

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

# A Bill

SENATE BILL 752

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 ASSESSMENT AND COLLECTION PROCESS;  
10 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

## Subtitle

13 "AN ACT TO CLARIFY THE ASSESSMENT AND  
14 COLLECTION PROCESS."

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           (17) "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 § 26-80-102 is amended to read as  
 18 follows:

19           "26-80-102. Approval of tax at elections.

20 ~~—— (a) The electors of each school district in this state shall have the~~  
 21 ~~power at the annual school election, or at a special election authorized by~~  
 22 ~~law to be called for that purpose, to vote such rate of tax as they may deem~~  
 23 ~~necessary for the support of the schools in the district during the ensuing~~  
 24 ~~year. The suggested rate to be voted on may be placed on the ballot on order~~  
 25 ~~of the school directors or representatives of the district. The ballots may~~  
 26 ~~show the portion of the tax to be voted in the building fund as is provided by~~  
 27 ~~law, and the vote on the tax in the building fund may be for successive years~~  
 28 ~~as provided by law. The rate of tax receiving the greatest number of votes at~~  
 29 ~~the school election shall be the tax to be levied in the district.~~

30 ~~—— (b) If no annual election shall be held in any district in the state~~  
 31 ~~at the appointed time, the board of directors of the district may call a~~  
 32 ~~special election for the purpose of voting on the district tax and for school~~  
 33 ~~directors. Members of the county board shall not be voted on at the special~~  
 34 ~~elections. The special elections shall be held in such manner and after the~~  
 35 ~~notice provided by law for special elections for school districts.~~

36           (a) In addition to the uniform rate of tax as provided in § 26-80-101,

1 school districts are authorized to levy, by a vote of the qualified electors  
 2 respectively thereof, an annual ad valorem property tax on the assessed value  
 3 of taxable real, personal, and utility property for the maintenance and  
 4 operation of schools and the retirement of indebtedness. The board of  
 5 directors of each school district shall prepare, approve and make public not  
 6 less than sixty (60) days in advance of the annual school election a proposed  
 7 budget of expenditures deemed necessary to provide for the foregoing purposes,  
 8 together with a rate of tax levy sufficient to provide the funds therefor,  
 9 including the rate under any continuing levy for the retirement of  
 10 indebtedness. The board of directors shall submit the tax at the annual  
 11 school election or at such other time as may be provided by law. If a  
 12 majority of the qualified voters in the school district voting in the school  
 13 election approve the rate of tax proposed by the board of directors, then the  
 14 tax at the rate approved shall be collected as provided by law. In the event  
 15 a majority of the qualified electors voting in the school election disapprove  
 16 the proposed rate of tax, then the tax shall be collected at the rate approved  
 17 at the last preceding school election. However, if the rate approved has been  
 18 modified pursuant to the uniform rate of tax calculated by the State  
 19 Department of Education, then the tax shall be collected at the modified rate  
 20 until another rate is approved.

21 (b) No tax levied pursuant to subsection (a) of this section shall be  
 22 appropriated to any other district than that for which it is levied."

23

24 SECTION 3. Arkansas Code Annotated § 26-80-104 is amended to read as  
 25 follows:

26 "26-80-104. Collection and separation of proceeds.

27 (a) Rates voted for different funds of district school tax shall not be  
 28 shown separately on the county tax books but shall be shown there only in the  
 29 total amount of district tax to be levied.

30 (b) The school tax shall be collected in the same manner as county  
 31 taxes are collected, at the same time and by the same person, and be paid into  
 32 the county treasury.

33 (c) The county treasurer shall separate the proceeds of these taxes  
 34 into the several funds as is provided by law, or by the county board of  
 35 education as has been stated, or the school directors as is authorized by law.

36 (d) The county treasurer shall separate the proceeds from the uniform

1 rate of tax by multiplying the ratio of the uniform rate of tax divided by the  
2 total rate of tax for the school district times the net revenues from the  
3 total rate of tax for the school district. These proceeds shall be remitted  
4 to the Treasurer of State and shall be redistributed to the county treasurer  
5 as provided by § 26-80-101."

6

7 SECTION 4. Arkansas Code Annotated § 26-80-106 is amended to read as  
8 follows:

9 "26-80-106. Use of surplus for other purposes.

