

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **First Extraordinary Session, 1992**  
4 **By: Senator Bearden**

# A Bill

Call Item 8

**SENATE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND THE REGIONAL AIRPORT ACT, TITLE 14,  
9 CHAPTER 362 OF THE ARKANSAS CODE; TO PROVIDE FOR THE  
10 PARTICIPATION OF THE STATE OF ARKANSAS IN REGIONAL AIRPORT  
11 AUTHORITIES FOR MAJOR AIRPORT FACILITIES; DECLARING AN  
12 EMERGENCY; AND FOR OTHER PURPOSES."

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

16 SECTION 1. Arkansas Code 14-362-102 is hereby amended to read as  
17 follows:

18 "14-362-102. Definitions.

19 As used in this chapter, unless the context otherwise requires:

20 (1) Authority means any authority created under the provisions of  
21 this chapter;

22 (2) Municipality or municipal corporation means a city of the first  
23 class, a city of the second class, or an incorporated town;

24 (3) Governing body means the council, board of directors, or city  
25 commission of any municipality or the county court of any county;

26 (4) Equip means to install or place on or in any building or  
27 structure equipment of any and every kind, whether or not affixed, including,  
28 without limiting the generality of the foregoing, building service equipment,  
29 fixtures, heating equipment, air conditioning equipment, machinery, furniture,  
30 furnishings, and personal property of every kind;

31 (5) Sell means to sell for such price, in such manner, and upon such  
32 terms as the authority shall determine including, without limiting the  
33 generality of the foregoing, private or public sale; and if public, pursuant  
34 to such advertisement as the authority shall determine, sale for cash or  
35 credit payable in lump sum, or in installments over such period as the

1 authority shall determine; and if on credit, with or without interest and at  
2 such rate or rates as the authority shall determine;

3 (6) Lease means to lease for such rentals, for such period or  
4 periods, and upon such terms and conditions as the authority shall determine,  
5 including, without limiting the generality of the foregoing, the granting of  
6 such renewal or extension options for such rentals, for such periods, and upon  
7 such terms and conditions as the authority shall determine and the granting of  
8 such purchase options for such prices and upon such terms and conditions as  
9 the authority shall determine;

10 (7) Construct means to acquire or build, in whole or in part, in such  
11 manner and by such method, including contracting therefor, and if the latter,  
12 by negotiation or bids upon such terms and pursuant to such advertising, as  
13 the authority shall determine to be in the public interest and necessary under  
14 the circumstances existing at the time to accomplish the purposes of and  
15 authorities set forth in this chapter;

16 (8) Facilities or property or properties means any real property,  
17 personal property, or mixed property of any and every kind that can be used,  
18 or that will be useful, to accomplish the purposes of, and powers set forth  
19 in, this chapter including, without limiting the generality of the foregoing,  
20 rights-of-way, roads, streets, utilities, materials, equipment, fixtures,  
21 machinery, furnishings, furniture, instrumentalities, and other real,  
22 personal, or mixed property of every kind;

23 (9) County means any county in this state;

24 (10) Major airport facility means a public airport with an active  
25 runway at least seven thousand (7,000) feet long; and

26 (11) State means the State of Arkansas."  
27

28 SECTION 2. Arkansas Code 14-362-103 is hereby amended to read as  
29 follows:

30 "14-362-103. Establishment of authorities.

31 (a) Any two (2) or more municipalities , any two (2) or more contiguous  
32 counties, or any one (1) or more municipalities together with any one (1) or  
33 more contiguous counties, are authorized to create and establish an authority  
34 as prescribed in this chapter for the purpose of acquiring, equipping,  
35 constructing, maintaining, and operating regional airports.

1           No county or municipality shall participate in such authority  
2 unless and until its governing body so provides, by ordinance, and enters into  
3 an agreement with the other participating governmental units establishing the  
4 terms and conditions for the operation of the authority within the limitations  
5 provided in this chapter and such other laws of the State of Arkansas as may  
6 be applicable.

7           (b) The state may join in the creation and establishment of any  
8 authority if the regional airport to be acquired, equipped, constructed,  
9 maintained or operated is a major airport facility. The state shall not  
10 participate in any authority unless and until the Governor so provides, by  
11 proclamation, and enters into the agreement with the other participating  
12 governmental units. The agreement with the other participating governmental  
13 units shall be executed by the Governor of the state.

14           (c) To the extent that it is consistent with this chapter, the  
15 agreement shall specify the information provided for in §25-20-104(c).

16           (d) The agreement shall be filed with the Secretary of State."  
17

18           SECTION 3. Arkansas Code 14-362-105 is hereby amended to read as  
19 follows:

20           "14-362-105. Appointment of board.

