing on the effective date of this Act which acts as collector of its own Assessment of Benefits may continue to act as such collector until the entire Assessment of Benefits are paid. Further, any District governed by this Act may act as collector of any tax levied solely for operation and maintenance of the District's Improvements.

(d) If the tax first levied shall prove insufficient to pay the Costs of the Improvement, as the same shall become due and payable, the Board shall from time to time make such further levy or levies upon the property previously assessed for a sum or sums sufficient to complete and maintain the Improvements and to pay any bonds, both principal and interest, issued by the District, which shall be extended and collected in the same manner as the first levy; provided, that the total levy or levies shall in no case exceed the value of the benefits assessed on such property with interest.

(e) If any taxes levied by the Board pursuant to this Act are not paid at maturity, the collector shall report such delinquencies to the Board within ninety (90) days of the time such taxes become delinquent, on a tract-by-tract basis for all the tracts of Land within the District on which such delinquencies exist. The Board may enforce the lien of the taxes levied through

foreclosure proceedings in the Chancery Court of the county in which the land is located. In the alternative, the Board may add to the amount of the tax a penalty of twenty-five percent (25%), and upon the request of the Board, the collector shall embrace such taxes in the taxes for which he shall transfer the lands to the Commissioner of State Lands for collection and/or sale, pursuant to Act 626 of 1983, as amended.

(f) The assessment of benefits shall bear interest at any rate deemed advisable or necessary, as provided in the assessment of benefits made by the Board, from the time the assessment of benefits is equalized, but the interest need not be calculated until it is necessary to do so, to avoid exceeding the total amount of benefits and interest, or the interest may be first collected. Provided, however, the assessment of benefits shall not bear interest at a rate in excess of the rate of interest allowed under Amendment 60 of the Constitution of the State of Arkansas.

(g) All taxes levied or collected under the terms of this Act shall be payable in the current year in installments at the same times as other state, county and city taxes are now paid.

(h) The performance of the duties set forth in this Section may be enforced by mandamus.

SECTION 17. ISSUANCE OF NEGOTIABLE NOTES, BONDS OR CERTIFICATES OF INDEBTEDNESS; TERMS OF BONDS; EXEMPTION FROM TAXES. (a) In order to meet preliminary expenses and to finance the Costs of the Improvements to be accomplished, with cost incidental thereto, and costs related to the issuance of the bonds, the Board may issue negotiable notes or bonds of the District and may pledge and mortgage all assessments of benefits of the District, and all or any part of the profits of the District derived from its operation of any Improvements of the District to the payment of such notes and bonds including, but not limited to, user fees and connection charges charged by the District to customers for use of the District's Improvements. It may also issue to the contractors who do the work negotiable evidences of debt bearing interest at the rate or rates prescribed by the Board and secured the same in the same manner. As security for the payment of any such indebtedness, the members of the Board may by resolution establish the rates for use of such Improvements to be collected from the users of such Improvements and may mortgage any or all of its property, including Improvements.

(b) The Board is also authorized to issue revenue bonds for the purposes set forth in paragraph (a) of this section. As security for the payment of any such indebtedness, the members of the Board may by resolution establish the rates for use of such improvements to be collected from the users of such improvements, and may mortgage any or all of its property, including improvements.

(c) Bonds and notes issued under the authority of this Act shall bear interest at such rate or rates, shall mature at such time or times, shall be payable as to principal, premium, if any, and interest, at such places, within or without the State of Arkansas, shall be in such form (whether bearer or registered), shall be subject to such exchange privileges, and shall have such other details as may be set forth in the resolution of the Board authorizing their issuance. The resolution may provide for the execution and delivery of a trust indenture or like instrument by the Board securing the bonds and for the execution and delivery of other writings pertaining thereto. The bonds (and coupons, if any) may be executed by the manual or facsimile signatures of the members of the Board.

Such bonds, and interest thereon, shall be exempt from all state, county and municipal taxes, including income, property and inheritance taxes.

