

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 8th General Assembly
3 Regular Session, 2005
4

A Bill

SENATE BILL 438

5 By: Senator Steele
6 By: Representative Rosenbaum
7
8

For An Act To Be Entitled

10 AN ACT TO PROVIDE FOR THE IMPROVEMENT OF SURFACE
11 TRANSPORTATION SYSTEMS IN THE STATE OF ARKANSAS
12 BY AUTHORIZING THE CREATION OF REGIONAL MOBILITY
13 AUTHORITIES; AND FOR OTHER PURPOSES.
14

Subtitle

15 THE REGIONAL MOBILITY AUTHORITY ACT.
16
17
18

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

21 SECTION 1. Arkansas Code Title 27, Chapter 70, is amended to add an
22 additional subchapter to read as follows:

23 Subchapter 3. Regional Mobility Authority Act.

24 27-70-301. Title.

25 This subchapter may be cited as the "Regional Mobility Authority Act".
26

27 27-70-302. Definitions.

28 As used in this subchapter:

29 (1) "Authority" means a regional mobility authority created
30 under this subchapter with the powers and duties designated in this
31 subchapter;

32 (2) "Board" means the board of directors of an authority;

33 (3)(A) "Bond" means a bond, certificate, or note.

34 (B) "Bond" includes any other obligation of an authority
35 authorized by this subchapter, the laws of the State of Arkansas, or the
36 Arkansas Constitution;



1 (4) "Fuel" means motor fuel as defined under § 26-55-202(2) and
2 distillate special fuel as defined under § 26-56-102(9);

3 (5) "Governing body" means:

4 (A) The city council of a city; or

5 (B) The quorum court of a county;

6 (6) "Member" means a city, county, or a geographically
7 designated portion of a city or county that is a participant in an authority;

8 (7) "Project development" means all phases of implementation
9 conducted in relation to a particular project, including, but not limited to:

10 (A) Planning;

11 (B) Environmental clearances;

12 (C) Survey;

13 (D) Right-of-way acquisition; and

14 (E) Construction; and

15 (8) "Surface transportation system" means a system of surface
16 transportation that includes, but is not limited to:

17 (A) Roads;

18 (B) Streets;

19 (C) Highways;

20 (D) Bridges;

21 (E) Tunnels;

22 (F) Sidewalks;

23 (G) Bicycle paths;

24 (H) Toll facilities;

25 (I) Pedestrian ways;

26 (J) Intermodal facilities;

27 (K) Parking facilities;

28 (L) Public transit systems;

29 (M) Traveler information systems;

30 (N) Intelligent transportation systems;

31 (O) Traffic management systems;

32 (P) Traffic signal systems;

33 (Q) Safety improvements;

34 (R) All other means of surface transportation, or

35 (S) The preservation and maintenance of existing surface
36 transportation facilities.

1
2 27-70-303. Regional Mobility Authorities – Creation.

3 (a) Any of the following may create an authority and be a member of an
4 authority:

5 (1) A city;

6 (2) A county;

7 (3) A geographically designated portion of a city or county; or

8 (4) A combination of any of the entities listed in this
9 subsection (a).

10 (b) The purpose of an authority created under this subchapter is to
11 plan, construct, operate, fund, or purchase improvements to a surface
12 transportation system.

13 (c)(1) A member of an authority shall only participate in the
14 authority if the member’s governing body:

15 (A) By ordinance provides for the member’s participation
16 in the authority; and

17 (B) Enters into an agreement with the other participating
18 members, if such members exist.

19 (2) The agreement between members of an authority shall
20 establish the terms and conditions of the operation of the authority within
21 the limitations provided in this subchapter and the other laws of the State of
22 Arkansas that may be applicable.

23 (d) To the extent that it is consistent with this subchapter, the
24 agreement shall specify the information provided for in § 25-20-104(c) of the
25 Interlocal Cooperation Act, § 25-20-101 et seq.

26
27 27-70-304. Public corporation.

28 (a) Upon creation of an authority:

29 (1) The authority and its members shall:

30 (A) Constitute a public corporation; and

31 (B) Have perpetual succession; and

32 (2) The authority and its members may:

33 (A) Contract and be contracted with;

34 (B) Sue and be sued; and

35 (C) Have and use a common seal.

36 (b) The exercise of the powers and performance of the duties under

1 this subchapter by each authority are declared to be public and governmental
 2 functions that are exercised for a public purpose and for matters of public
 3 necessity and that confer upon each authority governmental immunity from suit
 4 in tort.

5
 6 27-70-305. Board.

