

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative J. E. Miller**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ACT 235 OF 1991, THE CAPITOL MALL
9 FACILITY AND STATE AGENCIES FACILITIES ACT OF 1991, TO
10 GRANT TO THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY THE
11 BONDING POWER WHICH WAS GRANTED THE STATE BUILDING
12 SERVICES; AND FOR OTHER PURPOSES."

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

16 SECTION 1. Subsection (b) of Section 2 of Uncodified Act 235 of 1991 is
17 hereby amended to read as follows:

18 "(b) Bonds or revenue bonds means any bonds, notes, debentures,
19 interim certificates, grant and revenue anticipation notes, interest in a
20 lease, lease certificate(s) of participation or evidences of indebtedness,
21 whether or not the interest on them is subject to federal income taxation."

23 SECTION 2. To amend Section 2 of Uncodified Act 235 of 1991 by
24 inserting an additional subsection at the end thereof to read as follows:

25 "(f) Authority means the Arkansas Development Finance Authority
26 created pursuant to Act 1062 of 1985, as amended."

28 SECTION 3. Sections 3 through 7 of Uncodified Act 235 of 1991 are
29 hereby amended to read as follows:

30 "SECTION 3. (a) CAPITOL MALL FACILITY. In addition to the purposes,
31 powers, and authority set forth elsewhere in this act or in other laws, the
32 State Building Services is hereby authorized and empowered to construct on the
33 State Capitol grounds the Capitol Mall Facility, as defined herein, with
34 construction of new enclosed buildings not to exceed a cumulative gross
35 building area of one hundred thousand (100,000) square feet commenced through

1 calendar year 1992, two hundred thousand (200,000) square feet commenced
2 through calendar year 1994, three hundred thousand (300,000) square feet
3 commenced through calendar year 1996, four hundred thousand (400,000) square
4 feet commenced through calendar year 1998, and five hundred thousand (500,000)
5 square feet commenced through calendar year 2000, with such restrictions to
6 apply to enclosed buildings only and shall not apply to square feet area of
7 parking structures or parking space required in connection with or
8 necessitated by the construction of new buildings or to meet the needs of
9 parking space on the State capitol grounds; and in furtherance thereof to:

10 (1) arrange for the housing in the Capitol Mall Facility of state
11 agencies to the extent that space and facilities are available for such
12 purpose, under such terms and conditions and for such rentals and charges as
13 State Building Services may determine;

14 (2) construct or cause to be constructed streets, curbs, gutters,
15 utilities, landscaping, and parking facilities to serve the facility;

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

19 (4) contract and be contracted with;

20 (5) apply for, receive, accept, and use any monies and property
21 from the government of the United States of America, provided by the General
22 Assembly, any agency, any state, or governmental body or political
23 subdivision, any public or private organization or corporation, of any nature,
24 or any individual;

25 (6) take such other actions not inconsistent with law as may be
26 necessary or desirable to carry out the powers, purposes, and authority as set
27 forth herein, in accordance with the duly promulgated policies of the State
28 Building Services as authorized by law.

29 (b) In addition to the purposes, powers and authority set forth
30 elsewhere in this act or in other laws, in connection with the construction
31 and equipping of the Capitol Mall Facility, as defined herein, the Authority
32 is hereby authorized:

33 (1) to obtain the necessary funds for accomplishing the purposes
34 set forth in this act, from any source or sources, including, without
35 limitation, the proceeds of revenue bonds or lease financings as authorized

1 herein, and other funds as may be appropriated or may be available therefor;
2 and

3 (2) contract and to be contracted with; and

4 (3) invest and reinvest any of the proceeds of such revenue bonds
5 as provided in such authorizing resolution or trust indenture, hereinafter
6 authorized; and

7 (4) take such other actions not inconsistent with law as may be
8 necessary or desirable to carry out the powers, purposes and authority set
9 forth herein, in accordance with the duly promulgated policies of the
10 Authority as authorized by law.

11 (c) ACQUISITION OF BUILDINGS AND FACILITIES. In addition to the
12 purposes, powers, and authority set forth in subsection (a) of this section
13 and as set forth elsewhere in this act or in other laws, the State Building
14 Services is hereby authorized and empowered to acquire buildings and
15 facilities located in the city in which the seat of State Government is
16 located to house state agencies, and repair, remodel, and renovate such
17 buildings and facilities as State Building Services shall deem necessary and
18 appropriate to accommodate state agencies, provided that no single acquisition
19 may exceed a total cost of four million dollars (\$4,000,000) in value, whether
20 acquired by purchase, exchange, eminent domain, long-term lease, or other
21 means, exclusive of the cost of repairs, remodeling, and renovation of such
22 buildings and facilities as State Building Services deems necessary and
23 appropriate to accommodate state agencies, provided that the area of the
24 structure of any such existing building or facility is not expanded by more
25 than ten percent (10%) in connection therewith. All property acquired on a
26 specific site shall be considered as a part of a single acquisition. In
27 furtherance of the purposes authorized by this subsection, State Building
28 Services is hereby authorized and empowered to:

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

33 (2) arrange for the housing of state agencies in such buildings
34 and facilities to the extent that space and facilities are available for such
35 purpose, under such terms and conditions and for such rentals and charges as

1 State Building Services may determine;

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

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

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

11 (6) contract and be contracted with;

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

16 (8) invest and reinvest any of its money (in securities selected
17 by State Building Services);

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

22 (d) It is the intent of this section to authorize State Building
23 Services to undertake, in the manner and subject to the limitations set forth
24 in subsection (a), the construction of the Capitol Mall Facility and that,
25 excepting parking structures, new building construction shall not be permitted
26 under this act except to implement the Capitol Mall Facility as defined in
27 subsection (c) of Section 2 of this act. In addition, it is the purpose of
28 this act to authorize State Building Services to acquire buildings and
29 facilities (acquired structures) in the city in which the seat of State
30 Government is located in the manner authorized in subsection (b) of this
31 section and to provide that the repair, remodeling, and renovation of such
32 facilities by State Building Services shall not be considered new building
33 construction if such repair, remodeling, and renovation does not expand the
34 existing structure by more than ten percent (10%) in area. The restrictions
35 contained in subsection (a) of this section with respect to the limitations on

1 the square footage of new construction to be undertaken on the Capitol Mall
2 Facility during each biennium, and the restrictions on the cost of a single
3 acquired structure under subsection (b) of this section, shall not apply to
4 the acquisition, construction, or improvement of parking structures or parking
5 areas as authorized under subsection (a) of this section or in connection with
6 acquired structures under subsection (b) of this section.

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8 SECTION 4. REVENUE BONDS.

9 (a) Pursuant to the intention of the General Assembly expressed in
10 Arkansas Code Annotated §15-5-303, the Authority, in co-operation with State
11 Building Services, is hereby authorized and empowered to issue revenue bonds,
12 at one time or from time to time, and to use the proceeds thereof for
13 defraying the costs of accomplishing all or part of the powers, purposes and
14 authorities set forth in this act, pay all incidental expenses in connection
15 therewith, pay the expenses of authorizing and issuing the bonds, establishing
16 a debt service reserve to secure the payment of the bonds, if the Authority
17 deems such desirable, and making provision for the payment of interest and
18 trustee's fees on the bonds. The bonds outstanding under this act may be in
19 such principal amount as the Authority and State Building Services shall
20 determine to be necessary for the accomplishment of the purposes of this act.

21 (b) The bonds shall be authorized, shall be sold by such means, shall
22 bear such rate or rates of interest, and shall be executed and delivered in
23 such manner as the Authority may determine pursuant to the provisions of
24 Arkansas Code Annotated §15-5-301 to §15-5-316, inclusive. The Authority is
25 authorized to enter into such authorizing resolutions and trust indentures as
26 it deems necessary to secure the revenue bonds.

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28 SECTION 5. (a) It shall be plainly stated on the face of each bond
29 that it has been issued under the provisions of this act, that the bonds shall
30 be obligations only of the Authority, that in no event shall they constitute
31 indebtedness for which the faith and credit of the State of Arkansas or any of
32 its revenues (within the meaning of Amendment 20 to the Constitution of the
33 State of Arkansas) are pledged. No member of the Authority shall be
34 personally liable on the bonds.

35 (b) The principal of, premiums, if any, interest on, and trustees' and

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

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8 SECTION 6. The principal of, premiums, if any, interest on, and
9 trustees' and paying agents' fees in connection with all bonds issued under
10 this act shall be secured solely by a lien on and pledge of the gross revenues
11 derived from the leasing or renting to state agencies or other tenants of
12 space in the Capitol Mall Facility and in the buildings and facilities
13 acquired pursuant to this act and the pledging of such revenues (the "pledged
14 revenues") is hereby authorized. All pledged revenues are hereby specifically
15 declared to be cash funds restricted in their use and dedicated (and) to be
16 used solely as provided and authorized in this act. Commencing the first day
17 of the month succeeding the issuance of the bonds hereunder and so long as any
18 bonds are outstanding hereunder, the pledged revenues shall not be deposited
19 into the State Treasury and shall not be subject to legislative appropriation,
20 but, as and when received (by the Authority, or by any other state agency, as
21 the case may be) shall be deposited in a bank or banks selected by the
22 Authority, to the credit of funds designated the "Capitol Mall Facility and
23 State Agencies Facilities Revenue Bond Fund", with appropriate identification
24 for separate issues or series. So long as any bonds are outstanding
25 hereunder, all monies in any bond fund shall be used solely for the payment of
26 the principal of, premiums, if any, interest on, and trustees' and paying
27 agents' fees in connection with the bonds, with the maintenance of necessary
28 funds and reserves, except that the authorizing resolution or trust indenture
29 may provide for the withdrawal, for other purposes, of surplus monies, as
30 defined in the authorizing resolution or trust indenture. Nothing in this
31 section is intended to prohibit the Authority from investing monies received
32 hereunder, as provided in this act.

