

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: H4/1/99  
**A Bill**

HOUSE BILL 2177

5 By: Representatives Salmon, Vess, Elliott  
6  
7

### 8 **For An Act To Be Entitled**

9 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 14, CHAPTER  
10 88, OF THE ARKANSAS CODE OF 1987, ANNOTATED, TO  
11 PROVIDE THAT THE BOARDS OF COMMISSIONERS FOR CERTAIN  
12 MUNICIPAL IMPROVEMENT DISTRICTS SHALL SERVE FOR FIXED  
13 TERMS OF OFFICE AND THAT THEY MAY BE REMOVED FROM  
14 OFFICE; TO DECLARE AN EMERGENCY; AND FOR OTHER  
15 PURPOSES. "  
16

### 17 **Subtitle**

18 "TO AMEND VARIOUS LAWS PERTAINING TO THE  
19 BOARDS OF COMMISSIONERS FOR CERTAIN  
20 MUNICIPAL IMPROVEMENT DISTRICTS TO MAKE  
21 THEM MORE RESPONSIVE TO LAND OWNERS. "  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code § 14-88-301(a), regarding the appointment of  
27 commissioners in municipal improvement districts, is amended to read as  
28 follows:

29 "(a)(1)(A) In the ordinance creating a municipal improvement district,  
30 the city or town council shall appoint three (3) owners of real property  
31 therein as commissioners, who shall compose a board of improvement for the  
32 district.

33 (B) Beginning on and after July 1, 1999 in cities of the  
34 first class with a population of between 61,500 and 62,000 persons according  
35 to the 1990 federal decennial census, the commissioners serving at that time  
36 and any board of commissioners of new districts created after that date shall

1 have terms of office of six (6) years and shall serve until their successors  
 2 are duly selected and qualified. These terms of office shall begin January 1,  
 3 2000 for commissioners serving at that time or the January 1 next following  
 4 the creation of the district. For the initial terms, the commissioners shall  
 5 select one of their number to serve for two (2) years, one to serve for four  
 6 (4) years, and one to serve for six (6) years. The names and terms so selected  
 7 shall be certified to the city clerk on or before January 1 of the applicable  
 8 year. Before the end of a commissioner's term, the city council shall appoint  
 9 an owner of real property of the district as a new commissioner. Except for  
 10 persons having been removed as a commissioner, any person serving or having  
 11 served as a commissioner may, but need not necessarily, be reappointed.

12 (2) In cities operating under a commission form of government, as  
 13 amended, the mayor and city commissioners, by virtue of their offices, shall  
 14 be commissioners of each improvement district and shall compose the board of  
 15 improvement of each district."

16  
 17 SECTION 2. Arkansas Code § 14-88-303 is amended to read as follows:

18 "14-88-303. Vacancies generally.

19 (a) All vacancies that may occur after a municipal board shall have  
 20 been organized shall be filled by the city or town council.

21 (b) If all places on the board shall become vacant, or those appointed  
 22 shall refuse or neglect to act, new members shall be appointed by the council,  
 23 as in the first instance, except that after July 1, 1999 in cities of the  
 24 first class with a population of between 61,500 and 62,000 persons according  
 25 to the 1990 federal decennial census, new members shall be appointed only for  
 26 the remainder of the vacant term and that no person who is removed as a  
 27 commissioner shall qualify."

28  
 29 SECTION 3. Arkansas Code § 14-88-305 is amended to read as follows:

30 "14-88-305. Removal of member.

31 (a)(1) The city or town council shall have the power to remove a  
 32 municipal board of improvement, or any member thereof by a two-thirds (2/3)  
 33 vote of the whole number of aldermen elected to the council.

34 (2)(A) Removal shall be for cause only, and after a hearing upon  
 35 sworn charges preferred in writing by some real property owner in the  
 36 district.

1 (B) Ten (10) days' notice of the hearing of the charges  
2 shall be given.

3 (b)(1) *The council shall have the power to remove the board, or any*  
4 *member thereof, by a vote of a majority of the whole number of aldermen*  
5 *elected to the city council, upon the written petition of the owners of a*  
6 *majority in assessed value of the property located within the district, after*  
7 *a hearing upon ten (10) days' notice to each member of the board affected.*

8 (2) After July 1, 1999, in cities of the first class with a  
9 population of between 61,500 and 62,000 persons according to the 1990 federal  
10 decennial census, the council shall have the power to remove the board, or any  
11 member, by a vote of a majority of the whole number of aldermen elected to the  
12 city council, upon the written petition of twenty-five percent (25%) the  
13 owners of the real property located within the district stating that the  
14 petitioners believe it to be in the best interest of the district, after a  
15 hearing upon ten (10) days' notice to each member of the board affected."  
16

17 SECTION 4. Arkansas Code Title 14, Chapter 88, Subchapter 3 is amended  
18 by adding the following section to be appropriately numbered by the Arkansas  
19 Code Revision Commission:

20 "Members - Increase in number in certain cities.

21 (a)(1) Whenever a majority in value of the owners of real property in  
22 any municipal improvement district in cities of the first class with a  
23 population of between 61,500 and 62,000 persons, according to the 1990 federal  
24 decennial census, shall petition the city council of the creating municipality  
25 for the board of improvement to be enlarged from three (3) members to five (5)  
26 members, then the city council shall pass an ordinance to expand the number of  
27 members of the board of improvement for the district, and to appoint two (2)  
28 additional owners of real property as commissioners of the district.  
29 Thereafter, the total membership of the board of improvement shall consist of  
30 five (5) members, who shall serve staggered terms of three (3) years.

31 (2) The initial terms of office of the two (2) additional members  
32 shall be determined by the appointing ordinance with one individual serving an  
33 initial term of three (3) years and the second individual serving an initial  
34 term of two (2) years, and thereafter the terms of office shall be three (3)  
35 years.

36 (3) Commissioners serving at the time the petition is filed shall

1 continue to serve.

2 (b) Vacancies in the two (2) additional commissioners' positions shall  
3 be filled in the same manner as provided for filling vacancies under § 14-88-  
4 303. The position shall be filled for the remainder of the unexpired term,  
5 except that no person who is removed as a commissioner shall qualify.

6 (c) All action by the board of commissioners of any municipal  
7 improvement district affected by this section shall be a majority vote of the  
8 membership of the board of improvement."

9  
10 SECTION 5. All provisions of this act of a general and permanent nature  
11 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
12 Revision Commission shall incorporate the same in the Code.

13  
14 SECTION 6. If any provision of this act or the application thereof to  
15 any person or circumstance is held invalid, such invalidity shall not affect  
16 other provisions or applications of the act which can be given effect without  
17 the invalid provision or application, and to this end the provisions of this  
18 act are declared to be severable.

19  
20 SECTION 7. All laws and parts of laws in conflict with this act are  
21 hereby repealed.

22  
23 SECTION 8. EMERGENCY CLAUSE. It is hereby found and determined by the  
24 Eighty-second General Assembly that the various laws regulating the boards of  
25 commissioners of municipal improvement districts contain provisions which  
26 provide for the lifetime appointments of commissioners and do not allow for  
27 the prompt removal of commissioners when the situations might be in the best  
28 interest of the districts and its members, and that these restrictions mean  
29 that these small government bodies are often unresponsive to the district's  
30 property owners who benefit from the services and pay the assessments for  
31 these improvement districts. Therefore, an emergency is declared to exist and  
32 this act being immediately necessary for the preservation of the public peace,  
33 health and safety shall become effective on July 1, 1999.

34 */s/ Salmon, et al*