7 (a)(1) The management and control of each authority, its property,
 8 operations, business, and affairs shall be governed by a board composed of at
 9 least the following directors:

10 (A) The county judge or designated representative of the
 11 county judge of each county in which the authority is geographically situated;
 12 and

13 (B) The mayor or designated representative of the mayor of
 14 each city of the first class or portion of such city that is a member of the
 15 authority.

16 (2) If the authority is composed of a portion of a county that
 17 does not contain a city of the first class, then the mayor, or designated
 18 representative of the mayor, of any city of the second class within the
 19 portion of the county shall serve on the board.

20 (b)(1) The directors of the board shall appoint one (1) or more
 21 citizen representatives who hold no public office to form a board that has a
 22 minimum of five (5) directors.

23 (2) The terms of the citizen representatives shall be staggered
 24 and shall not exceed five (5) years.

25 (c)(1) The directors of the board shall serve as such throughout their
 26 terms in office.

27 (2) If any director ceases for any reason to be a director, that
 28 director shall be replaced by the elected official succeeding the director or
 29 as may be provided further in the bylaws created under this subchapter.

30 (d) The directors shall be solely responsible for selecting the chair
 31 of the board.

32 (e) All directors of each authority shall be qualified electors within
 33 the judicial boundaries of the authority that the directors represent.

34 (f)(1) No director of an authority shall receive any compensation
 35 whether in form of salary, per diem allowance, or otherwise for or in
 36 connection with his or her services as a director.

1 (2) However, each director shall be entitled to reimbursement by
 2 the authority for any necessary expenditures in connection with the performance
 3 of his or her general duties as a director.

4
 5 27-70-306. Powers.

6 Each authority is given the following powers:

7 (1) To make and adopt all necessary bylaws for its organization
 8 and operations;

9 (2) To elect officers and to employ personnel necessary for its
 10 operation;

11 (3) To enter into contracts necessary or incidental to its powers
 12 and duties under this subchapter;

13 (4) To apply for, receive, and spend grants for any purpose of
 14 this subchapter;

15 (5) To acquire lands and hold title to the lands acquired in its
 16 own name;

17 (6) To build, fund, own, operate, or contract the operation of
 18 any surface transportation system;

19 (7) To acquire, own, use, and dispose of property in the
 20 exercise of its powers and the performance of its duties under this
 21 subchapter;

22 (8) To borrow money and execute and deliver negotiable
 23 notes in the exercise of its powers and the performance of its duties
 24 under this subchapter;

25 (9) To issue bonds;

26 (10) To enter into any agreement with any road or street
 27 improvement district established pursuant to §§ 14-316-101 et seq.; 14-317-
 28 101 et seq.; and 14-322-101 et seq.;

29 (11) To enter into any agreement with the State Highway
 30 Commission; and

31 (12) To do all things necessary or appropriate to carry out the
 32 powers and duties expressly granted or imposed under this subchapter.

33
 34 27-70-307. Eminent domain.

35 (a) An authority shall have the right to acquire any property
 36 necessary to carry out the purposes of this subchapter by exercising the

1 power of eminent domain.

2 (b) The authority, its agents, and its employees may seek a court
3 order to enter upon real property and make surveys, examinations,
4 photographs, tests, and samplings or to engage in other activities for the
5 purpose of appraising the property or determining whether it is suitable for
6 the authority's purpose.

7
8 27-70-308. Condemnation petition – Notice.

9 (a) The authority may exercise its power of eminent domain by filing
10 an appropriate petition in condemnation in the circuit court of the county in
11 which the property sought to be taken is situated to have the compensation
12 for right-of-way determined, giving the owner of the property to be taken at
13 least ten (10) days' notice in writing of the time and place where the
14 petition will be heard.

15 (b)(1) If the property sought to be condemned is located in more than
16 one (1) county, the petition may be filed in any circuit court having
17 jurisdiction in any county in which any part of the property may be located.

18 (2) The proceedings had in the circuit court shall apply to all
19 of the property described in the petition.

20 (c)(1)(A) If the owner of the property sought to be taken is a
21 nonresident of the state, notice shall be by publication in any newspaper in
22 the county that is authorized by law to publish legal notices.

23 (B) This notice shall be published for the same length of
24 time as may be required in other civil causes.

25 (2) If there is no such newspaper published in the county, then
26 publication shall be made in a newspaper designated by the circuit clerk, and
27 one (1) written or printed notice thereof shall be posted on the door of the
28 county courthouse.

29 (d)(1) The condemnation petition shall describe the lands and property
30 sought.

31 (2) When the immediate possession of lands and property is
32 sought to be obtained, the authority may file a declaration of taking under
33 this subchapter at any time before judgment or together with the condemnation
34 petition.