21           (a) Subject to such limitations as may be contained in the agreement  
22 provided for in §14-362-103, the management and control of each authority and  
23 its property, operations, business, and affairs shall be lodged in a board of  
24 not less than six (6) nor more than twenty-four (24) persons who shall be  
25 appointed for terms of six (6) years each as hereinafter provided.

26           (b) The number of members that each of the participating governmental  
27 units is entitled to appoint to the board shall be set forth in the agreement  
28 provided for in §14-362-103. However, each of the participating governmental  
29 units shall be entitled to appoint at least one (1) member to the board and,  
30 if the state is a participant in the authority, the state shall be entitled to  
31 appoint a majority of the members of the board. Appointments shall be made by  
32 the mayor of each participating municipality, the county judge of each  
33 participating county, and the Governor of the state.

34           (c) The members of the authority shall have staggered terms, as  
35 provided in the agreement establishing the authority, as follows: One-third

1 (1/3) of the members for six-year terms; one-third (1/3) of the members for  
2 four-year terms; and one-third (1/3) of the members for two-year terms.  
3 Thereafter, all appointments shall be for six-year terms.

4 (d) All members of the board appointed by the participating  
5 municipalities and counties shall be bona fide residents and qualified  
6 electors of the county or municipality which the members represent. All  
7 members of the board appointed by the state shall be bona fide residents of  
8 the state."

9

10 SECTION 4. Arkansas Code 14-362-106 is hereby amended to read as  
11 follows:

12 "14-362-106. Vacancy on board.

13 (a) If any member of an authority dies, resigns, is removed, or for any  
14 other reason ceases to be a member of the authority, the mayor, the county  
15 judge, or the Governor, as appropriate to the governmental unit which the  
16 member represented, shall appoint another person to fill the unexpired portion  
17 of the term of the member.

18 (b) A member of the authority once qualified shall not be removed  
19 during his appointment except for cause by the mayor, the county judge, or the  
20 Governor, as appropriate, which appointed him or upon such other conditions as  
21 shall be set forth in the agreement establishing the authority."

22

23 SECTION 5. Arkansas Code 14-362-108 is hereby amended to read as  
24 follows:

25 "14-362-108. Facilities authorized.

26 Each authority is authorized and empowered to acquire, equip, construct,  
27 maintain, and operate a regional airport or landing field and appurtenant  
28 facilities so located to best serve the region in which they are located.  
29 Each authority in which the state is a participant is further authorized and  
30 empowered to acquire, equip, construct, maintain, and operate industrial,  
31 warehouse, distribution and related types of facilities, including education,  
32 training, office and support facilities, located at a major airport facility  
33 for the purpose of securing and developing industry within the state."

34

35 SECTION 6. Arkansas Code 14-362-109 is hereby amended to read as

1 follows:

2 "14-362-109. Powers of authority generally.

3 Each authority is given power and authority as follows:

4 (1) To make and adopt all necessary bylaws, rules, and regulations for  
5 its organization and operations not inconsistent with law;

6 (2) To elect its own officers, to appoint committees, and to employ and  
7 fix the compensation for personnel necessary for its operation;

8 (3) To enter into contracts with any person, governmental department,  
9 firm, or corporation, including both public and private corporations, and  
10 generally to do any and all things necessary or convenient for the purpose of  
11 acquiring, equipping, constructing, maintaining, improving, extending,  
12 financing, and operating a public airport to best serve the region in which it  
13 is located;

14 (4) To delegate any authority given to it by law to any of its  
15 officers, committees, agents, or employees;

16 (5) To apply for, receive, and use grants-in-aid, donations, and  
17 contributions from any source, including, but not limited to, the federal  
18 government, or any agency thereof, and the State of Arkansas, or any agency  
19 thereof, and to accept and use bequests, devises, gifts, and donations from  
20 any person, firm, or corporation;

21 (6) To acquire lands and hold title thereto in its own name;

22 (7) To acquire, own, hold, lease as lessor or as lessee, sell,  
23 encumber, dispose of, or otherwise deal in and with any facilities or real,  
24 personal, or mixed property, wherever located;

25 (8) To borrow money and execute and deliver negotiable notes, mortgage  
26 bonds, other bonds, debentures, and other evidences of indebtedness therefor,  
27 and give such security therefor as shall be requisite, including giving a  
28 mortgage or deed of trust on its airport properties and facilities in  
29 connection with the issuance of mortgage bonds;

30 (9) To raise funds by the issuance and sale of revenue bonds in the  
31 manner and according to the terms set forth in this chapter;

32 (10) To expend its funds in the execution of the powers and authorities  
33 given in this chapter and to invest and reinvest any of its funds pending need  
34 therefor;

