

As Engrossed: 3/18/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Joint Budget Committee**

A Bill

HOUSE BILL 2021

For An Act To Be Entitled

8 "AN ACT AUTHORIZING THE CONSTRUCTION OF AN EXPANSION TO
9 THE STATE DEPARTMENT OF HEALTH BUILDING; TO AUTHORIZE THE
10 BORROWING OF FUNDS FROM THE ARKANSAS DEVELOPMENT FINANCE
11 AUTHORITY TO FINANCE SUCH CONSTRUCTION; DECLARING AN
12 EMERGENCY; AND FOR OTHER PURPOSES."

13
14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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16 SECTION 1. This act shall be known as the Department of Health Building
17 Expansion Act of 1991.

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19 SECTION 2. As used in this act:

20 (1) "Authority" means the Arkansas Development Finance Authority;

21 (2) "Authorizing resolution" means the resolution or resolutions
22 adopted by the board authorizing the loan;

23 (3) "Board" means the State Board of Health of the State of Arkansas;

24 (4) "Building" means the State Department of Health Building, located
25 on West Markham Street in Little Rock, Arkansas, including the expansion;

26 (5) "Construction Fund" means the State Board of Health 1991 Building
27 Expansion Construction Fund created pursuant to this act;

28 (6) "Director" or "State Health Officer" means the Director of the
29 Arkansas Department of Health;

30 (7) "Construct" or "or construction" means to acquire, construct,
31 reconstruct, remodel, install and equip any lands, building, structures,
32 improvements or other property, real, personal or mixed, useful in connection
33 with the expansion and to make other necessary expenditures in connection
34 therewith, by such methods and in such manner as may be authorized by law, and
35 in the case of the acquisition of equipment and other property of a medical,

1 laboratory or technical nature by such method as the board or the director
2 shall determine to be necessary or desirable to accomplish the power, purposes
3 and authorities set forth in this act and without regard to the provisions of
4 other laws pertaining to the construction and acquisition of property by state
5 agencies. The term also includes payment or provision for expenses incidental
6 thereto;

7 (8) "Expansion" means the expansion and improvement of the building as
8 provided for herein, including the renovation and alteration of existing
9 properties, real, personal or mixed;

10 (9) "Fees" means all fees set forth in Ark. Code Ann. §20-7-123, which
11 fees are confirmed and ratified by this act;

12 (10) "Fee revenues" means all revenues derived from all or any of the
13 fees;

14 (11) "Loan" means the loan which the board is authorized to effect,
15 from the authority, by the terms of this act;

16 (12) "Revenue Fund" means the State Board of Health Fee Revenue Fund
17 created pursuant to this act;

18 (13) "Revenue Loan Fund" means the State Board of Health Fee Revenue
19 Loan Fund created pursuant to this act.

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21 SECTION 3. (a) The expansion shall be constructed. The board is
22 authorized to approve the construction of the expansion and to take such
23 action as may be appropriate to the completion of the expansion and any
24 facilities necessarily related thereto.

25 (b) Subject to the approval of the board, the plans, specifications and
26 estimates of cost for the expansion shall be approved by the director, and the
27 director is authorized to employ such architects and such other like
28 professional and technical assistance as determined to be necessary for the
29 construction of the expansion.

30 (c) The board and the director are authorized to take such action as
31 may be appropriate for the construction of the expansion and to the
32 accomplishment of the purposes of this act and may engage such legal,
33 technical and other assistance as determined to be necessary to the
34 construction of the expansion, the effecting of the loan and the
35 accomplishment of the purposes of this act.

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1 SECTION 4. (a) To finance the construction of the expansion, the board
2 is authorized to enter into a loan, from the authority, in the principal
3 amount of not more than six million five hundred thousand dollars
4 (\$6,500,000), pursuant to Arkansas Code of 1987 Annotated, Title 15, Chapter
5 5. The amount and purpose of the loan shall be approved by the board in an
6 authorizing resolution, copies of which shall be maintained in the records of
7 the board and of the authority.

8 (b) The loan shall bear interest at a rate determined by the rate of
9 interest on funds borrowed by the authority to fund the loan, but not to
10 exceed the lesser of ten percent (10%) per annum or the maximum rate of
11 interest permitted by Amendment No. 60 to the Arkansas Constitution.

12 (c) The loan shall mature over a period of not more than thirty (30)
13 years.

14 (d) The board and the director are authorized to execute and deliver
15 such agreements, instruments and other undertakings and writings and to take
16 such action as may be appropriate to evidence the loan and the security
17 therefor and to carry out the purposes of this act.

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19 SECTION 5. The payment and other obligations of the board under and
20 with respect to the loan shall be secured by a pledge of the fee revenues,
21 subject to the terms of this act and the reserved power to release fee
22 revenues as set forth in this act. The loan shall be an obligation of the
23 board only and shall not constitute an indebtedness for which the faith and
24 credit of the State of Arkansas or any of its revenues are pledged. The loan
25 shall not be secured by a lien on any land, building or other property
26 belonging to the State of Arkansas. The loan shall not constitute an
27 indebtedness within the meaning of any constitutional or statutory limitation.

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29 SECTION 6. The fees set forth in Ark. Code Ann. §20-7-123, which are
30 the "fees" for all purposes of this act, are hereby confirmed and ratified.

