

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 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 1698

4
5 By: Representatives Wills, Medley, Anderson, Glidewell, Harris, Hawkins, House, Hoyt, D. Hutchinson,
6 King, Maxwell, Pennartz, Rosenbaum, Woods, Wyatt

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9

For An Act To Be Entitled

10 AN ACT TO REVISE THE REGIONAL MOBILITY AUTHORITY
11 ACT BY PLACING IT IN A STAND-ALONE CHAPTER IN THE
12 ARKANSAS CODE AND BY ADDING THE NECESSARY
13 PROVISIONS TO MAKE IT FEASIBLE FOR COUNTIES AND
14 CITIES TO UTILIZE; AND FOR OTHER PURPOSES.

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Subtitle

TO REVISE THE REGIONAL MOBILITY
AUTHORITY ACT.

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

23 SECTION 1. Arkansas Code Title 27 is amended to add an additional
24 chapter to read as follows:

25 CHAPTER 76
26 Subchapter 1 – General Provisions

27
28

27-76-101. Title.

29 This chapter is known and may be cited as the "Regional Mobility
30 Authority Act".

31
32

27-76-102. Legislative findings.

33 The General Assembly finds that:

34 (1) Many transportation projects cannot be completed because the
35 transportation construction and maintenance needs of the State of Arkansas
36 far exceed the budget for highway construction and maintenance;



1 (2) Counties and municipalities have limited budgets for
 2 transportation construction and maintenance. As a result, they are often
 3 unable to be financial partners with the Arkansas State Highway and
 4 Transportation Department;

5 (3) Through the creation of regional mobility authorities
 6 throughout the state, counties and municipalities are empowered to become
 7 better partners for highway construction and maintenance with the Arkansas
 8 State Highway and Transportation Department and the State Highway Commission;
 9 and

10 (4) The funding of regional mobility authorities is intended to
 11 supplement state and federal transportation funds. Such funding is not
 12 intended to substitute for state and federal transportation aid to counties
 13 and municipalities.

14
 15 27-76-103. Definitions.

16 As used in this chapter:

17 (1)(A) "Bond" means a revenue bond or note issued under this
 18 chapter by a regional mobility authority created under the Regional Mobility
 19 Authority Act, § 27-76-101 et seq.

20 (B) "Bond" includes any other financial obligation of a
 21 regional mobility authority authorized by this chapter, the laws of this
 22 state, or the Arkansas Constitution;

23 (2)(A) "Compensation" means any payment for the value of the use
 24 of time or the expenditure of moneys including without limitation:

25 (i) A salary; or

26 (ii) Per diem allowance.

27 (B) "Compensation" does not include reimbursement as
 28 provided under § 27-76-302(d);

29 (3) "Debt service" means the amounts necessary for paying
 30 principal, interest, trustee's and paying agent's fees, and rebate costs, and
 31 the amounts necessary to establish and maintain debt service reserves as
 32 provided in the authorizing resolution or trust indenture identified under
 33 this chapter;

34 (4) "Governmental entity" means a lawfully created branch,
 35 department, or agency of the federal, state, or local government;

36 (5) "Owner" means any individual, partnership, association,

1 corporation, or organization having any title or interest in any property,
2 rights, easements, and interest authorized to be acquired by and under the
3 regional mobility authority of this chapter;

4 (6) "Person" means any individual, partnership, corporation, or
5 other entity recognized by law as having power to contract;

6 (7) "Project development" means all phases of implementation
7 conducted in relation to a transportation project, including without
8 limitation:

9 (A) Planning;

10 (B) Environmental clearances;

11 (C) Surveys;

12 (D) Design;

13 (E) Utility adjustments;

14 (F) Right-of-way acquisition;

15 (G) Construction; and

16 (H) Construction inspection.

17 (8) "Public utility facility" means a facility that is either
18 publicly or privately owned and that provides direct or indirect utility
19 service to the public, including without limitation:

20 (A) Sewage and water pumping stations;

21 (B) Sewage and water treatment facilities;

22 (C) Telephone electronic structures; and

23 (D) Major electrical power lines, pipelines, or
24 substations whose major purpose is transport through a community;

25 (9) "Registered owner" means an owner of a motor vehicle as
26 shown on the vehicle registration records maintained by the Office of Motor
27 Vehicle or the analogous department or agency of another state or country;

28 (10)(A) "Toll facility project" means:

29 (i) Any new highway constructed under the provisions
30 of this chapter by a regional mobility authority as a toll road; and

31 (ii) All property, rights, easements, rights-of-way,
32 and interest that may be acquired by the regional mobility authority for or
33 in connection with the construction or operation of a toll road.

