

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

SENATE BILL 743

4
5 By: Senators Malone, Beebe, Harriman, Bell, Edwards, Hopkins, Mahony and Argue
6

For An Act To Be Entitled

9 "AN ACT TO IMPLEMENT AMENDMENT 74 TO THE ARKANSAS
10 CONSTITUTION; TO AMEND CERTAIN SECTIONS OF THE ARKANSAS
11 CODE ANNOTATED SO AS TO BE IN COMPLIANCE WITH AMENDMENT
12 74; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

15 "AN ACT TO IMPLEMENT AMENDMENT 74 TO THE
16 ARKANSAS CONSTITUTION."

17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20 SECTION 1. Title.

21 This act shall be known and may be cited as "The Amendment No. 74
22 Enabling Act of 1997."

24 SECTION 2. Definitions.

25 As used in this act:

26 (1) "Additional mills for maintenance and operation" means millage
27 levied by the electors of a local school district for maintenance and
28 operation in excess of those allocated to the uniform rate of tax.

29 (2) "Available for maintenance and operation millages" means millage
30 levied for maintenance and operation, millage levied as dedicated maintenance
31 and operation millage, excess debt service millage, and the millage derived
32 from the ratio of debt service funding supplements divided by the total
33 assessment, which may be included in the calculation for the uniform rate of
34 tax as specified in § 26-80-201(5), if needed.

35 (3) "Average daily membership (ADM)" means the total number of days
36 attended plus the total number of days absent by students in grades

1 kindergarten through twelve (K-12) during the first three (3) quarters of
2 each school year divided by the number of school days actually taught in the
3 district during that period of time rounded up to the nearest hundredth.

4 (4) "Base local revenue per student (BLRPS)" means: As applied under
5 Act 917 of 1995, as such may be amended from time to time, if Category 1 is
6 fully funded, the local revenue per student in the local school district with
7 the highest amount of local revenue per student. If Category 1 is not fully
8 funded, the revenue per student to which the state equalizes calculated by
9 taking the sum of:

10 (A) The total available state aid for state equalization funding
11 per student;

12 (B) Ninety-eight percent (98%) of the uniform rate of tax times
13 the total state assessed valuation; and

14 (C) Seventy-five percent (75%) of the average miscellaneous funds
15 collected in the previous five (5) years; and
16 by dividing the sum by the total state ADM for the previous year.

17 (5) "Debt service funding supplements (DSFS)" means the state financial
18 aid provided to qualifying local school districts for the purpose of reducing
19 existing debt service burdens and increasing the amount of local revenue
20 available for maintenance and operation expenditures and calculated as
21 follows: for each mill of eligible debt service millage required, the local
22 school shall be provided up to fifteen dollars (\$15.00) per ADM times the
23 state wealth index. Beginning with the 1997-98 school year, the funding per
24 ADM may be increased by one dollar (\$1.00) each year.

25 (6) "Debt service millage" means the total number of mills voted by the
26 electors of a school district to be pledged as security for the retirement of
27 bonded indebtedness.

28 (7) "Debt service millage required (DSMR)" means the calculated millage
29 rate equal to the amount of millage pledged to mandatory callable bonds plus
30 the result of the scheduled calendar year bonded debt payment divided by the
31 total assessed value of real, personal, and utility property in the local
32 school district.

33 (8) "Eligible debt service millage required" means, in the computation
34 of the debt service funding supplement, the debt service millage required for
35 bonds issued on or before May 30, 1997, or bonds issued to refund bonds issued
36 on or before May 30, 1997, provided that such millage was approved in a school

1 election held on or before February 22, 1995.

2 (9) "Excess debt service millage" means the difference between the debt
3 service millage levied and the debt service millage required. This amount
4 shall be presumed to be available for maintenance and operation, but may be
5 used for other school purposes, provided that the district is in compliance
6 with the uniform rate of tax.

