

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001

# A Bill

SENATE BILL 796

4  
5 By: Senator D. Malone  
6  
7

## For An Act To Be Entitled

9 AN ACT TO REPEAL ARKANSAS CODE 14-19-109 CONCERNING  
10 THE FINANCING OF COUNTY JAIL FACILITIES UNDER  
11 REPEALED AMENDMENT 17 OF THE ARKANSAS CONSTITUTION;  
12 AND FOR OTHER PURPOSES.  
13

## Subtitle

14 TO REPEAL THE LAW ON FINANCING OF COUNTY  
15 JAIL FACILITIES UNDER REPEALED AMENDMENT  
16 17 OF THE ARKANSAS CONSTITUTION.  
17  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code 14-19-109 is repealed.

23 ~~14-19-109. Expenditure of current funds for jail facilities.~~

24 ~~(a) Upon appropriation of the county quorum court, any county in this~~  
25 ~~state is authorized to expend moneys in the county general fund which are not~~  
26 ~~necessary to finance other county projects or services and to match available~~  
27 ~~federal funds for the construction, reconstruction, or expansion of county~~  
28 ~~jail facilities in the county. No vote of the electors of the county shall be~~  
29 ~~necessary to authorize the construction, reconstruction, or expansion of such~~  
30 ~~county jail facilities or for the expenditure of county general funds~~  
31 ~~therefor if current operating funds are available for such purposes and~~  
32 ~~provided further that county funds expended pursuant to the authority granted~~  
33 ~~in this section are matched with an equal or greater amount of federal funds.~~

34 ~~(b) Any county in this state and any one (1) or more municipalities in~~  
35 ~~the county are authorized to cooperatively and jointly construct,~~  
36 ~~reconstruct, or expand the county jail facility and to jointly and~~

1 cooperatively provide the necessary funds to match available federal funds  
2 therefor.

3 ~~(c)(1) The provisions of this section are intended to be supplemental~~  
4 ~~and shall not be construed as in limitation or qualification of any powers or~~  
5 ~~authorities conferred by other statutes or laws. In particular, but without~~  
6 ~~limitation, the General Assembly recognizes, approves, and validates the~~  
7 ~~practice employed and being employed by many counties of this state of~~  
8 ~~carrying out the construction, reconstruction, and extension of jails,~~  
9 ~~hospitals, and courthouses without seeking approval of the electors of~~  
10 ~~counties when the financing of the construction, reconstruction, or extension~~  
11 ~~is by a method which may include the use of funds on hand, the issuance of~~  
12 ~~revenue bonds, or the use of funds obtained from other sources, public or~~  
13 ~~private, but which does not include the levy of an ad valorem tax or the~~  
14 ~~issuance of general obligation bonds.~~

15 ~~(2) Further, the authority contained in this section for~~  
16 ~~counties and municipalities of this state jointly to construct, reconstruct,~~  
17 ~~or extend jails, and to finance them jointly, shall not be construed as in~~  
18 ~~limitation or qualification of the authorities contained in other statutes or~~  
19 ~~laws, including, without limitation, §§ 25-20-101—25-20-108.~~

20 ~~(d) The following findings and purposes are established in~~  
21 ~~interpreting legislative intent in the passage of this section:-~~

22 ~~(1) Numerous counties and cities of this state do not currently~~  
23 ~~have suitable jail facilities which will conform to judicial decisions and~~  
24 ~~contemporary standards for the incarceration of prisoners;~~

25 ~~(2) Many cities and counties have exhausted their available~~  
26 ~~taxing powers for the construction of new or improved jails, or find it~~  
27 ~~impossible to obligate their remaining taxing powers for such purposes~~  
28 ~~without jeopardizing the funding of other available government functions;~~

29 ~~(3) In order to promote efficiency in the operations of~~  
30 ~~government and to reduce the overall cost to the taxpayers of providing jail~~  
31 ~~facilities, it is declared to be the policy of the State of Arkansas to~~  
32 ~~encourage efforts by cities and counties to jointly construct and operate~~  
33 ~~jail facilities to serve their respective jurisdictions;~~

34 ~~(4) That the federal government has embarked on various programs~~  
35 ~~to provide financial assistance to cities and counties in upgrading jail~~  
36 ~~facilities and it is of benefit to the State of Arkansas to enable cities and~~

1 counties to gain the advantages of available federal funds for jail  
2 construction and improvements;

3           ~~(5) That a number of cities and counties of this state have, or~~  
4 ~~will have, available surplus funds which could be used to defray the~~  
5 ~~necessary city and county matching share in obtaining federal matching moneys~~  
6 ~~for jail improvements without jeopardizing existing operating programs and~~  
7 ~~without the necessity to incur additional bonded indebtedness to provide or~~  
8 ~~to replace these moneys;~~

9           ~~(6) The General Assembly is aware of the provisions of Arkansas~~  
10 ~~Constitution, Amendment 17, [repealed] which permits the majority of the~~  
11 ~~electors in a county voting on the question to authorize the construction,~~  
12 ~~reconstruction, or extension of a county jail and to levy a tax not to exceed~~  
13 ~~one half of one percent (1/2 of 1%) on the dollar to defray the cost and~~  
14 ~~expense thereof, and the General Assembly is further aware that the purpose~~  
15 ~~of this amendment was to prohibit counties from undertaking the construction~~  
16 ~~or improvement of jails without approval of the people with respect to the~~  
17 ~~funding of bonded indebtedness therefor. The General Assembly is further~~  
18 ~~aware of the fact that prior to the adoption of Amendment 17 in 1928 many~~  
19 ~~counties were engaged in programs of deficit spending, but subsequent~~  
20 ~~thereto, the enactment of state auditing laws and other fiscal controls~~  
21 ~~governing county spending prohibit deficit spending by a county. Therefore,~~  
22 ~~the General Assembly concludes that counties of this state should be~~  
23 ~~permitted to use available surplus operating moneys to construct or make~~  
24 ~~necessary improvements to county jails or jails constructed and operated~~  
25 ~~jointly by the county and one or more cities therein so long as the funds are~~  
26 ~~made available from the current revenues of the county and are not construed~~  
27 ~~a debt or obligation of the county in the following fiscal years. Therefore,~~  
28 ~~it is the opinion of the General Assembly that Amendment 17 should be~~  
29 ~~liberally construed to require a vote of the majority of the electors of the~~  
30 ~~county in approving the construction, reconstruction, or extension of the~~  
31 ~~county jail under those circumstances where the construction thereof cannot~~  
32 ~~be accomplished by the expenditure of operating funds currently available and~~  
33 ~~where the construction will require deficit financing or the pledge of~~  
34 ~~property taxes to defray the cost of such construction or indebtedness~~  
35 ~~incurred in connection therewith;~~

36           ~~(7) It is the declaration of the General Assembly that the~~

~~intent of the citizens of Arkansas in adopting Amendment 17 [repealed] should be interpreted so that approval of the electors of the county to maintain, repair, construct, reconstruct, or extend a county jail or a county and municipal owned or operated jail is not required where moneys used for such improvements are made available from noncounty funds or from existing surplus funds of the county which are not required for other purposes and which can be made available from the current revenues of the county in the fiscal year in which the same are provided;~~

~~(8) It is, therefore, the purpose of this section to clarify the intent of Amendment 17 [repealed] in order to enable counties which have surplus operating revenues to use them to match federal funds to defray the county portion of the cost of matching federal or matching funds made available by one or more municipalities in the county to defray the cost of construction or renovation of a jail so long as the portion of county funds may be made available from surplus revenues of the year in which they are provided without obligating revenues of any other succeeding year.~~

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36