34 (B) "Toll facility project" includes without limitation
35 the following as the regional mobility authority deems necessary or desirable
36 for the operation of a toll road:

- 1 (i) Lands;
- 2 (ii) Rights-of-way;
- 3 (iii) Bridges;
- 4 (iv) Tunnels;
- 5 (v) Overpasses;
- 6 (vi) Underpasses;
- 7 (vii) Interchanges;
- 8 (viii) Entrance plazas;
- 9 (ix) Approaches;
- 10 (x) Toll houses;
- 11 (xi) Administration buildings;
- 12 (xii) Storage buildings;
- 13 (xiii) Other buildings; and
- 14 (xiv) Facilities;

15 (11)(A) "Toll facility project costs" means any direct and
 16 indirect costs incurred in connection with the acquisition of rights-of-way
 17 for and constructing and equipping toll facility projects, including without
 18 limitation:

- 19 (i) The cost of the acquisition of all lands,
 20 property, rights, rights-of-way, easements, and interests acquired by a
 21 governmental entity;
- 22 (ii) The cost of demolishing or removing buildings
 23 or structures on the land so acquired;
- 24 (iii) The cost of acquiring any lands to which those
 25 buildings or structures may be moved;
- 26 (iv) The cost of all machinery and equipment;
- 27 (v) Financing charges, including interest accrued:
 - 28 (a) Prior to construction;
 - 29 (b) During construction; or
 - 30 (c) For a period after construction;
- 31 (vi) The establishment of necessary funds and
 32 reserves;
- 33 (vii) The cost of traffic estimates, engineering
 34 fees, legal fees, plans, specifications, surveys, and estimates of cost and
 35 revenues;
- 36 (viii) Administration expense, expenditures, or any

1 other expense that is necessary or incidental to determining the feasibility
2 or practicability of a toll facility project; and

3 (ix) Cost, expenditure, or any other expense that is
4 necessary or incidental to the construction of a toll facility project, the
5 finance of the construction, and the placement of the toll facility project
6 into operation.

7 (B) Any obligation, expense, or expenditure incurred or
8 made by the regional mobility authority for matters pertaining to a toll
9 facility project, including without limitation:

10 (i) Feasibility studies;

11 (ii) Traffic surveys;

12 (iii) Borings;

13 (iv) Preparation of plans and specifications;

14 (v) Engineering services; and

15 (vi) Cost, expenditure, or any other expense that is
16 regarded as part of the costs of a toll facility project and that may be
17 reimbursed to the State Highway Commission or other agency or department of
18 the state out of the proceeds of revenue bonds or out of any other available
19 funds of the commission;

20 (12) "Toll facility project revenues" means, without limitation,
21 any tolls, rentals, license and permit revenues, contractual receipts, gifts,
22 grants, moneys, charges, and other funds, including federal aid highway
23 funds, and property of whatever nature coming into the possession of or under
24 the control of the board of directors of the regional mobility authority by
25 virtue of this chapter, except the proceeds derived from the sale of revenue
26 bonds issued under this chapter;

27 (13) "Transponder" means a device placed on or within a vehicle
28 that is capable of transmitting or receiving information used to assess or
29 collect tolls;

30 (14) "Transportation project" means:

31 (A) Any part of a transportation system;

32 (B) Construction on or of any part of a transportation
33 system;

34 (C) Maintenance on or operation of any part of a
35 transportation system; or

36 (D) Preservation of any part of a transportation system;

1 and

2 (15) "Transportation system" means infrastructure that provides
3 mobility for people or goods in a region, including without limitation:

- 4 (A) Roads;
- 5 (B) Streets;
- 6 (C) Highways;
- 7 (D) Bridges;
- 8 (E) Tunnels;
- 9 (F) Sidewalks;
- 10 (G) Bicycle paths;
- 11 (H) Toll facilities;
- 12 (I) Pedestrian ways;
- 13 (J) Intermodal facilities;
- 14 (K) Port authorities;
- 15 (L) Railroads that are ninety-nine percent (99%) publicly
16 owned;
- 17 (M) Parking facilities;
- 18 (N) Public transit systems;
- 19 (O) Traveler information systems;
- 20 (P) Intelligent transportation systems;
- 21 (Q) Traffic management systems;
- 22 (R) Traffic signal systems;
- 23 (S) Safety improvements; or
- 24 (T) Any other means of surface or water transportation.

