

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

468

By: Senator Howell

For An Act To Be Entitled

"AN ACT TO AUTHORIZE THE STATE BUILDING SERVICES TO ACQUIRE AND MANAGE FACILITIES IN LITTLE ROCK, ARKANSAS, FOR HOUSING AND FOR PROVIDING APPROPRIATE PARKING FACILITIES FOR STATE AGENCIES, DEPARTMENTS, OFFICES, BOARDS, AND COMMISSIONS; TO AUTHORIZE THE STATE BUILDING SERVICES TO ESTABLISH A SYSTEM OF CHARGES FOR RENTS TO BE COLLECTED FROM STATE AGENCIES, DEPARTMENTS, BOARDS, AND COMMISSIONS HOUSED IN SUCH FACILITIES; TO AUTHORIZE THE ISSUANCE OF REVENUE BONDS TO PROVIDE FUNDS FOR THE ACQUISITION, RENOVATION AND REPAIR OF SUCH FACILITIES; AND FOR OTHER PURPOSES."

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

SECTION 1. This act shall be known and cited as the "State Agencies Facilities Acquisition Act of 1989".

SECTION 2. Definitions. Whenever used in this act, unless a different meaning clearly appears from the context:

(a) "Agency" or "state agency" means any agency, board, office, commission, department, division or institution of the state of Arkansas.

(b) "Bonds" or "revenue bonds" means revenue bonds and any series of revenue bonds authorized by and issued pursuant to the authority granted in this act.

(c) "State Building Services" means the public agency known as "Arkansas State Building Services" and the "State Building Services Council", as established under Arkansas Code 22-2-101 et seq.

(d) "Construct" means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements or other property, real, personal or mixed, useful in connection with buildings and

facilities acquired under this act and to make other necessary expenditures in connection therewith, by such methods and in such manner as the State Building Services shall determine to be necessary or desirable to accomplish the powers, purposes, and authority set forth in this act.

SECTION 3. In addition to the purposes, powers, and authority set forth elsewhere in this act or in other laws, the State Building Services is hereby authorized and empowered to:

(a) acquire by purchase, exchange, barter, gift, eminent domain, long term lease or other means, buildings and facilities in Little Rock, Arkansas, to house state agencies, and to repair, remodel, renovate such buildings and facilities as it shall deem necessary and appropriate to accommodate state agencies;

(b) exercise the power of eminent domain for the purpose of acquiring buildings and facilities and to otherwise carry out the purposes and intent of this act, with such power to be exercised in the manner provided in Arkansas Code 22-2-109;

(c) arrange for the housing of state agencies in such buildings and facilities to the extent that space and facilities are available for such purpose, under such terms and conditions and for such rentals and charges as State Building Services may determine;

(d) acquire, construct or cause to be constructed parking facilities to serve the facility;

(e) obtain the necessary funds for accomplishing its powers, purposes, and authority from any source or sources, including, without limitation, the proceeds of revenue bonds issued hereunder and other funds as may be appropriated or made available therefor;

(f) purchase, lease or rent, and receive bequests or donations of or otherwise acquire, sell, trade or barter, any property (real, personal or mixed), and convert such property into money and/or other property;

(g) contract and be contracted with:

(h) apply for, receive, accept, and use any monies and property from the government of the United States of America, any agency, any state, or governmental body or political subdivision, any public or private organization or corporation, of any nature, or any individual;

(i) invest and reinvest any of its money (in securities selected by

State Building Services);

(j) take such other actions not inconsistent with law as may be necessary or desirable to carry out the powers, purposes, and authority as set forth herein, in accordance with the duly-promulgated policies of the State Building Services Council.

SECTION 4. REVENUE BONDS.

(a) The State Building Services is hereby authorized and empowered to issue revenue bonds, at one (1) time or from time to time, and to use the proceeds thereof for defraying the cost of accomplishing all or part of the powers, purposes, and authorities set forth in this act, pay all incidental expenses in connection therewith, paying the expenses of authorizing and issuing the bonds, establishing a debt service reserve to secure the payment of the bonds, if the State Building Services deems such desirable, and making provisions for the payment of interest on the bonds during and up to one (1) year after construction, if the State Building Services deems such desirable. Bonds outstanding under this act may be in such principal amount as the State Building Services shall determine to be necessary for the accomplishment of the purposes of this act.