10 Because of consolidations of school districts and for other reasons, the  
11 ~~continuing debt service~~ millage voted by a school district for the payment of  
12 its outstanding indebtedness frequently provided a substantial surplus over  
13 the amount of the annual principal and interest requirements. This surplus  
14 may be used by the district for the purpose of paying the principal and  
15 interest of subsequent indebtedness incurred by it and may be pledged for that  
16 purpose or any other school purpose, provided that the district is in  
17 compliance with the uniform rate of tax."

18

19 SECTION 5. Arkansas Code Annotated § 26-80-111 is amended to read as  
20 follows:

21 "26-80-111. School districts formed by consolidation, annexation or  
22 merger.

23 (a) When a new school district is created from all or parts of two (2)  
24 or more districts or a district is dissolved and all or part of the area of  
25 the dissolved district is annexed to or consolidated with an existing  
26 district, the board of directors of the resulting district shall submit to the  
27 electors of the district at the next annual school election a proposed tax  
28 millage rate for the district. If the proposed millage rate is approved by  
29 the electors of the district, it shall be the rate for the district, provided  
30 such rate complies with the uniform rate of tax.

31 (b) If a new school district is created from all or parts of two (2) or  
32 more districts or a district is dissolved and all or part of the area of the  
33 dissolved district is annexed to or consolidated with an existing district and  
34 if the electors have failed to approve a proposed millage rate at an annual  
35 school election, then the millage rate for the district shall be the millage  
36 rate levied, at the last school election prior to the consolidation,

1 annexation or merger in the district which had the highest average daily  
 2 membership during the school year preceding the consolidation, annexation, or  
 3 merger, provided such rate complies with the uniform rate of tax."

4

5 SECTION 6. Arkansas Code Annotated § 26-26-402, pertaining to the  
 6 procedure for adjustment of taxes after reappraisal or reassessment of  
 7 property, is amended by adding a new subsection to read as follows:

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

16

17 SECTION 7. Assessment Coordination Division - Form revision.

18 The Assessment Coordination Division of the Public Service Commission  
 19 shall revise the forms found in §§ 26-26-401 et seq. pertaining to rollback of  
 20 millage rates under Amendment No. 59, Arkansas Constitution, to provide for  
 21 changes required to effectuate Amendment No. 74 to the Arkansas Constitution.  
 22 The revised forms produced by the Assessment Coordination Division shall be  
 23 submitted to the Arkansas Legislative Council, or any subcommittee designated  
 24 by that body, for review and comment on or before August 1, 1997. Upon review  
 25 by the Arkansas Legislative Council, the Arkansas Code Revision Commission  
 26 shall incorporate such revised forms into §§ 26-26-401 et seq.

27

28 SECTION 8. Arkansas Code Annotated § 14-14-904(b) is amended to read as  
 29 follows:

30 "~~(b) Levy of Taxes and Making of Appropriations.~~ (1) The quorum  
 31 court, at its regular meeting in November of each year shall levy the county,  
 32 municipal and school taxes for the current year, and before the end of each  
 33 fiscal year, the court shall make appropriations for the expenses of county  
 34 government for the following year. The Director of the Assessment  
 35 Coordination Division of the Public Service Commission may authorize an  
 36 extension of the date for levy of taxes of up to sixty (60) days upon

1 application by the county judge and county clerk of any county for good cause  
2 shown resulting from reappraisal or rollback of taxes.

3 (2) Nothing in this subsection, shall prohibit the quorum court  
4 from making appropriation amendments at any time during the current fiscal  
5 year.

6 (3) If the levy of taxes is repealed by referendum, the county  
7 may adopt a new ordinance levying taxes, within thirty (30) days after the  
8 referendum vote is certified."