25
26 27-76-104. Exemption from taxation or assessment.

27 A regional mobility authority is exempt from taxation of or assessments
28 on each of the following:

- 29 (1) A transportation system;
- 30 (2) A transportation project;
- 31 (3) Property the regional mobility authority acquires or uses
32 under this chapter for a transportation project or transportation system; and
- 33 (4) Income from the ownership or operation of the regional
34 mobility authority.

35
36 27-76-105. Exemption from fees.

1 (a) Except as provided under subsection (b) of this section, a
2 regional mobility authority is exempt from the payment or assessment of any
3 of the following fees levied by a governmental entity, a property owner's
4 association, or a homeowner's association:

- 5 (1) Development fees;
- 6 (2) Utility connection fees;
- 7 (3) Assessments; and
- 8 (4) Service fees.

9 (b) This section does not apply to fees or assessments charged under
10 approved rate schedules or line extension policies of an electric or a gas
11 utility that is owned by a municipality.

12
13 27-76-106. Immunity.

14 (a) The powers and duties of a regional mobility authority conferred
15 by this chapter are public and governmental functions exercised for a public
16 purpose and for matters of public necessity.

17 (b) The exercise of the powers and the performance of the duties by a
18 regional mobility authority under this chapter are immune from suit in tort
19 unless immunity is expressly waived in writing.

20
21 27-76-107. Approval required.

22 Any design or proposal for a road or highway improvement must be
23 approved by the governmental entity that owns the roadway prior to the
24 commencement of the development of the transportation project.

25
26 Subchapter 2 – Creation

27
28 27-76-201. Authority to create.

29 (a) A single county may create a regional mobility authority by
30 adoption of an ordinance.

31 (b) A combination of contiguous counties may create a regional
32 mobility authority by each county:

- 33 (1) Adopting an ordinance that provides for the county's
34 participation in the regional mobility authority; and
- 35 (2) Entering into a joint agreement with the other participating
36 counties that states the jurisdictional boundaries of the regional mobility

1 authority.

2 (c) This section shall not limit additional contiguous counties or
3 municipalities from becoming a member in the regional mobility authority as
4 provided under § 27-76-203.

5
6 27-76-202. Purposes.

7 The purposes of a regional mobility authority created under this
8 chapter are to:

9 (1) Plan, construct, operate, or fund transportation projects of
10 the regional mobility authority; or

11 (2) Plan, construct, operate, or fund improvements to a
12 transportation system of the regional mobility authority.

13
14 27-76-203. Membership in a regional mobility authority.

15 (a) To become a member of a regional mobility authority, a governing
16 body of a municipality or county within the jurisdictional boundaries of the
17 regional mobility authority shall:

18 (1) Provide by ordinance for the participation of the
19 municipality or county in the regional mobility authority; and

20 (2) Enter into an agreement with the other participating members
21 if such members exist.

22 (b) The agreement between members of a regional mobility authority
23 shall establish the terms and conditions of the operation of the regional
24 mobility authority with the limitations provided in this chapter and other
25 applicable laws.

26 (c) To the extent that it is consistent with this chapter, the
27 agreement shall comply with the provisions of § 25-20-104(c).

28
29 27-76-204. Public corporation status.

30 Upon creation of a regional mobility authority:

31 (1) The regional mobility authority and its members shall:

32 (A) Constitute a public corporation; and

33 (B) Have perpetual succession; and

34 (2) The regional mobility authority and its members may:

35 (A) Contract and be contracted with;

36 (B) Sue and be sued in tort to the extent that it has

1 expressly waived liability in writing; and

2 (C) Have and use a common seal.