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34 SECTION 7. Any authorizing resolution and trust indenture shall,
35 together with this act, constitute a contract between the Authority and the

1 holders and registered owners of the bonds, which contract, and all covenants,
2 agreements and obligations therein, shall be promptly performed in strict
3 compliance with the terms and provisions of such contract, and the covenants,
4 agreements, and obligations of the Authority may be enforced by mandamus or
5 other appropriate proceedings at law or in equity. In this regard, in
6 addition to other provisions referred to above, the Authority is hereby
7 expressly authorized to include in any authorizing resolution or trust
8 indenture all or any part of the following covenants:

9 (1) that, to the fullest extent possible, State Building Services will
10 continuously operate the Capitol Mall Facility and other buildings and
11 facilities acquired under this act as revenue-producing undertakings,
12 including the maintenance of occupancy and the use of facilities and space so
13 as to avoid any impairment of the security for the bonds; and

14 (2) that, to the fullest extent possible, State Building Services and
15 the Authority will always charge, impose and collect sufficient rentals and
16 other revenue to meet, as due, all debt service requirements, maintain
17 reserves at proper levels, and otherwise comply with any provisions of
18 authorizing resolutions or trust indentures concerning revenues and bonds."
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20 SECTION 4. Sections 9 and 10 of Uncodified Act 235 of 1991 are hereby
21 amended to read as follows:

22 "SECTION 9. The Authority shall include necessary provisions in the
23 authorizing resolution or trust indenture to provide for the deposit of the
24 proceeds of the bonds pursuant to the provisions of Arkansas Code Annotated
25 §15-5-209. The Authority may create and establish one or more special funds
26 in such depositories and make such investment as it may designate to provide
27 for the construction, secure the bonds, establish reserves, and fund other
28 necessary functions or activities authorized by the act.
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30 SECTION 10. REFUNDING BONDS. Bonds may be issued for the purpose of
31 refunding any bonds issued under this act. Refunding bonds may be issued by
32 the Authority pursuant to the provisions of Arkansas Code §15-5-314."
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34 SECTION 5. Subsection (a) of Section 12 of Uncodified Act 235 of 1991
35 is hereby amended to read as follows:

1 "(a) The State Building Services is hereby authorized to supervise and
2 manage the Capitol Mall Facility and the other buildings and facilities
3 acquired pursuant to the authority granted herein and to manage, maintain and
4 repair said buildings and facilities to provide rental space to be made
5 available for the housing of state agencies, departments, boards, commissions
6 and institutions, or other tenants, at such rental rates as deemed necessary:

7 (i) to provide sufficient funds to enable the Authority to meet,
8 when due, the payment of principal of, interest on, and trustee's and paying
9 agents' fees in connection with all bonds issued under this act;

10 (ii) to enable the Authority to establish and maintain such
11 reserves, and other financial obligations in regard to the bonds issued under
12 the provisions of this act as shall be set forth in any authorizing resolution
13 or trust indenture utilized for that purpose; and

14 (iii) in addition thereto, to pay the costs of utilities,
15 insurance, janitorial supplies and services, building maintenance, upkeep,
16 repair, and remodeling as deemed necessary, including the accumulation of
17 reserves deemed necessary for such purposes as authorized under the provisions
18 of this act, and, in connection therewith, the State Building Services may
19 establish one or more accounts in one or more banks authorized to do business
20 in this state to accomplish such purposes."

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22 SECTION 6. Section 15 of Uncodified Act 235 of 1991 is hereby amended
23 to read as follows:

24 "SECTION 15. This act shall not create any right in any bondholder for
25 bonds issued pursuant to this act, and no right of such bondholder shall arise
26 under it, until bonds authorized by this act (of the initial issue or series)
27 shall have been sold and delivered by the Authority."

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29 SECTION 7. All provisions of this act of a general and permanent nature
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
31 Revision Commission shall incorporate the same in the Code.

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33 SECTION 8. If any provision of this act or the application thereof to
34 any person or circumstance is held invalid, such invalidity shall not affect
35 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this
2 act are declared to be severable.

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4 SECTION 9. All laws and parts of laws in conflict with this act are
5 hereby repealed.

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