SECTION 18. REFUNDING BONDS. Bonds may be issued for the purpose of refunding any bonds issued under this Act, or by districts governed by this Act. Refunding bonds may be either sold or delivered in exchange for the bonds being refunded. If sold, the proceeds may be either applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or investments for the retirement of the bonds being refunded, as shall be specified by the district in the resolution or trust indenture securing the bonds. The resolution or trust indenture securing the refunding bonds may provide that the refunding bonds shall have the same priority on assessments or revenues pledged for their payment as was enjoyed by the bonds refunded.

SECTION 19. ANNEXATION AND CONSOLIDATION. (a) All districts shall have the authority to permit lands outside the boundaries of the District to be annexed to the district. Such annexation shall be permissible only for the purpose of providing improvements to the property to be annexed for purposes

similar to the purposes for which the district was formed, or for which the district currently exists. When persons claiming to constitute the requisite majority and number of owners, as set forth in Section 4(a) of this Act, of territory contiguous to any district desire that said territory be annexed to such district, they may present their petition to the clerk of the Governing Body, describing the territory to be annexed. Such petition shall be accompanied by a certificate of an independent abstractor, surveyor or registered engineer, containing the certifications set forth in Section 4(c) of this Act. In addition, such petition shall be accompanied by a resolution of the Board of the existing district approving such annexation. Thereupon, the Governing Body shall direct the clerk to publish for two (2) consecutive weeks, in some newspaper having general circulation in each county in which the district and the territory proposed to be annexed is located, a notice calling upon the owners in the district and the territory proposed to be annexed to appear before the Governing Body on the date and time, and at the place named in the notice, and show cause for or against such annexation.

On the day named in said notice, the Governing Body shall hear all persons who desire to be heard on the question whether the majority of the territory to be annexed to the district lies within the jurisdiction of the governing body, whether the requisite and number of the owners of real property in the territory sought to be annexed have signed such petition, and whether a majority of the Board of the district has approved the annexation by resolution of the Board. the findings of the Governing Body shall have all the force and effect of a judgment, and shall be conclusive, unless, within thirty (30) days thereafter, suit is brought in the chancery court to review it. The finding of the Governing Body shall be expressed as a judgment in case it is in favor of the petitioners, and in that event, the territory sought to be annexed shall become a part of the improvement district, and the improvements petitioned for shall be made by the commissioners. The commissioners shall make the assessment of benefits and levy the tax for said improvement on the territory annexed under the provision of this Section on the basis as if said territory was included in the original district.

(b) Where there are contiguous or adjacent districts organized under or governed by this Act which were formed or exist for similar purposes, it shall be permissible for all or any two (2) or more such districts, to enter into a contract with each other for the joint operation, maintenance, improvement,

enlargement, and betterment of their respective systems or of the consolidated system, to be paid for by charges for the services or taxes levied against the owners. Any such district which has paid its outstanding bonded indebtedness but which has not been turned over to the Governing Body for operation, may join in said contracts for joint operation; and any facilities constructed by any districts outside their boundaries, shall be included in the consolidated systems. Said consolidated systems may borrow money to pay and discharge any outstanding bond issues and indebtedness of the Districts joining in the consolidations and may borrow money also for improvement, enlargement and betterment of the facilities of the consolidated systems. To accomplish these purposes, said consolidated systems may issue negotiable bonds or notes evidencing the money so borrowed, to be secure solely by a pledge of the net revenues derived from the operation of the facilities, to bear interest at such rate or rates as prescribed by the Boards of the districts, and to mature at such time and places as the Board shall decide best, and to be issued with such terms of payment, call provisions, and interest rates as the Boards shall deem to be in the best interest of the inhabitants of the consolidated district.

SECTION 20. LIEN FOR PRELIMINARY EXPENSES. In case for any reason the improvement contemplated by any district organized under or governed by this Act is not made, the reasonable preliminary expenses shall be a first lien upon all the Land in the district and shall be paid by a levy of a tax thereon, which levy shall be made by the chancery court of the county in each county in which the district is located, provided, however, that such levy shall not be extended for more than two (2) years from the date the preliminary expenses were incurred.