3
4 Subchapter 3 – Governance

5
6 27-76-301. Generally.

7 A regional mobility authority created under this chapter shall be
8 operated and controlled by a board of directors.

9
10 27-76-302. Board of directors.

11 (a) A board of directors shall manage and control each regional
12 mobility authority created under this chapter, including the following:

- 13 (1) Property;
- 14 (2) Operations;
- 15 (3) Business; and
- 16 (4) Affairs.

17 (b) The board of directors shall be solely responsible for selecting
18 the chair of the board of directors and establishing procedures by which it
19 shall operate.

20 (c) A director shall not receive compensation in any form from or for
21 his or her services as a director.

22 (d) Each director shall be entitled to reimbursement by the regional
23 mobility authority for any necessary expenditures incurred in connection with
24 the performance of his or her general duties as a director.

25
26 27-76-303. Membership on the board of directors.

27 (a) Unless the structure of the board of directors is otherwise
28 specified in the agreement establishing the regional mobility authority, the
29 board of directors of a regional mobility authority shall consist of no fewer
30 than five (5) directors as provided under this section.

31 (b)(1) The board of directors shall include the county judge or
32 designated representative of each county that is a member of the regional
33 mobility authority and the mayor or designated representative of each city of
34 the first class that is a member of the regional mobility authority.

35 (2) If the number of directors is fewer than five (5) after
36 fulfilling the requirements of subdivision (b)(1) of this section, then

1 mayors or designated representatives of the cities of the second class that
2 are members of the regional mobility authority are appointed to the board of
3 directors in descending order of population as determined by the last federal
4 decennial census until five (5) directors have been appointed.

5 (c) The designated representative of a county judge or mayor under
6 subsection (b) of this section shall be a qualified elector of the
7 jurisdiction that the designated representative is appointed to represent.

8 (d) If a city of the second class becomes a city of the first class
9 and is a member of the regional mobility authority, the mayor of that city or
10 designated representative shall become a director.

11 (e) Membership of cities of the second class on the board of directors
12 shall be adjusted after each federal decennial census.

13
14 27-76-304. Terms of directors.

15 (a) A director who is a public official may serve on the board of
16 directors during his or her term of office as the county judge or mayor of a
17 member of a regional mobility authority.

18 (b) A director who is the designated representative of the mayor or
19 county judge of a member of the regional mobility authority serves at the
20 pleasure of the mayor of the municipality or the county judge of the county
21 that is a member of the regional mobility authority.

22
23 Subchapter 4 – Powers and Duties

24
25 27-76-401. Powers generally.

26 The board of directors of a regional mobility authority created under
27 this chapter may:

28 (1) Make and adopt all necessary bylaws for its organization and
29 operation;

30 (2) Elect officers and employ personnel necessary for its
31 operation;

32 (3) Build, operate, maintain, expand, fund, or own a
33 transportation project or a transportation system;

34 (4) Apply for, receive, and spend grants for any purpose under
35 this chapter;

36 (5) Enter into contracts as provided in § 27-76-402;

1 (6) Enter into any agreement with any road or street improvement
 2 district established under § 14-316-101 et seq., § 14-317-101 et seq., and §
 3 14-322-101 et seq.;

4 (7) Enter into any agreement with the State Highway Commission
 5 or the Arkansas State Highway and Transportation Department;

6 (8) Acquire lands and hold title to the lands acquired in its
 7 own name;

8 (9) Acquire, own, use, and dispose of property in the exercise
 9 of its powers and the performance of its duties under this chapter;

10 (10) Acquire any property necessary to carry out the purposes of
 11 this chapter by exercising the power of eminent domain as provided under
 12 subchapter 5 of this chapter;

13 (11) Enter into agreements or contracts as provided under this
 14 chapter;

15 (12) Construct or change grade separations as provided under §
 16 27-76-404;

17 (13) Fund feasibility studies as provided under §§ 27-76-405 and
 18 27-76-406;

19 (14) Enter into agreements for joint transportation projects or
 20 transportation systems between regional mobility authorities as provided
 21 under § 27-76-407;

22 (15) Transfer a transportation project or transportation system
 23 as provided under § 27-76-408;

24 (16) Develop and utilize financing options as provided under
 25 subchapter 6 of this chapter;

