

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

A Bill

HOUSE BILL 1944

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE §§ 14-94-105, 14-94-106,
14-94-107 AND 14-94-108 TO PROVIDE THAT MEMBERS OF A BOARD
OF COMMISSIONERS FOR A MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT SHALL BE PROPERTY OWNERS FROM WITHIN
THE DISTRICT; AND FOR OTHER PURPOSES."

Subtitle

"TO PROVIDE THAT MEMBERS OF A BOARD OF
COMMISSIONERS FOR A MUNICIPAL PROPERTY
OWNERS' IMPROVEMENT DISTRICT SHALL BE
PROPERTY OWNERS OF THE DISTRICT."

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

SECTION 1. Arkansas Code § 14-94-105(a) is amended to read as follows:

"(a) Upon the petition of all the owners of the record title as reflected by the deed records in the office of the circuit clerk and ex officio recorder of the pertinent county, all the real property of which territory is owned by twenty-five (25) or fewer persons, it shall be the duty of the governing body to:

(1) Lay off into an improvement district the territory described in the petition for the purpose of purchasing, accepting as a gift, constructing, or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electric and telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one (1) of those purposes; and

1 (2) Name as commissioners of the district the three (3)
2 individuals whose names appear in the petition if the petition contains those
3 names and, if not, then three (3) individuals of integrity and good business
4 ability who own real property in the district, *or are creditors of the*
5 *district or live in the district. In the event that a property owner or*
6 *creditor is a corporation, partnership, trust or other legal entity, any*
7 *officer, director, trustee, employee or other designated representative of*
8 *the entity may be named and appointed as a commissioner."*

9
10 SECTION 2. Arkansas Code § 14-94-106 is amended to read as follows:

11 "14-94-106. Hearing on petition and determination.

12 (a)(1) Upon the filing of the petition with the clerk, it shall be the
13 duty of the clerk to present the petition to the mayor.

14 (2) The mayor shall thereupon set a date and time, not later
15 than fifteen (15) days after the date of the presentation of the petition to
16 the mayor, for a hearing before the governing body for consideration of the
17 petition.

18 (b)(1) At the hearing, it shall be the duty of the governing body to
19 hear the petition and to ascertain whether those signing the petition
20 constitute all the owners of the real property to be located in the district.

21 (2)(A) If the governing body determines that all the owners of
22 the real property to be located in the district have petitioned for the
23 improvements, it shall then be its duty by ordinance to establish and lay off
24 the district as defined in the petition and to appoint the commissioners as
25 named in the petition if commissioners are named in the petition and are
26 *property owners in or creditors of the district, or as is otherwise provided*
27 *from among such property owners or creditors.*

28 (B) The petition shall state the specific purposes for
29 which the district is to be formed, and the ordinance establishing the
30 district shall give it a name which shall be descriptive of the purpose. It
31 shall also receive a number to prevent its being confused with other
32 districts for similar purposes.

33 (c) The ordinance establishing the district shall be published within
34 thirty (30) days after its adoption by one (1) insertion in some newspaper of
35 general circulation in the municipality in which the district lies.

1 (d) The findings of the governing body shall be conclusive unless
2 attacked by a suit in the chancery court of the county in which the
3 municipality is located, which suit brought within thirty (30) days after the
4 publication."

5

6 SECTION 3. Arkansas Code § 14-94-107(a) is amended to read as follows:

7

8 "(a)(1)(A) Within thirty (30) days after their appointment, the
9 commissioners shall take and file with the clerk their oath of office, in
10 which they shall swear to support the Constitution of the United States and
11 the Constitution of the State of Arkansas, to discharge faithfully their
12 duties as commissioners, and to not be interested, directly or indirectly, in
13 any contract let by the board except upon the approval of all the owners of
14 real property located in the district.

15 (B) Any commissioner failing to file the oath within this
16 period shall be deemed to have declined the office, and the governing body
17 shall appoint some property owner his successor, who shall qualify in like
18 manner within a like time.

19 (2)(A) In case of a vacancy on the board after the commissioners
20 have organized, except as set forth in § 14-94-108, the remaining
21 commissioners shall select some property owner in the district *or creditors*
22 *of the district* as a successor, *provided however that if all improvements in*
23 *the district have been completed, then the governing body shall select the*
24 *successor.*

25 (B) The person so selected shall qualify by taking the oath of
26 office as prescribed for the original commissioners."

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28 SECTION 4. Arkansas Code § 14-94-108 is amended to read as follows:

29 "14-94-108. Removal of board members.

30 (a) When the owners of two-thirds (2/3) in assessed value of the real
31 property located within any district shall sign a petition stating that the
32 petitioners believe it to be in the best interest of the district that the
33 board, or any member thereof, be removed and shall file the petition with the
34 governing body, the governing body shall set a date for a hearing on the
35 petition and shall give notice of the hearing by one (1) publication in a

1 newspaper of general circulation in the district at least ten (10) days
2 before the date of the hearing.

3 (b)(1) The purpose of the hearing shall be to determine the
4 sufficiency of the petition.

5 (2) Any property owner of the district may appear and present
6 evidence either in support of or against the sufficiency of the petition.

7 (c) If, after hearing, based upon the evidence presented, the
8 governing body shall determine that the petition is signed by at least
9 two-thirds (2/3) in assessed value of the real property owners in the
10 district, the governing body shall immediately adopt a resolution removing
11 the member of the board in accordance with the petition and appoint some
12 property owner in the district *or creditors of the district* as a successor to
13 fill the vacancy created by his removal.

14 (d) No member of the board shall be liable for any damages unless he
15 or she shall have acted with a corrupt intent."
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17 SECTION 5. All provisions of this act of general and permanent nature
18 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
19 Revision Commission shall incorporate the same in the Code.
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21 SECTION 6. If any provisions of this act or the application thereof to
22 any person or circumstance is held invalid, the invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provisions or application, and to this end the provisions of this
25 act are declared to be severable.
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27 SECTION 7. All laws and parts of laws in conflict with this act are
28 hereby repealed.
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31 /s/Rep. Vess
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As Engrossed: 3/17/95 3/30/95

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