7 (10) "Local revenue per student (LRPS)" means: As applied under Act 917
8 of 1995, as such may be amended from time to time, in each year ninety-eight
9 percent (98%) of the amount of revenue available, whether or not collected, in
10 a local school district, solely from the levy of the uniform rate of tax plus
11 seventy-five percent (75%) of the average miscellaneous funds collected in the
12 previous five (5) years divided by the ADM of such local school district for
13 the previous year.

14 (11) "Mandatory callable bonds (MCB)" means a bond issue in which all
15 net proceeds from debt service millage used to secure the issuance of that
16 bond must apply to payment of the issue and cannot be used for any other
17 purpose.

18 (12) "Miscellaneous funds" means those funds received by a local school
19 district from federal forest reserves, federal grazing rights, federal mineral
20 rights, federal impact aid, federal flood control, wildlife refuge funds,
21 severance taxes, and funds received by the district in lieu of taxes.

22 (13) "Net revenues" means actual revenues minus any commission fees
23 authorized by law to be collected or withheld for later distribution by the
24 county offices. No additional fees shall be charged for transmittal or
25 redistribution of funds by any county or state office in carrying out the
26 procedures established to comply with the requirements of Amendment No. 74.

27 (14) "Previous year" means the school year immediately preceding the
28 school year in which funds are allocated.

29 (15) "State equalization funding per student (SEFPS)" means: As applied
30 under Act 917 of 1995, as such may be amended from time to time, the amount of
31 state financial aid per ADM for the previous year provided to each local
32 school district calculated by subtracting the local revenue per student from
33 the base local revenue per student.

34 (16) "State wealth index" means the result of one (1) minus the ratio of
35 local revenue per student divided by state equalization funding per student.

36 (17) "Uniform rate of tax" means a uniform rate of ad valorem property

1 tax of twenty-five (25) mills to be levied on the assessed value of all
 2 taxable real, personal, and utility property in the state to be used solely
 3 for maintenance and operation of the schools. In calculating the uniform rate
 4 of tax imposed by Article 14, § 3 of the Arkansas Constitution, as amended by
 5 Amendment Nos. 11, 40, and 74, the following categories of millage may be
 6 utilized to meet the minimum base millage requirement:

- 7 (A) The local school district's maintenance and operation millage;
- 8 (B) The dedicated maintenance and operation millage;
- 9 (C) Excess debt service millage;
- 10 (D) The millage derived from the ratio of the debt service funding
 11 supplements divided by the total assessment; and
- 12 (E) The millage derived from the ratio of twenty-five percent
 13 (25% of the average miscellaneous funds collected in the previous five (5)
 14 years divided by the total assessment.

15 (17) "Weighted average millage rate (WAMR)" means a millage rate
 16 calculated by taking the sum of:

- 17 (A) The millage levied on real property times the real property
 18 assessment base; plus
- 19 (B) The millage levied on personal property times the personal
 20 property assessment base; plus
- 21 (C) The millage levied on utility property times the utility
 22 property assessment base; and
 23 dividing by the total assessed value on taxable real, personal, and utility
 24 property.

25

26 SECTION 3. Establishment of compliance.

27 Compliance with the uniform rate of tax shall be established by the
 28 Arkansas Department of Education in coordination with the Assessment
 29 Coordination Division of the Arkansas Public Service Commission.

30

31 SECTION 4. Title 26, Chapter 80 of the Arkansas Code Annotated is
 32 amended by adding a Subchapter 2 to read as follows:

33 "26-80-201. Calculation of the uniform rate of tax.

34 Beginning with Calendar Year 1997, and each year thereafter, compliance
 35 with the uniform rate of tax shall be computed using the following method:

- 36 (1) By March 15 in each calendar year, the county clerk of each county

1 shall transmit to the State Department of Education the abstract of assessment
2 for the previous calendar years assessments for collection in the current
3 year.

4 (2) This abstract shall show, by class of property and value, the total
5 assessment of each school district in the county and the millage rate charged,
6 after all adjustments ordered by the county equalization board and the county
7 court have been made.