35
36 27-70-309. Declaration of taking.

1 (a)(1) The petitioner may file a declaration of taking at any time
2 before a judgment is signed by the chair of the board, or with the
3 condemnation petition, in any proceeding instituted by and in the name of the
4 authority that involves the acquisition of real property, an interest in real
5 property, or an easement.

6 (2) The declaration shall declare that the authority is taking
7 the real property, an interest in the real property, or the easement for the
8 use of the authority.

9 (b) The declaration of taking shall contain or have annexed to it the
10 following:

11 (1) A statement that the authority is taking the real property,
12 an interest in real property, or an easement;

13 (2) A statement of the purpose for which the authority is taking
14 the real property, an interest in real property, or an easement;

15 (3) A description of the real property, an interest in the real
16 property, or an easement that the authority is taking, sufficient for the
17 identification thereof; and

18 (4) A plat showing the real property, an interest in the real
19 property, or an easement that the authority is taking;

20 (5) A statement of the amount of money estimated by the
21 acquiring authority to be just compensation for the taking of the real
22 property, an interest in the real property, or an easement.

23
24 27-70-310. Condemnation proceedings and judgment.

25 (a) The circuit court shall impanel a jury of twelve (12) persons, as
26 in other civil cases, to ascertain the amount of compensation that the
27 authority shall pay for the real property, an interest in the real property,
28 or an easement which the authority is taking.

29 (b) The matter shall proceed and be determined as in other civil
30 cases.

31 (c) In all cases of infants or incompetent persons, when no legal
32 representative or guardian appears in their behalf at the hearing, it shall
33 be the duty of the court to appoint a guardian ad litem who shall represent
34 their interest for all purposes.

35 (d) Compensation shall be ascertained and awarded in the proceeding
36 and established by judgment therein.

1
2 27-70-311. Levying taxes and fees.

3 (a) Notwithstanding §§ 26-55-209 and 27-14-601 et seq., or any
4 other statutory provisions, an authority may:

5 (1) Levy a tax on the sale of fuel within the boundaries of the
6 authority in addition to the other taxes levied on fuel under §§ 26-55-201 et
7 seq. and §§ 26-56-201 et seq.;

8 (2) Levy gross receipts and compensating use taxes within the
9 boundaries of the authority; and

10 (3) Impose a license and registration fee under § 27-14-301
11 et seq. on all on-road vehicles licensed in the boundaries of the
12 authority to be collected by the Department of Finance and Administration.

13 (b)(1) The authority must call an election among the electorates
14 within its boundaries to authorize any taxes or fees collected pursuant to
15 this subchapter.

16 (2) The election may be at a general or special election.

17 (c)(1) The authority shall:

18 (A) Request an election date;

19 (B) Provide the language for the resolution calling the
20 election; and

21 (C) Provide a schedule of projects to be constructed in
22 each jurisdiction that is a member of the authority.

23 (2) Any project for improvements within the state highway system
24 shall be submitted to and approved by the State Highway Commission prior to
25 inclusion in the schedule of projects.

26 (d) Any such tax or fee proposed pursuant to this subchapter shall be
27 approved by a majority of the voters within the boundaries of the authority.

28 (e) Taxes levied under this subchapter may be permanent or
29 temporary as set forth in the ballot proposition.

30
31 27-70-312. Collection of taxes.

32 (a)(1) Each retailer or wholesaler required to collect the tax
33 imposed in this subchapter shall file a monthly return and remit the tax or
34 fee to the Director of the Department of Finance and Administration.

35 (2) Each owner required to pay the fee imposed under this
36 subchapter shall remit the fee to the Department of Finance and

1 Administration when licensing and registering a motor vehicle.

2 (b) The director may make and promulgate rules and regulations to
3 carry out the provisions of this subchapter.

4 (c) This subchapter is to be administered in all respects in
5 accordance with the Arkansas Tax Procedure Act, § 26-18-101 et seq., unless
6 otherwise provided.

7
8 27-70-313. Disposition of revenue collected.

9 (a) All taxes or fees collected under this subchapter by the Director
10 of the Department of Finance and Administration shall be remitted to the
11 authority that imposed the taxes and fees.

12 (b)(1) A minimum of seventy percent (70%) of the revenues collected
13 from fuel taxes or license fees imposed under this subchapter shall be
14 applied to the improvement of roads and streets within the state highway
15 system within the boundaries of the authority.

16 (2) Any design or proposal for road or street improvements
17 within the state highway system shall be submitted to and approved by the
18 State Highway Commission prior to the commencement of project development.

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