

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

436

By: Senator Yates

For An Act To Be Entitled

"AN ACT TO ESTABLISH THE CAPITOL OFFICE BUILDING COMMISSION;
TO PROVIDE FOR THE ISSUANCE OF REVENUE BONDS FOR OFFICE AND
RELATED FACILITIES; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES."

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

SECTION 1. Popular Name. This act shall be referred to as, and may be cited as, the "Capitol Office Building Commission Act."

SECTION 2. Declaration of Public Purpose. The General Assembly of the State of Arkansas hereby finds and declares:

(1) The State of Arkansas continues to have increasing needs for additional office facilities near the State Capitol Building in Little Rock, Arkansas.

(2) The utilization of an office building commission to acquire, construct, renovate, finance and lease office and related facilities to the State of Arkansas will result in a dependable supply of office and related facilities to the State of Arkansas at the most reasonable cost.

(3) The purposes sought to be achieved by this act are to provide the State of Arkansas with specific means necessary to acquire, construct, renovate and finance additional office and related facilities near the state capitol building through the use of a newly formed state office building commission, to the end that the State of Arkansas may provide adequate and dependable office facilities for the operation of government.

SECTION 3. Definitions. As used in this act, unless the context otherwise requires:

(1) "Act" means the Capitol Office Building Commission Act.

(2) "Bonds" or "bonds" means any bonds issued pursuant to this act and includes debentures, notes, warrants, revenue anticipation notes, bond anticipation notes, commercial paper, or other evidences of indebtedness or leases, installment purchase contracts, or other agreements or certificates of participation.

(3) "Commission" means the Capitol Office Building Commission.

(4) "Office facilities" means whether obtained by purchase, lease, construction, reconstruction, restoration, improvement, alteration, repair or other means;

(A) any office or warehouse facility, or improvement relative thereto, or any preliminary plans, studies or surveys relative thereto,

(B) land or rights in land (including, without limitation, leases, air rights, easements, rights-of-way or licenses), and

(C) any furnishings, machinery, vehicles, apparatus or equipment for any office or warehouse facility, including, without limiting the generality of the foregoing definition, the following: courthouses and court facilities, administrative, executive or other public offices; parking facilities and garages; educational and training facilities; auditoriums; meeting facilities; civil defense facilities; drainage and flood control facilities; storm sewers; museums; libraries; public parks, playgrounds or other public open space; tourist information and assistance centers; historical, cultural, natural, or folklore facilities; streets and street lighting, alleys, sidewalks, roads, bridges, and viaducts; freight terminals; public transportation facilities; and maintenance and storage buildings and facilities.

(5) "State" means the State of Arkansas.

(6) "State agency" means any office, department, board commission, bureau, division, public corporation, agency or instrumentality of the state.

SECTION 4. Creation of Commission. (a) There is hereby created, with such duties and powers as are set forth to carry out the provisions hereof, a public body politic and corporate, with corporate succession, to be an independent instrumentality exercising essential public functions, known as the Capitol Office Building Commission.

(b) The commission shall consist of seven (7) members as follows:

(1) Two (2) members appointed by the Governor of the state, one (1)

for an initial term of two (2) years and another for an initial term of four (4) years, with successive commissioners being appointed for terms of four (4) years;

(2) Two (2) members appointed by the Speaker of the House of Representatives of the General Assembly of the state, one (1) for an initial term of two (2) years and another for an initial term of four (4) years, with successive commissioners being appointed for terms of four (4) years;

(3) Two (2) members appointed by the President Pro Tempore of the Senate of the General Assembly of the state, one (1) for an initial term of two (2) years and another for an initial term of four (4) years, with successive commissioners being appointed for terms of four (4) years; and

(4) The Secretary of State who shall be a permanent member and shall serve as chairman.

(c) Each commissioner shall hold office for the term of his or her appointment and until a successor shall have been appointed and qualified. Any vacancy in the commission occurring other than by expiration of term shall be filled by the appointment of the Governor of the state, but for the unexpired term only. The terms of the appointed members of the commission shall expire on January 14th during odd-numbered years.

SECTION 5. Powers of Commission. The commission shall have the following powers:

(1) To sue and be sued.

(2) To have a seal and alter the same at its pleasure.

(3) To make and alter bylaws for its organization and internal management.

(4) To make and issue such rules and regulations as may be necessary or convenient in order to carry out the purposes of this act.

(5) To acquire, hold, lease and dispose of real and personal property for its corporate purposes.

(6) To appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation.

(7) To borrow money and to issue notes, bonds and other obligations, whether or not the interest on which is subject to federal income taxation, and to provide for the rights of the lenders or holders thereof.

(8) To purchase notes or participations in notes evidencing loans which

are secured by mortgages or security interests and to enter into contracts in that regard.

(9) To sell mortgages and security interest at public or private sale, to negotiate modifications or alterations in mortgage and security interests, to foreclose on any mortgage or security interest in default or commence any action to protect or enforce any right conferred upon it by any law, mortgage, security agreement, contract or other agreement, and to bid for and purchase property which was the subject of such mortgage or security interest at any foreclosure or at any other sale, to acquire or take possession of any such property, and to exercise any and all rights as provided by law for the benefit or protection of the commission or mortgage holders.

(10) To collect fees and charges in connection with its loans, bond guarantees, commitments and servicing, including, but not limited to, reimbursement of costs of financing as the commission shall determine to be reasonable and as shall be approved by the commission.