8 (3) The initial compliance shall be calculated by taking the
9 weighted average millage rate of the school district submitted by the county
10 clerk minus the debt service millage required plus the sum of the millage
11 derived from the ratio of the debt service funding supplements for the
12 calendar year over the total assessment shown on the abstract of assessment
13 and the millage derived from the ratio of twenty-five percent (25%0 of the
14 average miscellaneous funds collected in the previous five (5) years divided
15 by the total assessment shown on the abstract of assessment.

16 (A) If the result is less than the uniform rate of tax, then the
17 result shall be adjusted up to the uniform rate of tax.

18 (B) If the result is greater than the uniform rate of tax, then
19 the difference between the result and the uniform rate of tax shall be
20 considered additional mills for maintenance and operation. Any excess debt
21 service millage considered additional mills for maintenance and operation may
22 be used by the district for the purpose of paying the principal and interest
23 on indebtedness of the district and may be pledged for that purpose or any
24 other school purpose.

25 (4) The Director of the State Department of Education, General
26 Education Division, shall report to the county clerks and the individual
27 school districts by June 15 of each year the required increase, if any, in
28 total millage necessary to comply with the uniform rate of tax and shall
29 designate the millage rates proposed to be used to calculate the uniform rate
30 of tax. Whenever an increase is required, the notification shall include an
31 explanation for the increase.

32 (5) By November 1 of each year, the county clerk of each county in
33 which a reappraisal of real, personal, and utility property has been completed
34 that could initiate a rollback of millage rates, or in which equalization of
35 the real, personal, and utility millage rates has not taken place, shall
36 notify the Director of the State Department of Education, General Education

1 Division, of the possibility of such rollback or additional rollback taking
2 place.

3 (6) Pursuant to the application of Amendment No. 74 to the rollback
4 provisions of Amendment No. 59, for millage rates levied by the various school
5 districts within the county, if it is determined that the adjustment or
6 rollback of millages as provided in Amendment No. 59 will result in a tax rate
7 available for maintenance and operation of less than the uniform rate of tax,
8 then the millage shall be rolled back only to the uniform rate of tax plus
9 debt service millage required and no further."

10

11 SECTION 5. Arkansas Code Annotated § 26-80-101 is amended to read as
12 follows:

13 "26-80-101. ~~Poll tax~~ Uniform Rate of Tax.

14 ~~—— (a) There shall be levied annually one dollar (\$1.00) per capita on~~
15 ~~each inhabitant of the state over twenty-one (21) years of age for the public~~
16 ~~schools.~~

17 ~~—— (b) All moneys received from the per capita tax shall be retained in~~
18 ~~the county where collected and credited to the general school fund of the~~
19 ~~county.~~

20 (a) There is established a uniform rate of ad valorem property tax of
21 twenty-five (25) mills to be levied on the assessed value of all taxable real,
22 personal, and utility property in the state to be used solely by school
23 districts to which it may be distributed according to law for maintenance and
24 operation of the schools.

25 (b) The uniform rate of tax shall be assessed and collected in the same
26 manner as other school property taxes, but the net revenues from the uniform
27 rate of tax shall be remitted to the Treasurer of State and distributed by the
28 State to the county treasurer of each county for distribution to the school
29 districts in that county as provided by subsection (c) of this section. No
30 portion of the revenues from the uniform rate of tax shall be retained by the
31 State but shall be distributed back to the school district from which the
32 revenues were received or to other school districts pursuant to subsection (c)
33 of this section. No additional fees or charges shall be assessed at the local
34 level for transmission and redistribution of these funds. The revenues so
35 distributed shall be used by the school districts solely for maintenance and
36 operation of schools.

1 (1) The Treasurer of State shall establish procedures, forms, and
2 documentation requirements for the certification of net revenues produced by
3 the uniform rate of tax to be deposited with the Treasurer of State and
4 redistributed as provided by law. Further, the Treasurer of State shall
5 establish procedures, forms, and documentation requirements for the actual
6 deposit and redistribution of the net revenues produced by the uniform rate of
7 tax.

8 (2) Each county treasurer shall execute an electronic funds
9 transfer agreement with the Treasurer of State to effectuate the
10 contemporaneous transmittal of funds to the Treasurer of State and the
11 redistribution as provided by law of the net revenues produced by the uniform
12 rate of tax.