(b) The bonds shall be authorized by resolution of the State Building Services Council ("authorizing resolution"). The bonds may be coupon bonds, payable to bearer, or may be registrable as to principal only or as to principal and interest, may be made exchangeable for bonds of another denomination, may be in such form and denomination, may have such date or dates, may be stated to mature at such time or times, may bear interest payable at such times and at such rate or rates, may be payable at such place or places within or without the state of Arkansas, may be made subject to such terms of redemption in advance of maturity at such prices, and may contain such terms and conditions, all as the State Building Services shall determine. The bonds shall have the quality of negotiable instruments under the laws of the state of Arkansas, subject to provisions as to registration, as set forth above. The authorizing resolution may contain any other terms, covenants, and conditions that are deemed desirable by the State Building Services, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds and the nature of the lien and pledge (parity or priority) in

that event, the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the investing and reinvesting (in securities specified by the State Building Services) of any bond proceeds or other funds received under this act during periods not needed for authorized purposes, and the rights, duties, and obligations of the State Building Services and of the holders and registered owners of the bonds.

The authorizing resolution may provide for the execution by the State Building Services with a bank or trust company within or without the state of Arkansas of a trust indenture. The trust indenture may contain any terms, covenants, and conditions that are deemed desirable by the State Building Services, including, without limitation, those pertaining to the maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds, and the nature of the lien and pledge (parity or priority) in that event, the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the investment or reinvesting (in securities specified by the State Building Services) of any bonds during periods not needed for authorized purposes, and the rights, duties, and obligations of the State Building Services and the holders and registered owners of the bonds.

(c) The bonds shall be sold at public sale on sealed bids, and notice of the sale shall be published once in a newspaper published in city of Little Rock, Arkansas, having a general circulation throughout the state of Arkansas at least twenty (20) days prior to the date of sale, and may be published in such other publications as the State Building Services may determine. The bonds may be sold at such prices as the State Building Services may accept, including sale at a discount, but in no event shall any bid be accepted which results in a net interest cost (determined by computing the aggregate interest cost from date to maturity at the rate or rates bid and deducting any premium or adding the amount of any discount) in excess of the interest cost computed at par for bonds bearing interest at the rate of eight percent (8%) per annum. The award, if made, shall be to the bidder whose bid results in the lowest net interest cost.

(d) The bonds shall be executed by the manual or facsimile signature of the chairman and secretary of the State Building Services Council, provided that one of such signatures must be manual. The coupons attached to the bonds shall be executed by the facsimile signature of the chairman of the Council.

In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds or coupons, their signatures shall, nevertheless, be valid and sufficient for all purposes. The State Building Services shall adopt and use a seal in the execution and issuance of the bonds, and each bond shall be sealed with the seal of the State Building Services.

(e) There may be issued separate bonds hereunder and separate series within each issue. In any event, the authorizing resolution may specify the amount of revenues, as defined herein, to be pledged for the security and payment of bonds authorized hereby.

SECTION 5. (a) It shall be plainly stated on the face of each bond that it has been issued under the provisions of this act, that the bonds shall be obligations only of the State Building Services, that in no event shall they constitute an indebtedness for which the faith and credit of the state of Arkansas or any of its revenues (within the meaning of Amendment 20 to the Constitution of the state of Arkansas) are pledged, and that they are not secured by a mortgage or lien on any land or buildings belonging to the state of Arkansas. No member of the State Building Services Council shall be personally liable for the bonds or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purposes and intent of this act, unless he shall have acted with a corrupt intent.

(b) The principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with the bonds shall be secured by a lien on and pledge of and shall be payable from the pledged revenues, defined in Section 6 hereof. The authorizing resolution or trust indenture shall set forth details of the nature and extent of the lien and pledge, including provisions for the use of surplus revenues, if any, for other lawful purposes.

SECTION 6. (a) The principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with all bonds issued under this act shall be secured solely by a lien on and pledge of the gross revenues derived from the leasing or renting to state agencies or other tenants of space in the buildings and facilities acquired pursuant to this act and the pledging of such revenues (the "pledged revenues") is hereby authorized. All pledged revenues are hereby specifically declared to be cash funds restricted

in their use and dedicated and to be used solely as provided and authorized in this act. Commencing the first day of the month succeeding the issuance of the bonds hereunder and so long as any bonds are outstanding hereunder, the pledged revenues shall not be deposited into the State Treasury and shall not be subject to legislative appropriation, but, as and when received (by the State Building Services, or by any other state agency, as the case may be) shall be deposited in a bank or banks selected by the State Building Services, to the credit of funds designated the "State Agencies Facilities Revenue Bond Fund", with appropriate identification for separate issues or series. So long as any bonds are outstanding hereunder, all monies in any bond fund shall be used solely for the payment of the principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with the bonds, with the maintenance of necessary funds and reserves, except that the authorizing resolution or trust indenture may provide for the withdrawal, for other purposes, of surplus monies, as defined in the authorizing resolution or trust indenture. Nothing in this section is intended to prohibit the State Building Services from investing monies received hereunder, as provided in this Act.