26 (17) Issue revenue bonds and provide for the financing of
 27 revenue bonds as provided under subchapter 6 of this chapter;

28 (18) Impose and collect tolls for a toll facility project owned
 29 or operated by the regional mobility authority subject to voter approval as
 30 provided under § 27-76-701(d);

31 (19) Impose and collect charges or rates for the use of a
 32 transportation system or transportation project that is owned or operated by
 33 the regional mobility authority, other than a toll facility project,
 34 specifically to set:

35 (A) Passenger charges for public transit system users;

36 (B) Parking fees for users of parking decks or other

1 parking facilities;

2 (C) Ferry fees for the use of ferries;

3 (D) Passenger and freight fees for the use of railroads;

4 (E) Freight and user fees for the use of Intermodal and
 5 port facilities;

6 (F) Access fees and charges for the use of traveler
 7 information systems; or

8 (G) Other fees and charges that are usually and
 9 customarily charged of users of a transportation system or a transportation
 10 project;

11 (20) Index the cost for construction materials to the cost set
 12 by the market;

13 (21) Request and receive from time to time from counties or
 14 cities within the boundaries of the regional mobility authority funds to
 15 finance and support the regional mobility authority, including county or city
 16 turnback funds as set forth in §§ 27-70-206 and 27-70-207;

17 (22) Promote the use of a transportation project through
 18 advertising or marketing as it determines to be appropriate, including the
 19 promotion of a transportation project operated by a regional mobility
 20 authority on behalf of another entity;

21 (23) Receive property or funds by gift or donation for the
 22 finance and support of the regional mobility authority; and

23 (24) Do all things necessary or appropriate to carry out the
 24 powers expressly granted or duties expressly imposed under this chapter.

25
 26 27-76-402. Limitations.

27 (a) Notwithstanding any other provision of law, a regional mobility
 28 authority shall not sell a toll facility project to a private entity or enter
 29 into a lease for a toll facility or concession agreement related to a toll
 30 facility.

31 (b) Notwithstanding any other provision of law, a toll facility
 32 project established by a regional mobility authority shall be for
 33 construction of new highways only.

34 (c) Notwithstanding any other provision of law, a regional mobility
 35 authority shall not establish a toll facility project without voter approval
 36 of the initial imposition of the tolls, including the initial toll rate and,

1 if revenue bonds are to be issued by the regional mobility authority to fund
 2 all or a portion of the costs of the toll facility project, the issuance of
 3 the maximum principal amount of bonded indebtedness.

4 (d) Notwithstanding any other provision of law, a regional mobility
 5 authority shall not acquire or receive by conveyance a transportation project
 6 or transportation system from another public or private entity that is either
 7 completed or for which a construction notice to proceed has been issued to
 8 convert the transportation project or transportation system to a toll
 9 facility project.

10
 11 27-76-403. Authority to contract.

12 (a) A regional mobility authority created under this chapter may enter
 13 into agreements or contracts with a governmental entity or a private entity.

14 (b) The types of agreements or contracts that a regional mobility
 15 authority may enter into under this chapter includes without limitation:

- 16 (1) Lease agreements;
- 17 (2) Rental agreements;
- 18 (3) Operating agreements;
- 19 (4) Service agreements;
- 20 (5) License agreements;
- 21 (6) Promotional agreements; and
- 22 (7) Purchasing agreements.

23 (c) The scope of agreements or contracts that a regional mobility
 24 authority may enter into under this chapter includes without limitation:

25 (1) Rent, lease, or make property available for the benefit of
 26 users of a transportation project or a transportation system other than a
 27 public utility facility;

28 (2) Plan, design, construct, operate, or maintain a
 29 transportation project on behalf of a governmental entity within the
 30 boundaries of the regional mobility authority; and

31 (3) Acquire with the consent of a governmental entity or private
 32 entity a transportation project or transportation system from that entity and
 33 assume any debts, obligations, and liabilities of the entity relating to a
 34 transportation project or transportation system transferred to the regional
 35 mobility authority provided, that a regional mobility authority shall not
 36 acquire a transportation project or transportation system from another public

1 or private entity that is completed or for which a construction notice to
 2 proceed has been issued to convert the transportation project or
 3 transportation system to a toll facility project.