13 (3) The Treasurer of State shall process the necessary
14 documentation to certify the amount to be receipted and redistributed to each
15 county treasurer twice each month, with no interim distributions.
16 Documentation received and certified on the second and fourth Tuesday of each
17 month by the time deadlines established by the Treasurer of State shall be
18 processed for execution of the electronic funds transfer of deposit and
19 redistribution, as provided by law, of the net revenues produced by the
20 uniform rate of tax on the following day. When banking holidays occur, the
21 Treasurer of State shall notify the county treasurers of the revised deadline
22 which shall minimize delay in the receipt and redistribution, as provided by
23 law, of the net revenues of the uniform rate of tax.

24 (4) Each county official involved in the process established by
25 the Treasurer of State for receipt and redistribution of the net revenues of
26 the uniform rate of tax shall take all actions and do all things necessary to
27 ensure that the process established is carried out in an efficient and prudent
28 manner.

29 (5) It is the intention of the General Assembly to have the
30 collection and distribution of tax revenues modified as little as possible by
31 this process. The General Assembly specifically acknowledges that, under
32 other law, county treasurers distribute revenues monthly on a pro rata basis
33 to the various taxing units, with a reconciliation of actual revenues produced
34 by each levy of each taxing unit in the county taking place only in the final
35 settlement produced for each tax year. This process is not intended to affect
36 the monthly distribution or final settlement process except that there will be

1 the twice-monthly process set out above.

2 (c)(1) For the 1996-97 school year and each year thereafter, each
3 county treasurer shall remit the net revenues from the uniform rate of tax to
4 each local school district from which the revenues were derived, unless
5 otherwise specified in subdivisions (2) and (3) of this subsection.

6 (2)(A) For the 1997-98 school year, the State Department of Education
7 shall determine which local school districts have a local revenue per student
8 in excess of the base local revenue per student and shall calculate five
9 percent (5%) of such excess and multiply the result times the district's ADM
10 for the previous year.

11 (B) The State Department of Education shall certify, to any affected
12 county treasurer, the local school district identified as having an excess and
13 the amount calculated in subdivision (2)(A) of this subsection by August 1 of
14 each school year.

15 (C) Any county treasurer receiving certification from the State
16 Department of Education under subdivision (2)(B) of this subsection shall
17 remit the amount certified to the State Treasury for the credit of the Public
18 School Fund and redistribute the difference between the net revenues from the
19 uniform rate of tax and the amount certified to the affected local school
20 district.

21 (3)(A) For the 1998-99 school year, the State Department of Education
22 shall determine which local school districts have a local revenue per student
23 in excess of the base local revenue per student and shall calculate ten
24 percent (10%) of such excess and multiply the result times the district's ADM
25 for the previous year.

26 (B) The State Department of Education shall certify, to any affected
27 county treasurer, the local school district identified as having an excess and
28 the amount calculated in subdivision (3)(A) of this subsection by August 1 of
29 each school year.

30 (C) Any county treasurer receiving certification from the State
31 Department of Education under subdivision (3)(B) of this subsection shall
32 remit the amount certified to the State Treasury for the credit of the Public
33 School fund and redistribute the difference between the net revenues from the
34 uniform rate of tax and the amount certified to the affected local school
35 district.

36

1 SECTION 7. Arkansas Code Annotated § 26-80-110 is amended to read as
2 follows:

3 "26-80-110. ~~Current expenditures tax~~ Dedicated maintenance and
4 operation millage.

5 (a)(1) ~~The~~ In addition to other maintenance and operation millages, the
6 board of directors of each local school district is authorized, upon approval
7 of a majority of the qualified voters in the school district voting in the
8 annual school election to levy and collect a tax upon real, personal, and
9 utility property for of dedicated maintenance and operation millage for the
10 local school district.

11 (2) The approved tax shall be assessed, levied, and collected as
12 provided by law for other school taxes.

13 (3) The approved tax may be considered part of the school district's
14 uniform rate of tax as calculated by the State Department of Education under
15 Amendment 74 to the Arkansas Constitution.