35 (11) To apply for, receive, and use loans, grants, donations, technical

1 assistance, and contributions from any regional or area commissions that may  
2 be established and any agency of the federal government or the State of  
3 Arkansas;

4       (12) To constitute the authority, or a committee thereof, as  
5 improvement district commissioners and to create and operate an improvement  
6 district, composed of the area encompassed within the jurisdictions of the  
7 participating governing bodies, upon the petition of persons claiming to be  
8 two-thirds ( 2/3) in value of the owners of real property in the area, as  
9 shown by the last county assessment. The improvement district shall be for the  
10 purpose of financing the construction, reconstruction, or repair of the  
11 regional airport and its facilities. The creation and operation of an  
12 improvement district shall, to the extent consistent with this chapter, be in  
13 accordance with the procedures established by the laws of this state for the  
14 creation and operation of municipal improvement districts;

15       (13) To enforce all rules, regulations, and statutes relating to its  
16 airports, including airport zoning regulations. In this connection, the  
17 authority is empowered and authorized to exercise the powers and privileges of  
18 the signatory parties under §14-363-201 et seq. and the board of directors of  
19 the authority is designated by the signatory parties as the zoning board for  
20 the purposes and powers under these provisions;

21       (14) To levy and collect a tax on aviation fuel sold at an airport or  
22 airports of the authority as is provided for in §§14-364-101 and 14-364-102;

23       (15) To plan, establish, develop, construct, enlarge, improve,  
24 maintain, equip, operate, and regulate its airports and auxiliary services and  
25 facilities, and to establish minimum building codes and regulations and to  
26 protect and police the airports of the authority, in cooperation with the law  
27 enforcement agencies and officers having jurisdiction in the area where the  
28 facilities of the authority are located;

29       (16) To levy and collect a tax, in an amount not to exceed one dollar  
30 (\$1.00) per passenger, on the boarding or disembarking of aircraft at the  
31 airport or airports of the authority. The tax shall be levied upon and  
32 collected from the passengers boarding or disembarking from the aircraft or  
33 the airlines operating the aircraft, and the authority is empowered to make  
34 reasonable classifications of passengers for this purpose;

35       (17) To receive real and personal property from the United State for

1 airport and related purposes, by donation, purchase, lease or otherwise, and  
2 subject to such conditions and requirements relating thereto as the United  
3 State may require and to which the authority may agree;

4 (18) To apply to the proper authorities of the United States pursuant  
5 to appropriate law for the right to establish, operate, and maintain foreign  
6 trade zones within the area of jurisdiction of the member municipalities  
7 and/or counties and to establish, operate, and maintain such foreign trade  
8 zones;

9 (19) To promote, advertise, and publicize the authority and its  
10 facilities; provide information to shippers, operators and other commercial  
11 interests; and to represent and promote the interests of the authority; and

12 (20) To take such other action, not inconsistent with law, as may be  
13 necessary or desirable to carry out the powers and authorities conferred by  
14 this chapter and the intent and purposes of it."

15

16 SECTION 7. Arkansas Code 14-362-114(a) (1) is hereby amended to read as  
17 follows:

18 "(a) (1) The bonds shall be executed by the manual or facsimile  
19 signatures of the chairman and secretary of the authority."

20

21 SECTION 8. Arkansas Code 14-362-115 is hereby amended to read as  
22 follows:

23 "14-362-115. Issuance of revenue bonds - Obligation of authority.

24 (a) The revenue bonds issued under this chapter shall be obligations  
25 only of the authority and shall not be general obligations of any county,  
26 municipality or the state.

27 (b) (1) In no event shall the revenue bonds constitute an indebtedness  
28 of any county, municipality or the state within the meaning of any  
29 constitutional or statutory limitation.

30 (2) It shall be plainly stated on the face of each bond that it  
31 has been issued under the provisions of this chapter and that it does not  
32 constitute an indebtedness of any county, municipality or the state within any  
33 constitutional or statutory limitation.

34 (c) The principal of and interest on the bonds may be secured, to the  
35 extent set forth in the resolution or indenture securing the bonds, by a

1 pledge of and payable from all or any part of revenues derived from the use of  
2 facilities of the authority, including, without limitation:

3           (1) Revenues derived from rates and charges imposed and  
4 maintained for the use of facilities of the authority;

5           (2) Revenues derived from taxes levied under §14-362-109(14) and  
6 (16); and

7           (3) Lease rentals under leases or payments under security  
8 agreements or other instruments entered into under this chapter."  
9

10           SECTION 9. Arkansas Code 14-362-122 is hereby amended to read as  
11 follows:

12           "14-362-122. Use of surplus funds.

