

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representative Jones

A Bill

HOUSE BILL 1111

For An Act To Be Entitled

8 "AN ACT TO ESTABLISH AN URBAN SERVICE DISTRICT FOR THE
9 PURPOSE OF PROVIDING SERVICES TO RESIDENTS OF THE
10 DISTRICT; TO PROVIDE FOR MANAGEMENT OF THE SERVICES; TO
11 AUTHORIZE THE LEVY OF CHARGES FOR THE SERVICES; TO PROVIDE
12 FOR COLLECTION OF THE SERVICE CHARGES; TO AUTHORIZE
13 ARKANSAS DEVELOPMENT FINANCE AUTHORITY TO PACKAGE DISTRICT
14 CONSTRUCTION PROGRAMS AND TO ISSUE REVENUE BONDS TO
15 PROVIDE FUNDS FOR FINANCING THE DISTRICTS; AND FOR OTHER
16 PURPOSES."

Subtitle

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18
19 "TO ESTABLISH AN URBAN SERVICE DISTRICT
20 FOR THE PURPOSE OF PROVIDING SERVICES TO
21 RESIDENTS OF THE DISTRICT."
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Intent. The intent of this act is to enable municipalities
26 to establish urban service districts upon petition by residents in a proposed
27 district for the provision of services; to provide for the management of the
28 services; to authorize the levying of fees for payment of the services and to
29 allow for *the termination of water, sewer, or garbage services upon*
30 *nonpayment* of the fees; and for any other similar purposes.
31

32 SECTION 2. Urban service districts generally.

33 (a) Authority to establish. Urban service districts may be
34 established, operated, combined, enlarged, reduced, or abolished, *subject to*
35 *the provisions of this act*, by ordinance of the governing body of a city or

1 town to provide one (1) or more of the services authorized to be provided by
2 the municipal governments.

3 (b) Area served. An urban service district may include all, or any
4 part, of the jurisdictional areas of a municipality. Two (2) or more cities,
5 or one (1) or more cities and one (1) or more towns may create a joint
6 service district through an interlocal agreement.

7 (c) Purposes of district. An urban service district shall be defined
8 as a municipal service organization established to provide one (1) or more
9 city services or additional municipal services and financed from revenues
10 secured from within the designated service area through the levy and
11 collection of service charges. Districts may be created for the following
12 purposes, *all of which are found to be public purposes within the meaning of*
13 *Amendment 65 to the Arkansas Constitution:*

14 (1) Emergency services, including ambulance services, civil
15 defense services, fire prevention and protection services and public safety
16 and security services;

17 (2) Solid waste services, including recycling services, and
18 solid waste collection and disposal services;

19 (3) Parking services and public transportation services;

20 (4) Recreation services, including parks, playgrounds, bicycle
21 paths, and recreation programs;

22 (5) Neighborhood improvement services, including, but not
23 limited to, housing maintenance and redevelopment; neighborhood business
24 district maintenance and redevelopment; community facilities maintenance and
25 redevelopment; street lighting and street cleaning; and weed lot and alley
26 maintenance services.

27 (d) Financing. Notwithstanding any provisions of law requiring
28 uniform taxation within a municipality, a municipal governing body, by
29 ordinance, may establish urban service districts and levy service charges to
30 provide and finance any municipal service or function which a municipality is
31 otherwise authorized to undertake.

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33 SECTION 3. Establishment of urban service districts.

34 (a) Procedure generally. An urban service district may be established
35 in the following manner:

1 (1) *Upon petition to the governing body of a city or town signed*
2 *by not less than twenty-five percent (25%) of the electors of a proposed*
3 *urban service district, the governing body of a city or town may establish an*
4 *urban service district by ordinance adopted after notice and public hearing.*

5 *The governing body shall set a date for a public hearing and give*
6 *notice of the hearing. Following the public hearing, the governing body may*
7 *either adopt an ordinance creating the urban service district or refuse to*
8 *act further on the matter, or submit the matter to the electors of the*
9 *proposed district by referendum.*