4 (d) A regional mobility authority shall not sell a toll facility
 5 project to a private entity or enter into a lease for a toll facility or a
 6 concession agreement related to a toll facility.

7
 8 27-76-404. Actions affecting existing roads – Grade separation.

9 (a) A regional mobility authority may construct a grade separation at
 10 an intersection of a transportation project with a railroad or highway and
 11 change the line of the railroad or grade of a highway to accommodate the
 12 design of the grade separation as provided under this section.

13 (b) A regional mobility authority shall obtain consent from the
 14 Arkansas State Highway and Transportation Department before constructing a
 15 grade separation under this section that affects a segment of the state
 16 highway system.

17 (c) A regional mobility authority shall pay the cost of a grade
 18 separation and any damage incurred in changing a line of a railroad or the
 19 grade of a highway as part of the cost of the transportation project.

20 (d)(1) On request of the county, a regional mobility authority that
 21 has changed the location of a segment of a county road as part of its
 22 development of a transportation project shall reconstruct that segment of the
 23 road at a location that the regional mobility authority determines restores
 24 the utility of the road.

25 (2) On request of the city, a regional mobility authority that
 26 has changed the location of a segment of a city road as part of its
 27 development of a transportation project shall reconstruct that segment of the
 28 road at a location that the regional mobility authority determines restores
 29 the utility of the road.

30 (3) Determinations under this subsection (d) as to the
 31 relocation of a road shall be at the discretion of the regional mobility
 32 authority.

33 (4) Any reconstruction under this subsection (d) and the
 34 associated costs of reconstruction are deemed to be in furtherance of a
 35 transportation project.

36

1 27-76-405. Expenditures for feasibility studies.

2 (a) A regional mobility authority may pay the expenses of studying the
3 cost and feasibility and any other expenses relating to the preparation and
4 issuance of bonds for a proposed transportation project by:

5 (1) Using legally available revenue derived from an existing
6 transportation project;

7 (2) Borrowing money, issuing bonds, or entering into a loan
8 agreement payable out of legally available revenue anticipated to be derived
9 from the operation of an existing transportation project;

10 (3) Pledging to the payment of the bonds or a loan agreement
11 legally available revenue anticipated to be derived from the operation of a
12 transportation project; or

13 (4) Pledging to the payment of the bonds or loan agreement
14 legally available revenue to the regional mobility authority from another
15 source.

16 (b) Money spent by a regional mobility authority under this section
17 for a proposed transportation project shall be reimbursed to the
18 transportation project from which the money was spent from the proceeds of
19 bonds issued for the acquisition and construction of the proposed
20 transportation project.

21 (c) The use of any money of a transportation project to study the
22 feasibility of another transportation project or used to repay any money used
23 for that purpose does not constitute an operating expense of the
24 transportation project producing the revenue and may be paid only from the
25 surplus money of the transportation project as determined by the regional
26 mobility authority.

27
28 27-76-406. Reimbursement for feasibility studies.

29 (a) The following are allowable reimbursable expenses for studying the
30 cost and feasibility of a transportation project as provided under this
31 section:

32 (1) The preparation and issuance of bonds for the acquisition or
33 construction of a proposed transportation project by a regional mobility
34 authority; or

35 (2) The improvement, extension, or expansion of an existing
36 transportation project of the regional mobility authority.

1 (b) Any of the following may pay all or part of the expenses under
 2 this section related to a transportation project and be reimbursed as
 3 provided under this section:

4 (1) One (1) or more municipalities, counties, or other
 5 governmental entities;

6 (2) A combination of municipalities, counties, or other
 7 governmental entities;

8 (3) A governmental entity or private entity with its place of
 9 business in this state; or

10 (4) An individual who resides in this state.

11 (c)(1) Funds expended under this section for a proposed transportation
 12 project are reimbursable without interest and with the consent of the
 13 regional mobility authority to the person paying the expenses as provided
 14 under this section.

15 (2) The reimbursements shall be paid out of the proceeds from
 16 revenue bonds issued for or other proceeds that may be used for the
 17 acquisition, construction, improvement, extension, expansion, maintenance,
 18 repair, or operation of the transportation project.