13           (a) If an authority should realize a surplus, whether from operating  
14 the airport or leasing it for operation, over and above the amount required  
15 for the maintenance, improvement, and operation of the airport and for meeting  
16 all required payments on its obligations, it shall set aside the reserve for  
17 future operations, improvements, and contingencies as it shall deem proper and  
18 shall then apply the residue of the surplus, if any, to the payment of any  
19 recognized and established obligations not then due.

20           (b) After all the recognized and established obligations have been paid  
21 off and discharged in full, the authority shall, at the end of each fiscal  
22 year, set aside the reserve for future operations, improvements, and  
23 contingencies as prescribed in subsection (a) and then pay the residue of the  
24 surplus, if any, to the counties, municipalities and the state in direct  
25 proportion to their financial contribution, provided that no such distribution  
26 of said residue of the surplus shall violate United States law or the terms of  
27 any deed, grant agreement or other agreement with the United States."  
28

29           SECTION 10. Arkansas Code 14-362-125 is hereby amended to read as  
30 follows:

31           "14-362-125. County, municipal and state authority.

32           (a) Counties, municipalities and the state are authorized and empowered  
33 to appoint members of the authorities and to contribute to the cost of  
34 acquiring, constructing, equipping, maintaining, and operating the regional  
35 airports and appurtenant facilities.



1 (b) Counties, municipalities and the state are authorized and empowered  
2 to transfer and convey to the authorities property of any kind acquired by the  
3 counties, municipalities and the state for airport purposes."  
4

5 SECTION 11. Arkansas Code 14-362-127 is hereby amended to read as  
6 follows:

7 "14-362-127. Sale of assets.

8 In the event the board shall so determine, any authority may make sale  
9 of all or any part of its properties and assets and distribute the proceeds  
10 among the participating municipalities, counties and the state in the  
11 proportion each such unit contributed to the authority's funds or otherwise in  
12 the manner set forth in the agreement establishing the authority, provided no  
13 authority in which the state is a participant shall sell all or substantially  
14 all of its properties or assets without the consent of the Governor of the  
15 state, and further provided that no sale of properties or assets and no  
16 distribution of proceeds of such sale shall be done in a manner which violates  
17 United States law or the terms of any deed, grant agreement or other agreement  
18 with the United States."  
19

20 SECTION 12. Arkansas Code Title 14, Chapter 362 is hereby amended by  
21 adding a new section 14-362-130 to read as follows:

22 "14-362-130. Authorized investors.

23 Any municipality, or any board, commission, or other authority duly  
24 established by ordinance of any municipality, or the boards of trustees,  
25 respectively, of the firemen's relief and pension fund and the policemen's  
26 pension and relief fund of any such municipality, or the board of trustees of  
27 any retirement system created by the General Assembly of the State of  
28 Arkansas, may, in its discretion, invest any of its funds not immediately  
29 needed for its purposes, in bonds issued under the provisions of this chapter,  
30 and bonds issued under the provisions of this chapter shall be eligible to  
31 secure the deposit of public funds."  
32

33 SECTION 13. Arkansas Code Title 14, Chapter 362 is hereby amended by  
34 adding a new section 14-362-131 to read as follows:

35 "14-362-131. Construction. This chapter shall be liberally construed

1 to accomplish its intent and purposes and shall be the sole authority required  
2 for the accomplishment of its purpose. To this end, (i) it shall not be  
3 necessary to comply with the general provisions of other laws dealing with  
4 public facilities, their acquisition, construction, leasing, encumbering, or  
5 disposition, and (ii) section 15-5-303 shall not apply."

6

7 SECTION 14. Any existing regional airport authority previously created  
8 in conformance with the provisions then contained in the Regional Airport Act  
9 may continue as originally organized notwithstanding the provisions of this  
10 act.

11

12 SECTION 15. All provisions of this act of a general and permanent  
13 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
14 Code Revision Commission shall incorporate the same in the Code.

15

16 SECTION 16. If any provision of this act or the application thereof to  
17 any person or circumstance is held invalid, such invalidity shall not affect  
18 other provisions or applications of the act which can be given effect without  
19 the invalid provision or application, and to this end the provisions of this  
20 act are declared to be severable.

21

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

24

25 SECTION 18. EMERGENCY. It is hereby found and determined that there is  
26 an immediate need to facilitate the acquisition and operation of major airport  
27 facilities by regional airport authorities for the purpose of securing a  
28 developing industry within the State of Arkansas. Therefore, an emergency is  
29 hereby declared to exist, and this act being immediately necessary for the  
30 preservation of the public peace, health and safety shall be in full force and  
31 effect from and after its passage and approval.

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