

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

479

By: Senators Brandon, C. Bell, Gibson, Allen,
Howell, Hoofman, Jewell

For An Act To Be Entitled

"AN ACT TO LEVY AN EXCISE TAX OF THREE PERCENT (3%) ON THE GROSS RECEIPTS DERIVED FROM THE SALE OF ALCOHOLIC BEVERAGES FOR ON PREMISES CONSUMPTION AND GROSS RECEIPTS OF PRIVATE CLUBS DERIVED FROM CHARGES TO MEMBERS FOR THE PREPARATION AND SERVING OF MIXED DRINKS AND THE COOLING AND SERVING OF BEER AND WINE; TO PROVIDE THE PROCEDURE FOR PAYMENT OF THE TAX LEVIED HEREIN; TO PRESCRIBE THE DISPOSITION OF REVENUES DERIVED FROM THE TAX LEVIED HEREIN; TO AUTHORIZE THE STADIUM COMMISSION TO ISSUE REVENUE BONDS FOR THE RENOVATION OF WAR MEMORIAL STADIUM AND FOR THE CONSTRUCTION OF A CONVOCATION CENTER IN LITTLE ROCK TO BE LEASED TO THE UNIVERSITY OF ARKANSAS; TO PROVIDE THAT SUCH BONDS SHALL BE SECURED BY A PLEDGE OF FUNDS DERIVED FROM THE LEASE OF THE CONVOCATION CENTER AND FROM REVENUES DERIVED FROM OPERATION OF WAR MEMORIAL STADIUM; AND FOR OTHER PURPOSES."

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

SECTION 1. There is hereby levied an excise tax of three percent (3%) upon the gross receipts derived from the sale of alcoholic beverages for on premises consumption and on the gross receipts of private clubs derived from charges to members for the preparation and serving of mixed drinks and the cooling and serving of beer and wine.

SECTION 2. (a) It shall be the duty of every retailer of alcoholic beverages for on premises consumption and every private club dispensing alcoholic beverages for on premises consumption to collect the tax levied herein from the consumer in addition to any other taxes levied on such alcoholic beverages, and to report and remit the tax to the Director of the

Department of Finance and Administration on or before the twentieth day of each calendar month for the preceding month.

(b) Failure to file return and remittance on the due date shall be cause for the Director of the Department of Finance and Administration to enter an assessment for the return and remittance and add as a penalty ten percent (10%) of the amount of tax found to be due.

(c) Returns shall be filed upon forms prescribed by the Director of the Department of Finance and Administration in accordance with such regulations as he may promulgate hereunder.

SECTION 3. The Director of the Department of Finance and Administration is authorized to adopt appropriate rules and regulations to assure the effective and efficient administration of the provisions of this act and the collection of the tax levied herein.

SECTION 4. The tax levied herein shall be in addition to any other tax now or hereafter levied on alcoholic beverages.

SECTION 5. The term "alcoholic beverages" as used herein means and includes intoxicating liquors, beer and wines.

SECTION 6. All taxes, interest, penalties and costs collected by the Director of the Department of Finance and Administration under the provisions of this act shall be deposited in the State Treasury and the net amount thereof after deducting three percent (3%) as a collection cost for credit to the Constitutional and Fiscal Agencies Fund or any successor fund shall be credited to the "UALR Facilities Rental Fund" which is hereby established on the books of the State Treasurer, State Auditor and the Chief Fiscal Officer of the state. All revenues credited to the UALR Facilities Rental Fund shall be used exclusively by the University of Arkansas at Little Rock for renting such facilities as will best serve the needs of the institution.

SECTION 7. The tax levied herein shall be effective on and after July 1, 1989.

SECTION 8. REVENUE BONDS.

(a) The Stadium Commission created in Arkansas Code 22-3-1001 et seq. 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 renovation of the War Memorial Stadium and for the construction of a convocation center in Little Rock to be leased to the University of Arkansas, to pay all incidental expenses in connection therewith, to pay the expenses of authorizing and issuing the bonds, to establish a debt service reserve to secure the payment of the bonds if the Stadium Commission deems such desirable, and to make provisions for the payment of interest on the bonds during and up to one (1) year after construction, if the Stadium Commission deems such desirable. Bonds outstanding under this act may be in such principal amount as the Stadium Commission shall determine to be necessary for the accomplishment of the purposes of this act but not to exceed twenty-four million dollars (\$24,000,000).

(b) The bonds shall be authorized by resolution of the Stadium Commission ("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 Stadium Commission 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 Stadium Commission, 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 Stadium Commission) 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 Stadium Commission and of the holders and registered

owners of the bonds.

The authorizing resolution may provide for the execution by the Stadium Commission 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 Stadium Commission, 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 Stadium Commission) of any bonds during periods not needed for authorized purposes, and the rights, duties, and obligations of the Stadium Commission 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 the 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 Stadium Commission may determine. The bonds may be sold at such prices as the Stadium Commission may accept, including sale at a discount. 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 Stadium Commission, 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 Commission. 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 Stadium Commission 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 Stadium Commission.

(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 9. (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 Stadium Commission, 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 Stadium Commission 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 10. 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 of the convocation center to the University of Arkansas or other state institutions or agencies or other tenants or users, and the revenues derived from the operation of the War Memorial Stadium after a sufficient amount thereof has been set aside each month for reasonable expenses of operation and maintenance of the stadium and to meet other obligations of the commission, 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 Stadium Commission, shall be deposited in a bank or banks selected by the Stadium Commission, to the credit of a fund designated the "War Memorial Stadium and

Convocation Center 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 Stadium Commission from investing monies received hereunder, as provided in this act.

SECTION 11. Any authorizing resolution and trust indenture shall, together with this act, constitute a contract between the Stadium Commission 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 Stadium Commission 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 Stadium Commission 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 12. 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 13. The Stadium Commission 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 Stadium Commission 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 Stadium Commission. The monies in the Construction Fund shall be used solely for the powers, purposes, and authorities set forth in this act.

SECTION 14. 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 Stadium Commission 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.

SECTION 15. No member of the Stadium Commission shall be held personally liable for any act taken by the Commission 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 16. (a) The Stadium Commission is hereby authorized to supervise and manage the convocation center and other related facilities constructed pursuant to the authority granted herein and to manage, maintain and repair said buildings and facilities and to lease the convocation center or any part thereof to the University of Arkansas or other suitable tenants at such rental rates as deemed necessary: (i) to provide sufficient funds to be paid into the Bond Fund to enable the Stadium Commission 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 Stadium Commission may establish one or more accounts in one or more banks authorized to do business in this state to accomplish such purposes.

(b) The Stadium Commission is hereby authorized to hire legal counsel of its choice to assist in the administration of this act.

SECTION 17. 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 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. 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 21. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 22. EMERGENCY. It is hereby found and determined by the General Assembly that War Memorial Stadium is in urgent need of repairs and that funds are not currently available to make such repairs; that the University of Arkansas at Little Rock is in urgent need of facilities to house various

activities and functions of the institution and that rental of such facilities appears to be the most practical method of obtaining such facilities; that this act is designed to provide funds for both these worthy and urgent needs and should be given effect immediately. 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.