10 (2) *Where an ordinance is adopted establishing an urban service*
11 *district, the governing body of the city or town shall, in addition to all*
12 *other requirements, at a minimum, publish notice of the adoption of the*
13 *ordinance. The notice shall include a statement setting out the elector_s*
14 *right to protest. If within thirty (30) days of the notice fifty percent*
15 *(50%) or more of the electors residing in the proposed urban service district*
16 *file a written protest, by individual letter or petition, then the ordinance*
17 *creating the urban service district shall be void. No service charges shall*
18 *be assessed until after the thirty (30) day period has elapsed.*

19 (3) *If hearings on protests indicate that a geographic area*
20 *desires exclusion from the proposed urban service district, the ordinance may*
21 *be amended to exclude the property in that area.*

22 (b) *Ordinance requirements. An ordinance to establish an urban*
23 *service district shall include:*

- 24 (1) *The name of the proposed district;*
25 (2) *The services to be provided by the proposed district;*
26 (3) *The convenience or necessity of the proposed district;*
27 (4) *A map containing the boundaries of the proposed district;*
28 (5) *The estimated cost of services to be provided and methods of*
29 *financing the proposed services;*

30 (6) *The method for administering the proposed district; and*

31 (7) *The time period for which the fee is to be levied, but in no*
32 *case to exceed ten (10) years from the date of the establishment of the*
33 *district, unless the fees are pledged to service a bond indebtedness, in*
34 *which case, the time period of the levy shall be on a parity with the*
35 *maturity of the bonds.*

1 (c) Initiative and referendum. All provisions of Arkansas
2 Constitution, Amendment 7, shall apply to an ordinance establishing of an
3 urban service district.

4 (d) Service charges. The governing body of the city or town is
5 authorized to levy, by ordinance, service charges for the district to
6 establish, operate, maintain, support, and otherwise provide any and all
7 services authorized for the district. Service charges adopted by the
8 governing body shall be equally administered on a per capita or per household
9 basis, or on a per unit of service basis, or a combination of these methods.
10 Services charges levied on a per capita or household basis shall be
11 collected equally without regard to whether or not an individual or household
12 avails themselves of the service. *Except as otherwise provided for in this*
13 *act, no service fee may be levied for a period of time exceeding ten (10)*
14 *years except upon a new petition from electors in the service district and by*
15 *passage of a new authorizing ordinance by the city or town's governing body*
16 *as per the provisions in this act.*

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18 SECTION 4. Modification or dissolution of urban service districts.

19 (a) *Once an urban service district has incurred bond indebtedness, it*
20 *shall not be dissolved or modified in any respect until all bonds are*
21 *retired. This prohibition shall not prevent the creation of a new or*
22 *additional district with boundaries larger, smaller, or coextensive with an*
23 *existing urban service district.*

24 (b) *The governing body of a city or town may by ordinance, with notice*
25 *and public hearing:*

26 (1) *Decrease or terminate the type of services and associated*
27 *fees that the urban service district is authorized to provide unless fifty*
28 *percent (50%) or more of the electors residing in the district protest;*

29 (2) *Enlarge the district to include adjacent land if fifty*
30 *percent (50%) or more of the electors residing in the proposed addition do*
31 *not protest and the advisory board or administrative board of the original*
32 *district consents;*

33 (3) *Combine the urban service district with another urban*
34 *service district for ease of administration unless fifty percent (50%) or*
35 *more of the electors in either district protest, but may not combine advisory*

1 *boards or administrative boards without the concurrence of each;*

2 *(4) Abolish the urban service district unless fifty percent*
3 *(50%) or more of the electors in the district protest;*

4 *(5) Change the method for administering the urban service*
5 *district unless fifty percent (50%) of the electors in the district protest,*
6 *provided that existing advisory boards or administrative boards can not be*
7 *dissolved, diminished, or combined without their consent;*

8 *(6) Increase or change the services or service charges that the*
9 *urban service district is authorized to provide upon petition of no less than*
10 *twenty-five percent (25%) of the electors of the district.*

11 *(c) Dissolution or any combination of service districts shall provide*
12 *for the following:*

13 *(1) The transfer or other disposition of property and other*
14 *rights, claims, and assets of the district;*

15 *(2) The payment of all obligations from the resources of the*
16 *district;*

17 *(3) The payment of all costs of abolishing or combining a*
18 *district from the resources of the districts involved;*