SECTION 21. EMINENT DOMAIN. All districts organized under or governed by this Act shall have the right of eminent domain, either within or without the boundaries of the district if the property within the district will be benefited thereby, in order that they may carry out the purposes of their creation, which right may be exercised upon posting a deposit of money by the district in accordance with the procedure described in Arkansas Statutes Ann. Section 35-902 as it now appears or may hereafter be amended.

SECTION 22. GOVERNING BODY ADVANCING FUNDS TO DISTRICTS; CONDITIONS PRECEDENT. (a) Upon written consent of the administrators of its water and/or sewer system, a Governing Body may advance available monies derived from the operation of its water and/or sewer system to pay the organizational expenses of one or more proposed districts if the Governing Body determines as to each such proposed district, that:

(i) The proposed district will provide services, to an area within or adjacent to, or in part within and in part adjacent to, the boundaries of said Governing Body.

(ii) The facilities to be acquired or constructed by the district will become a part of the utility system of the Governing Body, and

(iii) the facilities to be acquired or constructed by the district are required to complete the system of the Governing Body so as to enable the system to adequately serve the area within or adjacent to the boundaries of the Governing Body.

(b) By official action of the Governing Body, a Governing Body may advance available moneys derived from any source, other than the operation of its water and/or sewer system, which may lawfully be advanced therefrom to pay the organizational expenses of one or more proposed districts if the Governing Body determines as to each such proposed district, that:

(i) the proposed district will provide services to an area within or adjacent to, or in part within and in part adjacent to, the boundaries of said Governing Body, and

(ii) the facilities to be acquired or constructed by the district are permitted to be acquired or constructed by, and will further the public purposes of, this Act.

(c) The Governing Body is hereby authorized to turn over to any district organized under this Act for the purpose of constructing street or road improvements, such proportion of the road tax, as may be just and equitable, or any portion of the automobile or gasoline tax, and the Governing Body is further authorized to contribute such funds to the expense of such improvement from the general revenue of said Governing Body as it may deem appropriate. Any such district is authorized to receive any part of the funds that may now or hereafter be set aside by the government of the United States for the improvement of public roads, and any that may hereafter be set aside by the government of this State for aid in the improvement of public roads; and the

Commissioners of the district and the State Highways Department are authorized and directed to take such action as may be necessary to secure any of said funds for said districts as an improvement of a part of the public roads of the State in which the State has an interest.

SECTION 23. PROCEDURE FOR ADVANCES. Moneys advanced under the authority of the preceding Section shall be in such amounts and shall be paid to such persons, including, without limitation, to those persons doing the work or to trustees or committees created by the Governing Body for the purpose, at such times in one (1) lump sum or in installments, and under such conditions and restrictions as the Governing Body shall determine and prescribe.

SECTION 24. CONTINUED EXISTENCE OF DISTRICT; DISSOLUTION OF DISTRICT; CONVERSION OF ASSETS; FILING OF RESOLUTION OF DISSOLUTION. (a) Provided that the petition for formation of the district provides therefor or the owners of real property in such districts agree thereto, districts shall not cease to exist upon the acquiring, construction or completion of the improvement but they shall continue to exist for the purpose of preserving, maintaining and operating the improvement, replacing equipment, paying salaries to employees and performing any other functions or services herein authorized. To this end, the commissioners may, from time to time, make such additional levies based upon the Assessment of Benefits as may be necessary for such purposes, or, if necessary, may assess the value of all benefits to be received by the land contained in the district by reason of the maintenance and keeping in repair of the improvements. Such assessment for the purposes authorized by this Section shall be made, advertised, equalized, levied and collected in the same manner as provided herein for making the original assessment. Any reassessment for the purposes contained in this Section shall be governed by the provisions of Section 14 of this Act.

