

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

A Bill

SENATE BILL 751

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

For An Act To Be Entitled

9 "AN ACT TO CLARIFY THE ISSUANCE OF SCHOOL DISTRICT BONDS;
10 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

13 "AN ACT TO CLARIFY THE ISSUANCE OF
14 SCHOOL DISTRICT BONDS."

15
16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

17
18 SECTION 1. Definitions.

19 As used in this act:

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

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

29 (3) "Average daily membership (ADM)" means the total number of days
30 attended plus the total number of days absent by students in grades
31 kindergarten through twelve (K-12) during the first three (3) quarters of
32 each school year divided by the number of school days actually taught in the
33 district during that period of time rounded up to the nearest hundredth.

34 (4) "Base local revenue per student (BLRPS)" means: As applied under
35 Act 917 of 1995, as such may be amended from time to time, if Category 1 is
36 fully funded, the local revenue per student in the local school district with

1 the highest amount of local revenue per student. If Category 1 is not fully
 2 funded, the revenue per student to which the state equalizes calculated by
 3 taking the sum of:

4 (A) The total available state aid for state equalization funding
 5 per student;

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

8 (C) Seventy-five percent (75%) of the miscellaneous funds
 9 collected in the previous year; and
 10 by dividing the sum by the total state ADM for the previous year.

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

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

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

27 (8) "Eligible debt service millage required" means, in the computation
 28 of the debt service funding supplement, the debt service millage required for
 29 bonds issued on or before May 30, 1997, or bonds issued to refund bonds issued
 30 on or before May 30, 1997, provided that such millage was approved in a school
 31 election held on or before February 22, 1995.

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

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

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

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

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

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

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

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

30 (17) "Uniform rate of tax" means a uniform rate of ad valorem property
31 tax of twenty-five (25) mills to be levied on the assessed value of all
32 taxable real, personal, and utility property in the state to be used solely
33 for maintenance and operation of the schools. In calculating the uniform rate
34 of tax imposed by Article 14, § 3 of the Arkansas Constitution, as amended by
35 Amendment Nos. 11, 40, and 74, the following categories of millage may be
36 utilized to meet the minimum base millage requirement:

1 (A) The local school district's maintenance and operation millage;
 2 (B) The dedicated maintenance and operation millage;
 3 (C) Excess debt service millage; and
 4 (D) The millage derived from the ratio of the debt service funding
 5 supplements divided by the total assessment.

6 (18) "Weighted average millage rate (WAMR)" means a millage rate
 7 calculated by taking the sum of:

8 (A) The millage levied on real property times the real property
 9 assessment base; plus

10 (B) The millage levied on personal property times the personal
 11 property assessment base; plus

12 (C) The millage levied on utility property times the utility
 13 property assessment base; and
 14 dividing by the total assessed value on taxable real, personal, and utility
 15 property.

16

17 SECTION 2. Arkansas Code Annotated § 6-20-1204 is amended to read as
 18 follows:

19 "6-20-1204. Form of bonds -- Security -- Signatures.

20 (a) School bonds shall be issued by a school district in such form as
 21 the directors of the district shall prescribe.

22 (b) ~~They~~ School bonds may be secured by ~~a pledge of the building fund~~
 23 ~~and any and all other income of the district~~ debt service millage.

24 ~~—— (c) Bonds sold prior to February 18, 1975, may be further secured by a~~
 25 ~~mortgage on any or all of the real and personal property of the district, but~~
 26 ~~no school district shall mortgage or otherwise encumber any of its real or~~
 27 ~~personal property as security for any of its bonds sold on or after February~~
 28 ~~18, 1975.~~

29 (c)(1) As additional security for the payment of any bond of a school
 30 district, the State Board of Education shall cure any delinquencies in payment
 31 by withholding state aid due the district. Whenever the designated paying
 32 agent for receipt of the district's payments does not receive a payment when
 33 due pursuant to the authorizing documents, the paying agent will be entitled
 34 to payment from withheld state aid in any amount sufficient to cure the
 35 payment deficiency upon notifying the Director of the State Department of
 36 Education, General Education Division, and the superintendent of the district

1 by telephone, facsimile, or other similar communication, followed by written
 2 verification.

3 (2) Unless the director determines that payment has been made by
 4 the district and there is no longer a payment deficiency, the director shall
 5 withhold from the next distribution of state aid and remit to the paying agent
 6 an amount sufficient to cure the deficiency. In the event the amount next due
 7 to be distributed to the delinquent district is not sufficient to cure the
 8 delinquency, the director shall continue to withhold state aid as due and
 9 remit it to the paying agent until the payment deficiency has been cured. If
 10 the director is notified that a district is delinquent on two (2) or more
 11 obligations, the director shall make payment to paying agents in the order of
 12 receipt of notices of the delinquency.