19 *(4) The honoring of any bonds, debt, contract, obligation, or*
20 *cause of action accrued or established under the urban service district;*

21 *(5) The provision for the equitable disposition of the assets of*
22 *the district, for adequate protection of the legal rights of employees of the*
23 *district, and for adequate protection of the legal rights of creditors; and*

24 *(6) The transfer of all property and assets to the jurisdiction*
25 *of the city or town.*

26 *(d) All changes in urban service districts may be submitted to the*
27 *electors of the existing or proposed district, whichever is larger, by*
28 *initiative or referendum.*

29

30 **SECTION 5. Administration of urban service districts.**

31 *(a) Generally. An urban service district shall be administered*
32 *directly as a part of the office of the mayor, or the city manager or city*
33 *administrator, as a part of a department with or without an advisory or*
34 *administrative board, or as a separate department with or without an advisory*
35 *or administrative board as defined in the petition and establishing*

1 ordinance.

2 (b) Budget. The budget for each urban service district shall be
3 appropriated as other funds of the city.

4 (c) *Service charges.* Service charges for urban service districts may
5 be entered on the municipal water bill, sewer bill, or garbage bill. Funds
6 collected on the bills by the municipal utilities shall be paid over to the
7 depository for the district's funds. Upon nonpayment of service fees, the
8 municipality or municipal utility may discontinue water, sewer, or garbage
9 services as provided in their own ordinances.

10 (d) Use of funds. Funds raised through service charges for an urban
11 service district may be used only for urban service district purposes. These
12 public funds shall be maintained in the town or city treasury and accounted
13 for as a separate enterprise fund. Disbursements of all urban service
14 district funds shall be made only upon voucher or claim presented to and
15 approved by the mayor, city manager or city administrator.

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17 SECTION 6. The governing body of a city or town which has established
18 an urban service district is authorized to compile a program of capital
19 construction, reconstruction, and improvements within the district and submit
20 the program to the Arkansas Development Finance Authority. Each program
21 shall specify the capital construction, reconstruction, and improvements to
22 be made within the district, the estimates of cost of the specific projects
23 and the total cost for each district within a municipality. The mayor, city
24 manager or city administrator is authorized to employ architects and other
25 like professional and technical assistance as determined to be necessary for
26 the laying out, compiling, and implementing the program of capital
27 construction, reconstruction, and improvements within the district.

28 (b) To finance the cost of the program, the governing body of each
29 municipality shall adopt a resolution pledging the urban service district_s
30 service charges, or a portion thereof, to finance the program compiled for
31 the district. The resolution shall specify the district_s projected
32 revenues, the projected costs of the program, and the period of time for
33 which the district_s revenues shall be obligated.

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35 SECTION 7. (a) On and after the effective date of this act, the

1 Arkansas Development Finance Authority is authorized to receive from an urban
2 service district a pledge of revenues and to package several programs of the
3 districts from several counties and municipalities into a single bond issue
4 to finance the various programs of the several districts.

5 (b) The Authority *is authorized to* execute and deliver the pledges,
6 resolutions, instruments and other undertakings and writings and to take any
7 action as may be appropriate to evidence the debt obligations and the
8 security therefor and to carry out the purposes of this act.

9 (c) The bonds issued shall mature over a period of not more than
10 thirty (30) years.

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12 SECTION 8. (a) Pursuant to the intention of the General Assembly
13 expressed in Arkansas Code § 15-5-303, the Arkansas Development Finance
14 Authority is hereby authorized and empowered to issue revenue bonds, at one
15 time or from time to time, and to use the proceeds thereof to provide urban
16 service districts in various counties or municipalities with money for a
17 program of capital construction, reconstruction, *improvements, and services*
18 within the districts for purposes set forth in this act, pay all incidental
19 expenses in connection with those purposes, pay the expenses of authorizing
20 and issuing the bonds, establishing a debt service reserve to secure the
21 payment of the bonds, if the Authority deems it desirable, and making
22 provision for the payment of interest and trustee_s fees on the bonds. The
23 bonds outstanding under this act may be in such principal amount as the
24 Authority shall determine to be necessary for the accomplishment of the
25 purposes of this act.