19
 20 27-76-407. Joint transportation projects or joint transportation
 21 systems between regional mobility authorities.

22 (a) If two (2) or more regional mobility authorities determine that
 23 the traffic needs within the boundaries of each regional mobility authority
 24 could be most efficiently and economically met by jointly operating two (2)
 25 or more transportation projects in the separate regional mobility
 26 authorities, then the regional mobility authorities may create one (1)
 27 operational and financial enterprise to operate the transportation projects.

28 (b) If a regional mobility authority determines that a transportation
 29 project could most efficiently and economically be acquired or constructed if
 30 it were a part of the transportation system and that the addition will
 31 benefit the system, the regional mobility authority may:

32 (1) Create more than one (1) transportation system and may
 33 combine two (2) or more transportation systems into one (1) system; or

34 (2) Finance, acquire, construct, and operate additional
 35 transportation projects as additions to or expansions of a transportation
 36 system.

1 (c) The revenue of a transportation system that is merged under this
 2 section shall be accounted for separately and shall not be commingled with
 3 the revenue of a transportation project that is not a part of the
 4 transportation system that was merged under this section or with the revenue
 5 of another transportation system.

6
 7 27-76-408. Transfer of a transportation project or transportation
 8 system – Procedure.

9 (a) A regional mobility authority may sell, lease, or convey any of
 10 its transportation projects or transportation systems to one (1) or more
 11 governmental entities or a governmental entity may convey a transportation
 12 project or a transportation system to a regional mobility authority if:

13 (1) The transferee has executed written commitments to assume
 14 jurisdiction over the transferred transportation project or transportation
 15 system;

16 (2) The property and contract rights in the transferred
 17 transportation project or transportation system and bonds issued for the
 18 project or system are not unfavorably affected by the transfer;

19 (3) The transfer is not prohibited under the bond proceedings
 20 applicable to the transferred transportation project or transportation
 21 system;

22 (4) An adequate provision has been made for the assumption of
 23 all debts, obligations, and liabilities relating to the transferred
 24 transportation project or transportation system by the regional mobility
 25 authority or governmental entity that is assuming jurisdiction over the
 26 transferred transportation project or transportation system;

27 (5) The transferee lawfully assumes:

28 (A) Jurisdiction over the transferred transportation
 29 project or transportation system; and

30 (B) The debts, obligations, and liabilities of the
 31 regional mobility authority relating to the transferred transportation
 32 project or transportation system; and

33 (6) The transfer has been approved by the board of directors of
 34 the regional mobility authority and the transferee or transferor.

35 (b) If the requirements of subsection (a) of this section are met,
 36 then a regional mobility authority or governmental entity may transfer its

1 work product to determine the feasibility of the construction, improvement,
 2 extension, or expansion of a transportation system or transportation project,
 3 including without limitation:

- 4 (1) Traffic estimates;
- 5 (2) Revenue estimates;
- 6 (3) Plans;
- 7 (4) Specifications;
- 8 (5) Surveys;
- 9 (6) Appraisals;
- 10 (7) Financial work products; or
- 11 (8) Other work product developed by the regional mobility

12 authority or governmental entity to determine the feasibility of the
 13 construction, improvement, extension, or expansion of a transportation
 14 project or transportation system.

15 (c)(1) A regional mobility authority or governmental entity that
 16 accepts a transfer under this section may reimburse the transferor for any
 17 expenditures that it made prior to the transfer and any other amounts
 18 expended under related agreements.

19 (2) The reimbursement may be made from the feasibility study
 20 fund or other lawful funding source to pay the costs of work product for a
 21 transferred transportation project or transportation system.

22 (3) The reimbursement may be made over time, as determined by
 23 the parties.

24
 25 27-76-409. Agreements to construct, maintain, and operate
 26 transportation projects.

27 (a)(1) A regional mobility authority may enter into an agreement with
 28 a governmental entity.

29 (2) For purposes of this section, a governmental entity may
 30 include:

- 31 (A) The federal government;
- 32 (B) A state of the United States;
- 33 (C) Another governmental entity;
- 34 (D) A political subdivision of another governmental
 35 entity; or
- 36 (E) A toll road corporation owned or operated by any

1 governmental entity.