(b) In any case where a district has not commenced construction of improvements as authorized by this Act within five (5) years of the date the district was formed, the commissioners of said district shall dissolve the district as provided by this section.

(c) After all bonds, notes or other evidences of indebtedness, plus all interest thereon, shall have been paid in full, a district may, by unanimous vote of the commissioners, be dissolved and all future levies and assessments

cancelled, the commissioners relieved from further duties, and the surplus funds of the district distributed in accordance with the procedures set forth in subsection (c) hereof, if title to and control of the facilities constructed by the district have been taken over or assumed by, any political subdivision, municipal utility commission or agency, or any regulated public utility. The districts are hereby authorized, at the discretion of the commissioners, to enter into repair and maintenance agreements or contracts and to expend funds of the districts for said purposes.

(d) In the event the commissioners vote to dissolve the district under subsection (b) hereof, the commissioners shall convert all assets into cash and shall first pay from such surplus all debts of the district, including any reasonable legal and other expenses incurred in connection with the said dissolution; the commissioners then shall refund all remaining funds of the district pro rata to the owners who hold title to the real property in the district at the time said refund is made. The pro rata refund to the owners shall be made on the basis of the most recent assessment or reassessment of benefits on the parcel or parcels of real property prior to dissolution, and shall be in the same proportion that the assessed benefits of each individual parcel bears to the total of the assessed benefits of all the real property in the district, except that no owner whose property is delinquent in any sum for district taxes, penalties or interest, at the time such refund is made shall be counted in calculating the pro rata distribution or receive any portion of such refund. Provided, however, that if the amount of remaining funds available for distribution to the owners is so small that, in the discretion of the commissioners it would not be practicable to refund such amounts to the owners, the commissioners then shall refund all remaining funds of the district to the Governing Body. Within ninety (90) days after the distribution of surplus funds has been completed, the commissioners shall file a copy of the resolution of dissolution and a financial statement of the district, verified by all commissioners, in the office of the clerk of the Governing Body.

SECTION 25. ANNUAL REPORT. (a) All districts governed by this Act shall file an annual financial report with the clerk of the Governing Body on or before the first day of April of each year, covering the financial affairs of such district for the preceding calendar year, or, if the district's fiscal

year is not a calendar year, within ninety (90) days after the end of the district's fiscal year. Such report shall include the amount of collections and other income of the district, disbursements, amounts in reserve funds and other accounts, the status of any bonded indebtedness and any other information material to the financial affairs of the district. Such financial statement shall be certified and signed by each commissioner.

(b) Within one hundred-twenty (120) days after substantial completion of the construction of any improvements undertaken by or on behalf of the district where the cost of such construction exceeds \$10,000, the district shall file with the clerk of the Governing Body a report of the expenditure of the district's funds relating to such construction.

(c) In addition to the reports required to be filed by the district by this section, any court of competent jurisdiction may require the preparation and filing of an audit by order of the court.

SECTION 26. CONSTRUCTION OF ACT. The provisions of this Act shall be liberally construed to accomplish the purposes of this Act, and this Act shall be the sole authority necessary to accomplish its purposes. To this end, it shall not be necessary to comply with the requirements of other laws in acting pursuant to this Act to accomplish its purpose.

SECTION 27. REPEAL. It is the intent of this Act to provide a comprehensive method for formation and regulation of improvement districts in the State of Arkansas. Consequently, all acts in conflict with this Act are hereby repealed, including, but not limited to the following:

84 of 1881, §§ 1-17, 19-26

18 of 1889

158 of 1893

140 of 1895

16 of 1897

47 of 1897 (Ex. Sess.)

94 of 1899

183 of 1899

143 of 1901

167 of 1907

275 of 1931

3 of 1932 (2nd Ex. Sess.)

