

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
4

As Engrossed: S2/21/05
A Bill

SENATE BILL 395

5 By: Senators Wooldridge, Capps
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO ALLOCATE A PORTION OF THE GENERAL
10 IMPROVEMENT FUND FOR PUBLIC SCHOOL FACILITIES; TO
11 REQUIRE STATE AND LOCAL ENTITIES REQUESTING
12 FUNDING FROM THE GENERAL IMPROVEMENT FUND TO MEET
13 CERTAIN CRITERIA; TO REQUIRE FUND RECIPIENTS TO
14 ACCOUNT FOR EXPENDITURES; AND FOR OTHER PURPOSES.
15

16 **Subtitle**

17 THE GENERAL IMPROVEMENT FUND
18 ACCOUNTABILITY LAW.
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code Title 10, Chapter 2 is amended to add a new
24 subchapter as follows:

25 10-2-601. Title.

26 This chapter shall be known and cited as the "General Improvement Fund
27 Accountability Law".
28

29 10-2-602. Local entity – Definition.

30 As used in this section, "local entity" means a city, county, or
31 regional governmental entity or a private or nonprofit organization.
32

33 10-2-603. Public school facilities set-aside.

34 (a) The Joint Budget Committee and the General Assembly shall set
35 aside the first thirty million dollars (\$30,000,000) from the funds made
36 available to the General Improvement Fund or its successor fund or fund



1 account each biennium to be used for public school facilities repair,
2 renovation, equipment, construction, and improvement requirements.

3 (b) No appropriation made payable from the General Improvement Fund or
4 its successor fund or fund account shall be funded and made available for
5 disbursement or commitment until the public school facility set-aside under
6 subsection (a) of this section has been funded and made available for public
7 school facilities.

8
9 10-2-604. Evaluation of General Improvement Fund projects.

10 (a) Funds in the General Improvement Fund or its successor fund or
11 fund account shall be expended only for the financing of appropriations or
12 transfers authorized by the General Assembly in accordance with procedures
13 set out in this subchapter.

14 (b) Projects recommended to be financed by the Joint Budget Committee
15 shall be evaluated in accordance with the following criteria:

16 (1) Availability of alternative means of financing the project;

17 (2) The degree to which the project involves the health or
18 safety of the project users and the environment;

19 (3) Federal, state, or local requirements for the project;

20 (4) The project's effect on:

21 (A) The implementation of an important mission or program
22 of the agency; and

23 (B) Preservation or improvement of the state's assets;

24 (5) State-wide implications of the project to the economy;

25 (6) The location of beneficiaries of the project; and

26 (7) Whether the project has been requested by a state agency.

27 (c) Projects recommended by the Joint Budget Committee to the General
28 Assembly for funding from the General Improvement Fund or its successor fund
29 or fund accounts shall not include those projects which assist primarily
30 local or private entities unless the recipients have strictly complied with
31 the requirements of this subchapter.

32
33 10-2-605. Local entity funding requests and grants.

34 (a) A local entity may submit a request for a state appropriation to
35 members of the General Assembly, a state agency, or the Governor for a
36 program, service, or capital outlay initiative that is:

1 (1) Local or regional in scope;
2 (2) Intended to meet a documented need;
3 (3) Addresses a statewide interest;
4 (4) Intended to produce measurable results; and
5 (5) Tangibly supported by the community that will benefit from
6 the funding.

7 (b)(1) Prior to appropriating funds to a local entity pursuant to a
8 request under this subchapter, the General Assembly shall require that the
9 community's support be tangibly demonstrated by evidence that the program or
10 service will operate in a financially sound manner.

11 (2)(A) If economically feasible, any appropriation to a local
12 entity under this subchapter shall require nonstate matching funds.

13 (B) The amount of the matching funds shall be based on the
14 size and scope of the project and the applicant's ability to provide the
15 matching funds.

16 (3) The granting of state funds shall be used to encourage the
17 establishment of community-based partnerships between the public sector and
18 the private sector.

19 (4) Whenever possible, a loan shall be made in lieu of a grant
20 to a local entity.

21 (c)(1) Each funding request submitted by a city, county, or regional
22 governmental entity under this subchapter must be submitted to the governing
23 body of the governmental entity for public hearing prior to submission to a
24 state agency or member of the General Assembly for consideration.

25 (2) The minutes of the public hearing along with the
26 recommendation of the governing body, if any, shall be submitted with the
27 request in addition to any other requirements under this subchapter.

28 (d) If a private or nonprofit organization is to receive funds
29 resulting from a funding request submitted by a city, county, or regional
30 governmental entity, at the time of applying for funding from the city,
31 county, or regional governmental entity, the organization shall provide
32 information concerning the organization, including:

33 (1) A copy of the organization's current budget;

34 (2) The identity of the board of directors;

35 (3) A copy of the organization's most recent annual audit report
36 prepared by an independent certified public accountant licensed in this

1 state, if available, including management letters or other documents
2 associated with the audit report; and

3 (4) The organization's address of record, point of contact
4 information, and telephone number.

