

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 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 1296

4
5 By: Representative Childers
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For An Act To Be Entitled

9 AN ACT TO AMEND THE MUNICIPALITIES AND COUNTIES
10 INDUSTRIAL DEVELOPMENT REVENUE BOND LAW; TO
11 AUTHORIZE ADDITIONAL REVENUE SOURCES FOR THE
12 PAYMENT AND SECURITY OF INDUSTRIAL REVENUE BONDS
13 ISSUED BY MUNICIPALITIES AND COUNTIES AND TO
14 CONFIRM THE AUTHORITY TO LOAN THE BOND PROCEEDS;
15 DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.
16

Subtitle

17 AN ACT TO AUTHORIZE ADDITIONAL REVENUE
18 SOURCES FOR THE PAYMENT AND SECURITY OF
19 INDUSTRIAL REVENUE BONDS ISSUED BY
20 MUNICIPALITIES AND COUNTIES AND TO
21 CONFIRM THE AUTHORITY TO LOAN THE BOND
22 PROCEEDS.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code § 14-164-203 is amended to read as follows:
29 14-164-203. Definitions.

30 As used in this subchapter, unless the context otherwise requires:

31 (1) "Construct" means to acquire or build, in whole or in part,
32 in such manner and by such method, including contracting therefor and, if the
33 latter, by negotiation or bidding upon such terms and pursuant to such
34 advertising as the municipality or county shall determine to be in the public
35 interest and necessary, under the circumstances existing at the time, to
36 accomplish the purposes of, and authorities set forth in, this subchapter;



1 (2)(A) "County" means a county of this state, or where a county
 2 is divided into two (2) districts, the term "county" shall mean the entire
 3 county or either district of the county+.

4 (B) It is the purpose and intent of this subdivision to
 5 define the term "county," as used in this subchapter, to mean an entire
 6 county or either district of a county which is divided into two (2) districts
 7 and has two (2) separate levying courts, in order that either district of a
 8 county so divided may issue revenue bonds and do all other acts in the manner
 9 and for the purposes authorized in this subchapter;

10 (3) "Equip" means to install or place on or in any building or
 11 structure equipment of any and every kind, whether or not affixed, including,
 12 without limiting the generality of the foregoing, building service equipment,
 13 fixtures, heating equipment, air conditioning equipment, machinery,
 14 furniture, furnishings, and personal property of every kind;

15 (4) "Facilities" means any real property, personal property, or
 16 mixed property of any and every kind that can be used or that will be useful
 17 in securing or developing industry, including, without limiting the
 18 generality of the foregoing, rights-of-way, roads, streets, pipes, pipelines,
 19 reservoirs, utilities, materials, equipment, fixtures, machinery, furniture,
 20 furnishings, instrumentalities, and other real, personal, or mixed property
 21 of every kind;

22 (5) "Governing body" means the council, board of directors, or
 23 city commission of any municipality;

24 (6)(A) "Industry" means, but is not limited to, manufacturing
 25 facilities, warehouses, distribution facilities, repair and maintenance
 26 facilities, agricultural facilities, corporate and management offices for
 27 industry, and tourism attractions and facilities.

- 28 (B) The term "tourism attractions and facilities" means:
- 29 (i) Cultural or historical sites;
 - 30 (ii) Recreational or entertainment facilities;
 - 31 (iii) Areas of natural phenomenon or scenic beauty;
 - 32 (iv) Theme parks;
 - 33 (v) Amusement or entertainment parks;
 - 34 (vi) Indoor or outdoor plays or music shows;
 - 35 (vii) Botanical gardens;
 - 36 (viii) Cultural or educational centers; and

1 (ix) Lodging facilities which are an integrated part
2 of any of the foregoing enterprises;

3 (7) "Lease" means to lease for such rentals, for such periods,
4 and upon such terms and conditions as the municipality or county shall
5 determine, including, without limiting the generality of the foregoing, the
6 granting of renewal or extension options for rentals for such periods and
7 upon such terms and conditions as the municipality or county shall determine
8 and the granting of purchase options for such prices and upon such terms and
9 conditions as the municipality or county shall determine;

10 (8) "Loan" means to loan all or part of the proceeds of bonds
11 upon repayment and other terms and conditions as the municipality or county
12 determines;

13 ~~(8)~~(9) "Municipality" means a city of the first or second class
14 or an incorporated town;

15 ~~(9)~~(10) "Sell" means to sell for such price, in such manner, and
16 upon such terms as the municipality or county shall determine, including,
17 without limiting the generality of the foregoing, private or public sale,
18 and, if public, pursuant to such advertisement as the municipality or county
19 shall determine, sell for cash or credit payable in lump sum or installments
20 over such period as the municipality or county shall determine and, if on
21 credit, with or without interest and at such rate or rates, as the
22 municipality or county shall determine; and

23 ~~(10)~~(11) "Surplus revenues" means revenues remaining after
24 adequate provision has been made for expenses of operation, maintenance, and
25 depreciation and all requirements of ordinances, orders, or indentures
26 securing bonds theretofore or thereafter issued to finance the cost of
27 acquiring, constructing, reconstructing, extending, or improving the lands,
28 buildings, or facilities for developing and securing industry or utilities
29 have been fully met and complied with.

30
31 SECTION 2. Arkansas Code § 14-164-204 is amended to read as follows:
32 14-164-204. Construction.