46 of 1933

64 of 1933

79 of 1933

100 of 1933

112 of 1933

78 of 1935

145 of 1935

192 of 1935

406 of 1907	101 of 1937
81 of 1909	107 of 1937
80 of 1909	207 of 1937
245 of 1909	241 of 1937
5 of 1913	22 of 1938 (Ex. Sess.)
125 of 1913	90 of 1939
5 of 1915, □ 10	100 of 1939
43 of 1915	126 of 1939
280 of 1919	163 of 1939
404 of 1919	130 of 1939
515 of 1919	183 of 1939
661 of 1919	208 of 1939
82 of 1921, □□ 1-5	329 of 1939
395 of 1921	405 of 1939
477 of 1921	7 of 1941
503 of 1921	41 of 1941
534 of 1921	45 of 1941
20 of 1923 (Ex. Sess.)	51 of 1941
562 of 1923, □□ 2-3	53 of 1941
3 of 1924 (3rd Ex. Sess.)	74 of 1941
85 of 1925	268 of 1941
91 of 1925	310 of 1941
184 of 1925	449 of 1941
238 of 1925	66 of 1943
359 of 1925, □ 2	183 of 1943
61 of 1927	198 of 1943
68 of 1927	215 of 1945
120 of 1927	23 of 1947
122 of 1927	325 of 1947
162 of 1927	328 of 1947
182 of 1927	195 of 1949
201 of 1927	238 of 1949
350 of 1927	242 of 1949
26 of 1929	350 of 1949
64 of 1929	115 of 1951
103 of 1929	233 of 1951

127 of 1929
145 of 1929
207 of 1929
224 of 1931
397 of 1951
38 of 1953
39 of 1953
145 of 1953
180 of 1953
210 of 1953
310 of 1953
420 of 1953
222 of 1957
318 of 1957
331 of 1957
332 of 1957
367 of 1955
146 of 1959
154 of 1959
170 of 1959

262 of 1959
70 of 1961
152 of 1961
154 of 1961
427 of 1961
150 of 1963
505 of 1963
534 of 1963
377 of 1965
378 of 1965
431 of 1965
462 of 1965
90 of 1967
163 of 1967
200 of 1967

234 of 1951
307 of 1951
363 of 1951
392 of 1951
224 of 1975
225 of 1975, □ 11
746 of 1975
879 of 1975
928 of 1975, □ 7
979 of 1975
1213 of 1975 (Ex. Sess.)
1221 of 1975 (Ex. Sess.)
205 of 1977
463 of 1977
35 of 1979
36 of 1979
486 of 1979
628 of 1979
1001 of 1979
425 of 1981,
 □□4, 23, 24, 28-32
474 of 1981, □ 1
510 of 1981
546 of 1981
703 of 1981, □ 3
428 of 1983
500 of 1983
524 of 1983
735 of 1983
739 of 1983
903 of 1983
22 of 1985
160 of 1985
179 of 1985
430 of 1985
828 of 1985, □ 1

251 of 1967

865 of 1985, □ 1

286 of 1967

351 of 1967

4 of 1968 (2nd Ex. Sess.)

230 of 1969

290 of 1969

304 of 1969

16 of 1970 (1st Ex. Sess.)

43 of 1970 (1st Ex. Sess.)

45 of 1970 (1st Ex. Sess.)

53 of 1970 (1st Ex. Sess.)

107 of 1971

263 of 1971

336 of 1971

360 of 1971

581 of 1971

710 of 1971

302 of 1973

404 of 1973

SECTION 28. VALIDITY OF DISTRICTS FORMED UNDER PRIOR LAW. All improvement districts validly formed and duly existing pursuant to and governed by the Acts set forth in Section 23 hereof are hereby ratified. All such districts shall hereafter be governed by the provisions of this Act except as provided in Section 8(b) of this Act.

SECTION 29. SEVERABILITY. The provisions of this Act are hereby declared to be severable. If any provision of this Act should be declared to be invalid or to be inapplicable to any person or circumstance, such determination shall not affect the validity or applicability of the other provisions of this Act.

SECTION 30. EFFECTIVE DATE. The effective date of this Act shall be July 1, 1987.