9

10 SECTION 9. Arkansas Code Annotated §§ 26-80-103, 26-80-105, 26-80-107,  
11 26-80-108, and 26-80-109 are repealed.

12 ~~26-80-103 Continuing building fund tax of varying rates.~~

13 ~~—— (a) Any school district may submit to its electors at any annual school~~  
14 ~~election the question of setting up a continuing building fund tax of~~  
15 ~~different rates in different years according to the needs of the district and~~  
16 ~~the maturities of its obligations.~~

17 ~~—— (b) In the event a district has submitted to the electors and they have~~  
18 ~~approved a proposal to levy a continuing building fund tax of varying rates of~~  
19 ~~millage and money has been borrowed payable out of the tax so voted, the~~  
20 ~~contract for the repayment of the money shall constitute valid and binding~~  
21 ~~obligations of the district.~~

22 ~~—— 6-80-105 Extension and collection of assessed real property taxes.~~

23 ~~—— (a) In any school district of this state embracing territory in more~~  
24 ~~than one (1) county, if one or more, but not all, of the counties in which the~~  
25 ~~school district is located have been certified by the Assessment Coordination~~  
26 ~~Division of the Arkansas Public Service Commission as meeting the requirements~~  
27 ~~of § 26-26-301 et seq., then, upon resolution of the school district board,~~  
28 ~~school taxes on real property in that portion of the school district located~~  
29 ~~in any county so certified as having met the requirements of these statutes~~  
30 ~~shall be extended and collected on assessment of real property as certified by~~  
31 ~~the county equalization board for the year immediately preceding the year in~~  
32 ~~which the county was certified as having met the requirements of these~~  
33 ~~statutes.~~

34 ~~—— (b) Whenever all counties in which territory of any such school~~  
35 ~~district may be located have been certified as meeting the requirements of~~  
36 ~~these statutes, the provisions of this section shall no longer be applicable~~



1 ~~to that school district.~~

2 ~~----- 26-80-107. Raising of additional voluntary tax.~~

3 ~~(a) Whenever the directors in any single or special school district in a~~  
4 ~~city or town, the population of which as shown by the last federal census~~  
5 ~~exceeds forty thousand (40,000) inhabitants, after careful investigation have~~  
6 ~~ascertained that more than a majority of the property owners in the district~~  
7 ~~favor the raising of a contribution or voluntary tax in addition to the usual~~  
8 ~~school district tax, for the purpose of supporting the common schools in the~~  
9 ~~district, and having certified their finding showing the rate of the voluntary~~  
10 ~~tax to the tax collectors of the county in which the district is situated, it~~  
11 ~~shall be the duty of the collector to assist in the collection of the~~  
12 ~~voluntary tax by showing the amount thereof in dollars and cents on the tax~~  
13 ~~list of each property owner in the school district and, if paid by the~~  
14 ~~property owner to the collector, to include in his receipt for taxes the~~  
15 ~~amount of the contribution or voluntary tax paid by the taxpayer.~~

16 ~~----- (b) The collector shall be paid expenses for his service, which amount~~  
17 ~~shall be fixed by the school directors.~~

18 ~~----- 26-80-108. Settlement of voluntary taxes --- Refunds.~~

19 ~~(a) It shall be the duty of the collector to pay into the treasury of~~  
20 ~~the school district, within thirty (30) days after his final settlement, as~~  
21 ~~provided by law, all collections made by him of the contribution or voluntary~~  
22 ~~tax and, at the same time, to furnish the school directors with a list~~  
23 ~~containing the names and assessed valuations of those property owners who~~  
24 ~~refuse to pay the voluntary tax.~~

25 ~~(b) If the collector shall collect any such tax from any person who has~~  
26 ~~not voluntarily subscribed to it, he may refund it to the proper parties~~  
27 ~~applying therefor before his settlement with the school directors. The person~~  
28 ~~shall apply to the school board for refund, and the collector shall not be~~  
29 ~~liable therefor.~~

30 ~~----- 6-80-109 Tax pledges enforceable.~~

31 ~~Any pledge to pay a voluntary tax made in writing and signed by a~~  
32 ~~property owner, or his agent, agreeing to pay the voluntary tax shall be~~  
33 ~~deemed executed for a sufficient consideration and shall be enforceable.~~

34

35 SECTION 10. All provisions of this act of a general and permanent nature  
36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

2

3 SECTION 11. If any provision of this act or the application thereof to  
4 any person or circumstance is held invalid, such invalidity shall not affect  
5 other provisions or application, and to this end the provisions of this act  
6 are declared severable.

7

8 SECTION 12. General Repealer. All laws and parts of laws in conflict  
9 with this Act are hereby repealed.

10

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

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