33 (a) This subchapter shall be liberally construed to accomplish its
34 intent and purposes and shall be the sole authority required for the
35 accomplishment of its purpose. To this end, it shall not be necessary to
36 comply with general provisions of other laws dealing with public facilities,

1 their acquisition, construction, leasing, encumbering, or disposition.

2 (b) The practice of municipalities and counties and their authority to
 3 loan the proceeds of industrial development revenue bonds to accomplish the
 4 purposes set forth in § 14-164-205 is explicitly confirmed and ratified. All
 5 loans previously made by a municipality or county shall be considered for all
 6 purposes as if made under the authority of this act.

7
 8 SECTION 3. Arkansas Code § 14-164-206(a), concerning the use of
 9 industrial development revenue bond proceeds, is amended to read as follows:

10 (a) Municipalities and counties are authorized to use any available
 11 revenues for the accomplishment of the purposes set forth in § 14-164-205 and
 12 are authorized to issue revenue bonds and to loan and otherwise use the
 13 proceeds thereof for the accomplishment of the purposes set forth in § 14-
 14 164-205, either alone or together with other available funds and revenues.

15
 16 SECTION 4. Arkansas Code § 14-164-206(b)(1), concerning the amount and
 17 use of industrial development revenue bond proceeds, is amended to read as
 18 follows:

19 (b)(1) The ~~amount~~ proceeds of bonds issued ~~shall be sufficient~~ may be
 20 used or loaned to pay:

- 21 (A) All or any portion of the costs of accomplishing the
- 22 specified purposes;
- 23 (B) All or any portion of the costs of issuing the bonds;
- 24 (C) The amount necessary for a reserve, if desirable;
- 25 (D) The amount necessary to provide ~~for~~ debt service on
- 26 the bonds until revenues for ~~the~~ payment of ~~them~~ the bonds are available; and
- 27 (E) Any other costs of whatever nature necessarily
- 28 incidental to the accomplishment of the specified purposes.

29
 30 SECTION 5. Arkansas Code § 14-164-217(b), concerning the payment of
 31 industrial development revenue bonds, is amended to read as follows:

32 (b)(1) The principal of, and interest on, the revenue bonds and
 33 trustee's and paying agent's fees shall be payable ~~in the first instance from~~
 34 gross revenues from one (1) or more of the following sources as determined by
 35 the municipality or county:

- 36 (A) Revenues derived from the lands, buildings, or

1 facilities acquired, constructed, reconstructed, extended, or improved, in
 2 whole or in part, with the proceeds of the bonds;

3 ~~(2)(A) In addition, the municipality or county is authorized to~~
 4 ~~pledge to and use for the payment of the principal of and interest on the~~
 5 ~~bonds and trustee's and paying agent's fees, surplus~~

6 (B) Surplus revenues derived from other lands, buildings,
 7 or facilities used and useful for securing and developing industry; ~~or~~

8 (C) ~~surplus~~ Surplus revenues derived from water, sewer,
 9 sanitation, gas, and electric utilities owned by the municipality or county;

10 (D) Revenues derived from payments in lieu of ad valorem
 11 taxes to the municipality or county with respect to the lands, buildings, or
 12 facilities acquired, constructed, reconstructed, extended, or improved, in
 13 whole or in part, with the proceeds of the bonds; and

14 (E) Revenues derived from governmental grants and tax
 15 rebates and credits received or anticipated to be received with respect to
 16 the lands, buildings, or facilities acquired, constructed, reconstructed,
 17 extended, or improved, in whole or in part, with the proceeds of the bonds.

18 ~~(B) (2) Such surplus~~ The revenues may also be pledged to and
 19 used for the reimbursement for payments of the principal of and interest on
 20 the bonds and trustee's and paying agent's fees made by the Department of
 21 Economic Development or the Arkansas Economic Development Commission pursuant
 22 to guaranties issued under the Industrial Revenue Bond Guaranty Law, § 15-4-
 23 601 et seq., or made by the Arkansas Development Finance Authority pursuant
 24 to guaranties issued under the Arkansas Development Finance Authority Bond
 25 Guaranty Act of 1985, § 15-5-401 et seq.

26 ~~(C) (3)~~ Surplus funds on hand derived from the water, sewer,
 27 sanitation, gas, and electric utilities owned by the municipality or county
 28 may also be pledged and used for any of the foregoing purposes, including the
 29 establishment and maintenance of a reserve fund or funds for the payment of
 30 the principal of and interest on the bonds and trustee's and paying agent's
 31 fees or the reimbursement thereof.

32
 33 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
 34 General Assembly of the State of Arkansas that there is an immediate need to
 35 secure and develop industry through the issuance of industrial development
 36 revenue bonds by cities and counties to finance significant industrial

1 projects, to enhance the security of the bonds through the pledging of
2 additional revenue sources, and to confirm and ratify the practice of loaning
3 the proceeds of industrial development revenue bonds to secure and develop
4 industry. Therefore, an emergency is declared to exist and this act being
5 immediately necessary for the preservation of the public peace, health, and
6 safety shall become effective on:

7 (1) The date of its approval by the Governor;

8 (2) If the bill is neither approved nor vetoed by the Governor,
9 the expiration of the period of time during which the Governor may veto the
10 bill; or

11 (3) If the bill is vetoed by the Governor and the veto is
12 overridden, the date the last house overrides the veto.

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