(11) To accept gifts, grants, loans and other aid from the federal government, the state or any state agency, or any political subdivision of the state, or any person or corporation, foundation or legal entity, and to agree to and comply with any conditions attached to federal and state financial assistance not inconsistent with the provisions of this act.

(12) To invest moneys of the commission not required for immediate use, including proceeds from the sale of any bonds, in such manner as the commission shall determine, subject to any agreement with bondholders.

(13) To procure insurance against any loss in connection with its programs, property and other assets.

(14) To contract, cooperate, or join with any one (1) or more private person or business, other governments or public agencies, or with any political subdivisions of the state, or with the United States, to provide office facilities, to perform any administrative service, activity, or undertaking which any such contracting party is authorized by law to perform.

(15) To establish accounts in one or more depositories.

(16) To lease, sublease, acquire, construct, improve, reconstruct, sell and otherwise deal in and contract concerning any office facilities, including particularly office facilities all or a part of which are to be occupied by any state agency.

(17) To do any and all things necessary or convenient to carry out its

purposes and exercise the powers given and granted in this act.

SECTION 6. The commission shall not have the power of eminent domain.

SECTION 7. Location of Office Facilities. The commission may acquire, construct, renovate, finance and lease office facilities only in an area south of West 2nd Street, west of Victory Street, north of West 7th Street and east of the State Capitol Building, in the City of Little Rock, Arkansas.

SECTION 8. Authorization for Issuance of Bonds. Whenever the commission shall determine the need to issue bonds to finance and acquisition, construction, renovation or financing of office facilities it shall authorize the issuance of bonds by resolution specifying the principal amount of bonds to be issued, the purpose or purposes for which the bonds are to be issued, and the revenues to be pledged to the retirement of such bonds.

SECTION 9. Provisions of Bonds. (a) Bonds may be issued in registered or other form, may be in such denominations, may be exchangeable for bonds of another denomination, may be made payable at such places within or without the state, may be issued in one or more series, may bear such date or dates, and mature at such time or times, may be payable in such medium of payment, may be subject to such terms of redemption, and may contain such other terms, covenants and conditions as the resolution or the trust indenture (as hereinafter authorized) may provide, including, without limitation, those pertaining to the custody and application of the proceeds of the bonds, the collection and disposition of revenues pledged to secure the bonds, the maintenance of various funds and reserves, the nature and extent of the pledge and security, the remedies on default, the rights, duties and obligations of the commission and the trustee, if any, for the owners of the bonds, and the rights of the owners of the bonds. Bonds shall not bear a rate of interest in excess of five percent (5%) per annum above the Federal Reserve Rate in effect at the time of the issuance of the bonds. There may be successive bond issues for the purpose of financing the same capital improvements.

(b) Bonds may be secured by, and contain a pledge of, the revenues of the office facility being acquired, constructed or renovated with the proceeds of such bonds as shall be specified by the resolution providing for the

issuance of the bonds, together with any other revenues authorized to pay such bonded indebtedness. Bonds issued by the commission shall not constitute a debt of the state.

(c) The resolution authorizing bonds may provide for the execution by the chairman of the commission of a trust indenture which defines the rights of the owners of the bonds and provides for the appointment of a trustee for the owners of the bonds. Such trust indenture may provide for the priority between and among successive issues and may contain any of the provisions set forth in subsection (a) above and any other terms, covenants and conditions that are deemed desirable.

(d) 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 commission 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 10. Refunding Bonds. Bonds may be issued under this act for the purpose of refunding any outstanding bonds issued pursuant to this act. 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 for the bonds being refunded, and shall have all the attributes of the refunded bonds. The resolution under which such refunding bonds are issued may provide that any refunding bonds shall have the same priority of lien on all sources of revenues as originally pledged for payment of the obligation refunded thereby.

SECTION 11. Bonds May be Secured by Mortgage Lien. The resolution or trust indenture authorized in Sections 9 and 10 of this act may, but need not, impose a forecloseable mortgage lien upon the office facilities financed with the proceeds of bonds, and the nature and extent of such mortgage lien may be controlled by the resolution or trust indenture including, without limitation, provisions pertaining to the release of all or part of the land, buildings and facilities from the mortgage lien, the priority of the mortgage lien in the

event of successive bond issues, and authorizing any owner of bonds, or a trustee on behalf of all owners, either at law or in equity, to enforce the mortgage lien and, by proper suit, compel the performance of the duties of the officials of the commission set forth in this act or in the resolution or trust indenture authorizing or securing the bonds. References in this Section 11 to mortgage lien shall include a security interest in any personal property constituting the capital improvements, or part thereof, financed with the proceeds of bonds.

SECTION 12. 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 13. 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 the state.

SECTION 14. Non-Liability. No officer, employee or member of the governing body of the commission 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 15. Conflicts. Any provision of law, whether special or general, in conflict with this act is expressly superseded by this act to the extent of such conflict. This act is supplemental to all other provisions of state law governing the issuance of bonds and, except as otherwise provided in this act, the provisions of state law governing the issuance of bonds continue to apply.

SECTION 16. Construction of Law. The provisions of this act shall be liberally construed in order to effectively carry out the purposes of this act.

SECTION 17. Severability. The provisions of this act are hereby declared to be severable. If any provision of this act shall be declared to be invalid or to be inapplicable to any person or circumstance, such determination shall not effect the validity or applicability of the other provisions of this act.

SECTION 18. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 19. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 20. Emergency. It is hereby found and determined by the General Assembly of the State of Arkansas that there is an immediate and urgent need for providing additional office facilities for the state in order that governmental functions may be properly administered and provided. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.