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

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33 SECTION 9. (a) It shall be plainly stated on the face of each bond
34 that it has been issued under the provisions of this act, that the bonds
35 shall be obligations only of the Arkansas Development Finance Authority as

1 *specified in the applicable trust indenture*, that in no event shall they
2 constitute indebtedness for which the faith and credit of the State of
3 Arkansas or any of its revenues (within the meaning of Amendment 20 to the
4 Constitution of the State of Arkansas) are pledged. No member of the
5 Authority shall be personally liable on the bonds.

6 (b) The principal of, premiums, if any, interest on, and trustees_ and
7 paying agents_ fees in connection with the bonds shall be secured by a lien
8 on and pledge of and shall be payable from the pledged revenues defined in
9 Section 10 of this act. The authorizing resolution or trust indenture shall
10 set forth details of the nature and extent of the lien and pledge, including
11 provisions for the use of surplus revenues, if any, for any other lawful
12 purposes.

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14 SECTION 10. The principal of, premiums, if any, interest on, and
15 trustees_ and paying agents_ fees in connection with all bonds issued under
16 this act shall be secured solely by a lien on and pledge of each
17 municipality_s urban service district_s revenues derived from their service
18 charges credited to the town or city treasury and the pledging of those
19 revenues (the "pledged revenues") is hereby authorized. All pledged revenues
20 are hereby specifically declared to be restricted in their use and dedicated
21 (and) to be used solely as provided and authorized in this act. Commencing
22 the first day of the month succeeding the issuance of the bonds hereunder and
23 so long as any bonds are outstanding hereunder, the pledged revenues of each
24 municipality_s urban service district shall be periodically transferred to
25 the Authority and shall not be subject to appropriation by the municipality,
26 but, as and when received by the Authority shall be deposited in a bank or
27 banks selected by the Authority, to the credit of funds designated the "Urban
28 Service District Revenue Bond Fund", with appropriate identification for
29 separate issues or series. So long as any bonds are outstanding hereunder,
30 all monies in any bond fund shall be used solely for the payment of the
31 principal of, premiums, if any, interest on, and trustees_ and paying agents_
32 fees in connection with the bonds, with the maintenance of necessary funds
33 and reserves, except that the authorizing resolution or trust indenture may
34 provide for the withdrawal, for other purposes, of surplus monies, as defined
35 in the authorizing resolution or trust indenture. Nothing in this section is

1 intended to prohibit the Authority from investing monies received hereunder,
2 as provided in this act.

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4 SECTION 11. Any authorizing resolution and trust indenture shall,
5 together with this act, constitute a contract between the Arkansas
6 Development Finance Authority and the holders and registered owners of the
7 bonds, which contract, and all covenants, agreements and obligations therein,
8 shall be promptly performed in strict compliance with the terms and
9 provisions of the contract, and the covenants, agreements, and obligations of
10 the Authority may be enforced by mandamus or other appropriate proceedings at
11 law or in equity. In this regard, in addition to other provisions referred
12 to above, the Authority is hereby expressly authorized to include in any
13 authorizing resolution or trust indenture a covenant that, to the fullest
14 extent possible, each municipality_s urban service district_s revenues
15 derived from their service charges will be collected under this act to the
16 fullest extent possible so as to avoid any impairment of the security for the
17 bonds and that the Authority will always maintain reserves at proper levels,
18 and otherwise comply with any provisions of authorizing resolutions or trust
19 indentures concerning revenues and bonds.

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21 SECTION 12. The Arkansas Development Finance Authority shall include
22 necessary provisions in the authorizing resolution or trust indenture to
23 provide for the deposit of the proceeds of the bonds pursuant to the
24 provisions of Arkansas Code § 15-5-209. The Authority may create and
25 establish one or more special funds in such depositories and make such
26 investment as it may designate to provide for the construction, secure the
27 bonds, establish reserves, and fund other necessary functions or activities
28 authorized by the act.

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30 SECTION 13. Bonds may be issued for the purpose of refunding any bonds
31 issued under this act. Refunding bonds may be issued by the Arkansas
32 Development Finance Authority pursuant to the provisions of Arkansas Code
33 § 15-5-314.

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35 SECTION 14. All provisions of this act of a general and permanent

1 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
2 Code Revision Commission shall incorporate the same in the Code.

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4 SECTION 15. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 16. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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/s/Rep. Jones

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