5 (e)(1) If a member of the General Assembly introduces legislation to
6 appropriate funds for a local entity project, the information required in
7 subsections (e) and (f) of this section, whichever is applicable, shall be
8 filed along with the bill.

9 (2) If enacted, the Chief Clerk of the House of Representatives
10 or the Secretary of the Senate, whichever is applicable, shall send the
11 documentation to the Governor when the bill is transmitted for the Governor's
12 approval.

13 (f)(1) Local entity funding requests submitted to members of the
14 General Assembly shall be submitted in the form and manner prescribed jointly
15 by the cochairs of the Joint Budget Committee after consultation with the
16 Governor and the Joint Budget Committee.

17 (2) If the cochairs of the Joint Budget Committee do not agree
18 on a form and manner of submission to be used by both houses, each cochair
19 may prescribe a form and manner of submission to be used in his or her house.

20 (g)(1) Local entity funding requests shall be submitted to the
21 cochairs of the Joint Budget Committee in accordance with the schedule
22 established jointly by the cochairs.

23 (2) If the cochairs of the Joint Budget Committee do not agree
24 on a schedule to be used by both houses, each cochair may prescribe a
25 schedule to be used in his or her house.

26 (h) The Governor shall prescribe the form and manner of submission of
27 requests to state agencies and to the Governor.

28
29 10-2-606. Expenditure rules – Record retention.

30 (a)(1) The expenditure of funds authorized by the General Assembly for
31 local entity funding requests shall be made only upon documentation to the
32 Chief Fiscal Officer of the State in the required form that all criteria or
33 preconditions established in the appropriation act have been met.

34 (2) If required, a state agency shall file a Method of Finance
35 with the Office of Accounting of the Department of Finance and Administration
36 prior to expending funds appropriated from the General Improvement Fund.

1 (3) If the funds are required to be expended for constructing a new
2 facility or an addition to an existing facility, the local entity shall
3 submit a method of finance to the Chief Fiscal Officer of the State, prior to
4 receiving the initial distribution of funds, certifying the total cost of the
5 project and the sources of all funds that are required to complete the
6 project.

7 (b) Any matching funds as may be provided in law shall be certified to
8 the Chief Fiscal Officer of the State prior to the commencement of the
9 project.

10 (c) Any recipient of the funds appropriated from the General
11 Improvement Fund:

12 (1) May be required to file a compliance audit; and

13 (2) Is subject to audit by the Division of Legislative Audit in
14 order to determine whether the use of the funds was in compliance with the
15 intent and appropriated purposes of the General Assembly.

16 (d) The Chief Fiscal Officer of the State shall notify each local
17 entity who received funds from the General Improvement Fund of the estimated
18 amount of funds and the schedule for the distribution of the funds as
19 approved by the Legislative Council or the Joint Budget Committee and shall
20 provide a copy of the act in which the appropriation for the local entity is
21 authorized.

22 (e) A recipient of funds from the General Improvement Fund shall:

23 (1) Reimburse the state for any unexpended funds upon the
24 earlier of:

25 (A) The completion of the project; or

26 (B) Four (4) years after the date of the last disbursement
27 of funds.

28 (2) Prepare an expenditure report providing the information
29 required by the Chief Fiscal Officer of the State; and

30 (3) Shall submit the report to the Chief Fiscal Officer of the
31 State at the end of each calendar year until the project is completed or all
32 funds are expended.

33 (f) Adequate records, including receipts, invoices, and contracts,
34 shall be retained by a recipient from the General Improvement Fund for three
35 (3) years after the project is complete or after all state funds are
36 expended, whichever occurs earlier.

1 (g) The retention of interest earned on state funds or the amount of
2 interest income earned shall be applied against the state agency's obligation
3 to pay the appropriated amount to a local entity.

4 (h) A recipient of funds from the General Improvement Fund who alters
5 or expands the use of the funds as established in the act appropriating the
6 funds shall:

7 (1) Forfeit any additional funds to be distributed; and

8 (2) Repay the funds expended in violation of the law to the
9 Chief Fiscal Officer of the State.

10
11 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly of the State of Arkansas that state funds are needed for
13 public school facility improvements; that requests for appropriations from
14 the General Improvement Fund for uses other than necessary state agency
15 operations and management should be carefully reviewed before funds are
16 appropriated in order to ensure that the use of state funds is for the public
17 benefit; that entities receiving funds from the General Improvement Fund must
18 be accountable for expenditures of funds; and that this act is immediately
19 necessary to provide for the appropriate review and control of appropriations
20 during the current legislative session. Therefore, an emergency is declared
21 to exist and this act being immediately necessary for the preservation of the
22 public peace, health, and safety shall become effective on:

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

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

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

29
30 /s/ Wooldridge