13 ~~—— (d) School bonds shall be executed on behalf of the district by the~~
 14 ~~president and secretary of its board of directors, with either the facsimile~~
 15 ~~or manual signature of the president, but with the manual signature of the~~
 16 ~~secretary, and in case any of the officers whose signatures appear on the~~
 17 ~~bonds or on coupons attached thereto shall cease to be officers before the~~
 18 ~~delivery of the bonds or coupons, the signatures shall nevertheless, be valid~~
 19 ~~and sufficient for all purposes.~~

20 ~~—— (e) Coupons attached to the bonds may be executed by the facsimile~~
 21 ~~signature of the president of the board of directors."~~

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23 SECTION 3. Arkansas Code Annotated § 6-20-1212 is amended to read as
 24 follows:

25 "6-20-1212. Resolution setting priority in case of default.

26 On the issuance of any bonds, the school district board of directors may
 27 provide by resolution, which shall be a contract with the holders of the
 28 bonds, that should there be a default in the payment of any installment of
 29 principal or interest when due, the first moneys coming to the district from
 30 any source ~~whatever~~, other than the uniform rate of tax, shall be paid into
 31 the building fund and applied on past due principal or interest on the bonds
 32 until paid in full."

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34 SECTION 4. Arkansas Code Annotated § 6-14-114 shall be amended to read
 35 as follows:

36 "6-14-114. Counting of votes.

1 When the polls of each election are closed, the judges shall immediately
 2 proceed to count the results, and make returns thereof to the county clerk
 3 showing:

4 (1) The number of votes cast for each person for school district
 5 director;

6 (2) The number of votes cast for school tax;

7 (3) The number of votes cast against school tax;

8 (4) ~~In case of a division of the millage to be levied as school tax,~~
 9 ~~the~~ The number of mills for:

10 (A) ~~The current~~ additional mills for maintenance and operation
 11 of the schools;

12 ~~(B) The erection and equipment of school buildings~~ The
 13 dedicated maintenance and operation mills of the school district;

14 ~~(C) The retirement of existing indebtedness;~~ The debt service
 15 millage, which shall include debt service millage required and excess debt
 16 service millage in the school district; and

17 (D) The total millage rate levied for all purposes in the school
 18 district.

19 (5) The number of votes cast for and against any other question
 20 submitted at the election."

21

22 SECTION 5. Security and overage of bond issues.

23 (a) Nothing in this act shall be construed as to eliminate or to
 24 discourage the practice of levying additional mills above those necessary to
 25 service the debt for the purpose of security.

26 (b) Any school district that voted a debt service millage tax levy
 27 above the levy required to service the debt, shall continue to show that
 28 additional millage on its ballot for the length of time initially approved or
 29 extended by the electors of the school district. The additional mills pledged
 30 to the security of the bond that had been voted in the past may be considered
 31 additional mills for maintenance and operation or as part of the uniform rate
 32 of tax, whichever is applicable. Any excess debt service millage considered
 33 additional mills for maintenance and operation may be used by the district for
 34 the purpose of paying the principal and interest on bonds of the district and
 35 may be pledged for that purpose, provided that the district is in compliance
 36 with the uniform rate of tax.

1 (c) Any school district, with approval of the electors of that district
2 at the annual school election, when voting for a new tax for the retirement of
3 debt, may request a tax levy that includes mills greater than the amount
4 required to service the debt. Excess debt service millage in the new tax levy
5 for the retirement of debt may be used in calculations as specified in § 26-
6 80-201(5) of the uniform rate of tax or available for maintenance and
7 operation. Any excess debt service millage considered additional mills for
8 maintenance and operation may be used by the district for the purpose of
9 paying the principal and interest on bonds of the district and may be pledged
10 for that purpose, provided that the district is in compliance with the uniform
11 rate of tax.

12 (d) Holders of bonds of the school district shall have a first and
13 prior right and security interest in the revenue produced by the debt service
14 millage pledged by the school district to the payment of its bonds.

15

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

19

20 SECTION 7. If any provision of this act or the application thereof to
21 any person or circumstance is held invalid, such invalidity shall not affect
22 other provisions or application, and to this end the provisions of this act
23 are declared severable.

24

25 SECTION 8. General Repealer. All laws and parts of laws in conflict
26 with this Act are hereby repealed.

27

28 SECTION 9. EMERGENCY. It is found and determined by the General
29 Assembly that Amendment No. 74 to the Arkansas Constitution was adopted by the
30 electors of this state on November 5, 1996; that Amendment No. 74 became
31 effective on adoption and applies to ad valorem property taxes due in 1997;
32 that the tax books of each county will open for collection of taxes in the
33 near future and that local officials and school districts must have direction
34 on procedures and effects of the various actions required. The General
35 Assembly further finds that Amendment No. 74 requires enactment of legislation
36 to implement the provisions thereof and that this act provides such

1 implementation and should be given effect immediately to accomplish the
2 purposes of Amendment No. 74 in an orderly, effective and efficient manner.
3 Therefore, an emergency is declared to exist and this act being immediately
4 necessary for the preservation of the public peace, health and safety shall
5 become effective on the date of its approval by the Governor. If the bill is
6 neither approved nor vetoed by the Governor, it shall become effective on the
7 expiration of the period of time during which the Governor may veto the bill.
8 If the bill is vetoed by the Governor and the veto is overridden, it shall
9 become effective on the date the last house overrides the veto.

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