(b) So long as there are outstanding any bonds issued under this act, the General Assembly shall pass no laws or take any action to eliminate or change the schedule of rental fees as promulgated by the State Building Services or in any other respect diminish the revenues pledged under the provisions of this act except on condition that there is always maintained in effect and made available for the payment of outstanding bonds sources of revenue which produce revenues at least sufficient in amount to provide for the payment when due of the principal of, premiums, if any, interest on, and trustees' and paying agents' fees in connection with the outstanding bonds and to comply with all covenants (including, without limitation, the maintenance of funds and reserves) in favor of the holders or registered owners of such outstanding bonds.

SECTION 7. Any authorizing resolution and trust indenture shall, together with this act, constitute a contract between the State Building Services and the holders and registered owners of the bonds, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict compliance with the terms and provisions of such contract, and the covenants, agreements, and obligations of the State Building

Services may be enforced by mandamus or other appropriate proceedings at law or in equity. In this regard, in addition to other provisions referred to above, the State Building Services is hereby expressly authorized to include in any authorizing resolution or trust indenture assurance that, to the fullest extent possible, it will always charge, impose and collect sufficient rentals and other revenue to meet, as due, all debt service requirements, maintain reserves at proper levels, and otherwise comply with any provisions of authorizing resolutions or trust indentures concerning revenues and bonds.

SECTION 8. Bonds issued under the provisions of this act, and the interest thereon, shall be exempt from all state, county, and municipal taxes, and the exemption shall include income, inheritance, and estate taxes.

SECTION 9. The State Building Services shall include necessary provisions in the authorizing resolution or trust indenture to require the deposit of the proceeds of the bonds or any series thereof (except amounts for interest or reserve, which may be deposited in the Bond Fund) into a special Construction Fund ("Construction Fund") which shall be a trust fund in such depository as the State Building Services shall designate, which depository shall be a member of the Federal Deposit Insurance Corporation, and all monies in the Construction Fund in excess of the amount insured by the Federal Deposit Insurance Corporation must be secured by direct obligations of the United States of America, unless invested in securities specified by the State Building Services. The monies in the Construction Fund shall be used solely for the powers, purposes, and authorities set forth in this act.

SECTION 10. REFUNDING BONDS. Bonds may be issued for the purpose of refunding any bonds issued under this act. Refunding bonds may either be 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 authorized investments for the retirement of the bonds being refunded, as shall be specified by the State Building Services in the authorizing resolution or trust indenture securing the refunding bonds and subject to compliance with the provisions of the authorizing resolution or trust indenture securing the bonds being refunded. The authorizing resolution or trust indenture securing the refunding bonds may

provide that the refunding bonds shall have the same priority of pledge as was enjoyed by the bonds refunded. Refunding bonds shall be sold and secured in accordance with the provisions of this act pertaining to the sale and security of revenue bonds. The refunding bonds issued as herein authorized shall not carry an interest rate greater than the interest rate on the outstanding bonds to be refunded. The resolution authorizing issuance of refunding bonds shall specifically set forth all fees to be paid to bond counsels and underwriters, and all other fees incurred in the issuance of the refunding bonds under the provisions of this act. It shall also specify the intended use to be made of all proceeds made available through the refunding process.

SECTION 11. No member of the State Building Services Council shall be held personally liable for any act taken by the Council or for any damages sustained by anyone in any contract entered into in carrying out the purposes and intent of this act, unless he (she) shall have acted with a corrupt intent.

SECTION 12. (a) The State Building Services is hereby authorized to supervise and manage buildings and other facilities acquired pursuant to the authority granted herein and to manage, maintain and repair said buildings and facilities to provide rental space to be made available for the housing of state agencies, departments, boards, commissions and institutions, or other tenants, at such rental rates as deemed necessary:

(i) to provide sufficient funds to be paid into the Bond Fund to enable the State Building Services to meet, when due, the payment of principal of, interest on, and paying agents' fees in connection with all bonds issued under this act; (ii) to establish and maintain such reserves, and other financial obligations in regard to the bonds issued under the provisions of this act as set forth in the bond agreement; and (iii) in addition thereto, to pay the costs of utilities, insurance, janitorial supplies and services, building maintenance, upkeep, repair, and remodeling as deemed necessary, including the accumulation of reserves deemed necessary for such purposes as authorized under the provisions of this act, and, in connection therewith, the State Building Services may establish one or more accounts in one or more banks authorized to do business in this state to accomplish such purposes.

(b) The State Building Services is hereby authorized to hire legal

counsel of its choice to assist in the administration of this act.

SECTION 13. This act shall be construed liberally. The enumeration of any object, purpose, power, manner, method, and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, and things.

SECTION 14. 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 15. All laws and parts of laws in conflict with this act are hereby repealed.