16 (b) Any funds received from the collection of a ~~current expenditures~~
17 dedicated maintenance and operations tax shall only be used for the following
18 purposes:

19 (1) Purchase of school buses;

20 (2) Purchase of furniture or equipment to support the instructional
21 program;

22 (3) Purchase of computer software;

23 (4) Renovation or repair of existing facilities; or

24 (5) Repaying revolving loans for any of the purposes previously listed.

25 (c)(1) Local school districts which have levied a capital outlay tax or
26 current expenditures tax prior to the amendment of this section are authorized
27 to continue such levies for the terms and purposes approved by the majority of
28 voters at the time of their adoption.

29 (2) If a school district, at the time of the adoption of the amendment
30 of this section, levied a capital outlay tax or current expenditure tax less
31 than or equal to its additional mills for maintenance and operation, then that
32 millage levied as a capital outlay tax or current expenditures tax shall be
33 considered as a dedicated maintenance and operation millage.

34 (3) If a school district, at the time of the adoption of the amendment
35 of this section, levied a capital outlay tax or current expenditure tax
36 greater than its additional mills for maintenance and operation, then that

1 millage levied as a capital outlay tax or current expenditures tax may
 2 continue to be levied for the purposes originally approved. Although, as the
 3 electors of a school district vote an increased levy for non-dedicated
 4 additional mills for maintenance and operation, then those additional mills
 5 will be considered the school district's dedicated maintenance and operation
 6 millage to replace the original levies for capital outlay and current
 7 expenditures until the additional mills for maintenance and operation exceed
 8 the rate of tax levied for capital outlay or current expenditures at the time
 9 of the adoption of this act. When the additional mills for maintenance and
 10 operation equal or exceed the capital outlay or current expenditures millage
 11 levied at the time of the adoption of this act, then they shall be treated as
 12 provided under subdivision 2 of this subsection.

13 (d) Any levy of a ~~current expenditures tax~~ dedicated maintenance and
 14 operation millage proposed subsequent to the adoption of this section shall be
 15 limited as set forth in subsection (b) of this section and, when combined with
 16 capital outlay or current expenditure levies approved prior to the adoption of
 17 this section and still in effect, shall not exceed five percent (5%) of
 18 current expense or three (3) mills, whichever is less.

19 (e) Any levy of a dedicated maintenance and operation millage must be
 20 specified on the ballot, and that specification must list the purpose for
 21 which the dedicated maintenance and operation millage is levied."

22

23 SECTION 8. All provisions of this act of a general and permanent nature
 24 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 25 Revision Commission shall incorporate the same in the Code.

26

27 SECTION 9. If any provision of this act or the application thereof to
 28 any person or circumstance is held invalid, such invalidity shall not affect
 29 other provisions or application, and to this end the provisions of this act
 30 are declared severable.

31

32 SECTION 10. General Repealer. All laws and parts of laws in conflict
 33 with this Act are hereby repealed.

34

35 SECTION 11. EMERGENCY. It is found and determined by the General
 36 Assembly that Amendment No. 74 to the Arkansas Constitution was adopted by the

1 electors of this state on November 5, 1996; that Amendment No. 74 became
2 effective on adoption and applies to ad valorem property taxes due in 1997;
3 that the tax books of each county will open for collection of taxes in the
4 near future and that local officials and school districts must have direction
5 on procedures and effects of the various actions required. The General
6 Assembly further finds that Amendment No. 74 requires enactment of legislation
7 to implement the provisions thereof and that this act provides such
8 implementation and should be given effect immediately to accomplish the
9 purposes of Amendment No. 74 in an orderly, effective and efficient manner.
10 Therefore, an emergency is declared to exist and this act being immediately
11 necessary for the preservation of the public peace, health and safety shall
12 become effective on the date of its approval by the Governor. If the bill is
13 neither approved nor vetoed by the Governor, it shall become effective on the
14 expiration of the period of time during which the Governor may veto the bill.
15 If the bill is vetoed by the Governor and the veto is overridden, it shall
16 become effective on the date the last house overrides the veto.

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