

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.

State of Arkansas

As Engrossed: S2/21/05 S3/2/05

85th General Assembly

A Bill

Regular Session, 2005

SENATE BILL 395

By: Joint Budget Committee

For An Act To Be Entitled

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

Subtitle

THE GENERAL IMPROVEMENT FUND
ACCOUNTABILITY LAW.

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

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

10-2-601. Title.

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

10-2-602. Local entity – Definition.

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

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

(a)(1) From the funds made available to the General Improvement Fund or
its successor fund or fund account, the Joint Budget Committee and the
General Assembly shall first set aside funds:



1 (A) To replace the earnings of the Department of
2 Correction that are pledged for bonds;

3 (B) For lease payments associated with debt service on
4 correction facilities at Malvern and the Grimes Unit at Newport; and

5 (C) To meet the required loan payments to the Teacher
6 Retirement System by the Department of Education for the state-wide public
7 school computer system.

8 (2) After the funds have been set aside as provided in
9 subdivision (a)(1) of this section, the Joint Budget Committee and the
10 General Assembly shall set aside the next thirty million dollars
11 (\$30,000,000) from funds made available to the General Improvement Fund each
12 biennium to be used for public school facilities repair, renovation,
13 equipment, construction, and improvement requirements.

14 (b) No appropriation made payable from the General Improvement Fund or
15 its successor fund or fund account shall be funded and made available for
16 disbursement or commitment until funds have been set aside for public school
17 facilities and other purposes under subsection (a) of this section have been
18 funded and made available for public school facilities and other purposes.

19
20 10-2-604. Evaluation of General Improvement Fund projects.

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

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

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

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

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

31 (4) The project's effect on:

32 (A) The implementation of an important mission or program
33 of the agency; and

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

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

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

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

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

7
8 10-2-605. Local entity funding requests and grants.

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

12 (1) Local or regional in scope;

13 (2) Intended to meet a documented need;

14 (3) Addresses a statewide interest;

15 (4) Intended to produce measurable results; and

16 (5) Tangibly supported by the community that will benefit from
17 the funding.

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

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

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

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

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

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

36 (2) The minutes of the public hearing along with the

1 recommendation of the governing body, if any, shall be submitted with the
2 request in addition to any other requirements under this subchapter.

3 (d) If a private or nonprofit organization is to receive funds
4 resulting from a funding request submitted by a city, county, or regional
5 governmental entity, at the time of applying for funding from the city,
6 county, or regional governmental entity, the organization shall provide
7 information concerning the organization, including:

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

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

10 (3) A copy of the organization's most recent annual audit report
11 prepared by an independent certified public accountant licensed in this
12 state, if available, including management letters or other documents
13 associated with the audit report; and

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

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

20 (2) If enacted, the Chief Clerk of the House of Representatives
21 or the Secretary of the Senate, whichever is applicable, shall send the
22 documentation to the Governor when the bill is transmitted for the Governor's
23 approval.

24 (f)(1) Local entity funding requests submitted to members of the
25 General Assembly shall be submitted in the form and manner prescribed jointly
26 by the cochair of the Joint Budget Committee after consultation with the
27 Governor and the Joint Budget Committee.

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

31 (g)(1) Local entity funding requests shall be submitted to the
32 cochair of the Joint Budget Committee in accordance with the schedule
33 established jointly by the cochair.

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

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

3
4 10-2-606. Expenditure rules – Record retention.

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

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

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

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

21 (c) Any recipient of the funds appropriated from the General
22 Improvement Fund:

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

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

27 (d) The Chief Fiscal Officer of the State shall notify each local
28 entity who received funds from the General Improvement Fund of the estimated
29 amount of funds and the schedule for the distribution of the funds as
30 approved by the Legislative Council or the Joint Budget Committee and shall
31 provide a copy of the act in which the appropriation for the local entity is
32 authorized.

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

34 (1) Reimburse the state for any unexpended funds upon the
35 earlier of:

36 (A) The completion of the project; or

1 (B) Four (4) years after the date of the last disbursement
2 of funds.

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

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

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

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

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

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

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

21
22 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
23 General Assembly of the State of Arkansas that state funds are needed for
24 public school facility improvements; that requests for appropriations from
25 the General Improvement Fund for uses other than necessary state agency
26 operations and management should be carefully reviewed before funds are
27 appropriated in order to ensure that the use of state funds is for the public
28 benefit; that entities receiving funds from the General Improvement Fund must
29 be accountable for expenditures of funds; and that this act is immediately
30 necessary to provide for the appropriate review and control of appropriations
31 during the current legislative session. Therefore, an emergency is declared
32 to exist and this act being immediately necessary for the preservation of the
33 public peace, health, and safety shall become effective on:

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

35 (2) If the bill is neither approved nor vetoed by the Governor,
36 the expiration of the period of time during which the Governor may veto the

1 bill; or

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

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5 /s/ Wooldridge
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