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32 SECTION 7. (a) Commencing July 1, 1991, and so long as the loan is
33 outstanding, all fee revenues shall be treated as cash funds and shall not be
34 deposited in the State Treasury, except as set forth in this act, but shall be
35 deposited, as and when received, in a bank or banks approved by the board or

1 the director, in an account or accounts of the board designated "State Board
2 of Health Fee Revenue Fund." All moneys in the Revenue Fund shall, commencing
3 on the date set forth above and so long as the loan is outstanding, shall not
4 be subject to the provisions of Arkansas Code of 1987 Annotated §19-4-801
5 through 806 and shall be deposited, handled and disbursed as set forth in this
6 act.

7 (b) Moneys held in the Revenue Fund shall, no less frequently than
8 bimonthly, be withdrawn therefrom and deposited as follows and in the
9 following order of priority:

10 (1) An annual amount sufficient to provide for principal,
11 interest, servicing fees (if any) and reserve requirements with respect to the
12 loan, but not to exceed the sum of six hundred and fifty thousand dollars
13 (\$650,000) per fiscal year:

14 (A) prior to the commencement of the loan, in the
15 Construction Fund; or

16 (B) beginning upon commencement of the loan, in an account
17 or accounts of the board, in a bank or banks approved by the board or the
18 director, designated "State Board of Health Fee Revenue Loan Fund;"

19 (2) the sum of nine hundred thousand dollars (\$900,000) per
20 fiscal year to the Public Health Fund;

21 (3) the sum of six hundred thousand (\$600,000) per fiscal year to
22 the State Health Building and Local Grant Trust Fund;

23 (4) any balance remaining shall be distributed fifty percent
24 (50%) to the Public Health Fund and fifty percent (50%) to the State Health
25 Building and Local Grant Trust Fund.

26 (c) Commencing July 1, 1991, and so long as the loan shall be
27 outstanding, all funds held in the Revenue Fund, the Revenue Loan Fund and the
28 Construction Fund shall be deemed to be cash funds, shall not be deposited in
29 the State Treasury and shall be transferred, deposited and applied, as set
30 forth herein, without the necessity of appropriation. All transfers from the
31 Revenue Fund and the Construction Fund shall be made by the director. All
32 transfers from the Revenue Loan Fund shall be made by the director or, with
33 the approval of the director or the board, the authority.

34 (d) So long as the loan is outstanding, funds held in the Revenue Loan
35 Fund shall be used solely for the purpose of paying and providing for

1 principal of, interest on and servicing fees, if any, in connection with the
2 loan and providing for the creation and maintenance of necessary reserves.

3 (e) So long as the loan is outstanding, all fees shall be imposed and
4 all fee revenues shall be collected and applied as provided in this act;
5 provided, however, particular fees may be reduced or eliminated so long as
6 remaining fees are increased or new fees are added to the end that the
7 aggregate annual amount of fee revenues shall always equal at least nine
8 hundred thousand dollars (\$900,000).

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10 SECTION 8. The proceeds of the loan, other than amounts required to
11 establish required reserves, to pay interest on the loan for a period not to
12 exceed one (1) year or to pay costs of the loan (all of which shall be set
13 forth in written directions executed by the director) shall be deposited, as
14 cash funds, in an account of the board designated "State Board of Health 1991
15 Building Expansion Construction Fund" and disbursed by the director for the
16 construction of the expansion.

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18 SECTION 9. All moneys held at any time in the Revenue Fund, the Revenue
19 Loan Fund and the Construction Fund shall, to the extent feasible, be invested
20 and reinvested, as directed by the director, in direct obligations of or
21 obligations fully guaranteed by the United States of America ("Government
22 Obligations") or, with the approval of the authority, in mutual funds composed
23 entirely of Government Obligations.

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25 SECTION 10. The authorizing resolution, and each agreement or other
26 writing executed and delivered pursuant to it or this act, together with this
27 act, shall constitute a contract between the board and the authority, and the
28 obligations of the board may be enforced by mandamus or other equitable or
29 legal remedy. The obligations of the board shall be freely assignable by the
30 authority, provided that the board is notified in writing of any such
31 assignment.

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33 SECTION 11. Neither the director nor any member of the board shall be
34 personally liable on the loan or on account of any of the obligations or
35 action undertaken in connection therewith or for any damages sustained by

1 anyone with respect to any such obligations or action, unless he or she shall
2 have acted with a corrupt intent.

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4 SECTION 12. All provisions of this act of a general and permanent
5 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
6 Code Revision Commission shall incorporate the same in the Code.

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8 SECTION 13. If any provision of this act or the application thereof to
9 any person or circumstance is held invalid, such invalidity shall not affect
10 other provisions or applications of the act which can be given effect without
11 the invalid provision or application, and to this end the provisions of this
12 act are declared to be severable.

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14 SECTION 14. All laws and parts of laws in conflict herewith, including,
15 without limiting the generality of the foregoing, Act 469 of 1965 (other than
16 Section 10 thereof), Act 686 of 1977 and Ark. Code Ann. §20-7-203(c), are
17 hereby repealed to the extent of such conflict.

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19 SECTION 15. It is hereby found and determined by the General Assembly
20 that the Arkansas Department of Health is critically in need of additional
21 space and that, accordingly, the expansion, which is authorized and enabled by
22 this act, must be constructed as soon as feasible. Therefore, an emergency is
23 declared to exist and this act being necessary for the preservation of the
24 public peace, health and safety, shall be in force upon its passage and
25 approval.

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27 */s/John E. Miller*

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