2 (b)(1) A regional mobility authority may enter into an agreement to
 3 allow a public or private entity to:

4 (A) Study the feasibility of a transportation project; or

5 (B) Design, construct, maintain, or repair a
 6 transportation project.

7 (2) A regional mobility authority and one (1) or more entities
 8 described under subsection (a) of this section may enter into a joint
 9 agreement to study the feasibility of a transportation project or to acquire,
 10 design, finance, construct, maintain, repair, operate, extend, or expand a
 11 transportation project.

12 (3) A regional mobility authority shall not sell a toll facility
 13 project to a private entity or enter into a lease for a toll facility or a
 14 concession agreement related to a toll facility.

15 (c)(1) A regional mobility authority has broad discretion to negotiate
 16 provisions in a development agreement through which a governmental entity or
 17 private entity may contribute resources or improvements to a project.

18 (2) The development agreement may include provisions relating
 19 to:

20 (A) The design, financing, and construction of a
 21 transportation project in accordance with standards adopted by the regional
 22 mobility authority; and

23 (B) Professional and consulting services to be rendered
 24 under standards adopted by the regional mobility authority in connection with
 25 a transportation project.

26 (d) A regional mobility authority shall not incur a financial
 27 obligation on behalf of or guarantee the obligations of a governmental entity
 28 or a private entity that constructs, maintains, or operates a transportation
 29 project.

30 (e) A regional mobility authority or a county or municipality that is
 31 a member of a regional mobility authority is not liable for any financial or
 32 other obligation of a transportation project solely because a governmental
 33 entity or a private entity constructs or finances part of a transportation
 34 project.

35 (f) A regional mobility authority shall not directly provide water,
 36 wastewater, natural gas, petroleum pipeline, electric transmission, electric

1 distribution, telecommunications, information, or cable television services.

2
3 27-76-410. Consistency of planning.

4 (a)(1) A regional mobility authority may develop plans for
5 transportation projects.

6 (2) The plans shall be consistent with state implementation
7 plans, statewide transportation improvement programs if federal aid funds are
8 involved, statewide long-range transportation plans, city and county master
9 street plans, and metropolitan transportation plans in metropolitan areas as
10 required under 23 U.S.C. § 134 as it existed on January 1, 2007.

11 (b) Nothing in this section shall interfere with the responsibility
12 and authority of metropolitan planning organizations to perform
13 transportation systems planning as required under 23 U.S.C. § 134 as it
14 existed on January 1, 2007.

15 (c) Nothing in this section shall interfere with the responsibility
16 and authority of the Arkansas State Highway and Transportation Department to
17 perform transportation systems planning.

18
19 Subchapter 5 – Eminent Domain

20
21 27-76-501. Generally.

22 A regional mobility authority may acquire any property necessary to
23 carry out the public purposes of this chapter by exercising the power of
24 eminent domain.

25
26 27-76-502. Entering property.

27 (a) A regional mobility authority, its agents, or its employees may
28 with the consent of the owner enter upon real property to:

- 29 (1) Make surveys;
- 30 (2) Perform examinations;
- 31 (3) Take photographs;
- 32 (4) Perform tests or samplings; or
- 33 (5) Engage in other activities for the purpose of appraising the
34 property or determining whether it is suitable for the regional mobility
35 authority's purpose.

36 (b) If an owner of real property does not consent, a regional mobility

1 authority may seek a court order to enter a property under this section.

2
3 27-76-503. Condemnation petition.

4 (a) A regional mobility authority may exercise its power of eminent
5 domain by filing an appropriate petition in condemnation in the circuit court
6 of the county in which the property sought to be taken is situated to have
7 the compensation for right-of-way determined.

8 (b) The petition in condemnation shall describe the lands and property
9 sought to be taken.

10 (c) The regional mobility authority shall give the owner of the
11 property to be taken at least ten (10) days' notice in writing of the time
12 and place where the petition will be heard.

13 (d)(1) If the property sought to be taken is located in more than one
14 (1) county, the petition may be filed in any circuit court having
15 jurisdiction in any county in which any part of the property may be located.

16 (2) The proceedings held in the circuit court shall apply to all
17 of the property described in the petition.

18 (e) If the owner of the property sought to be taken is a nonresident
19 of the state, notice shall be made in accordance with the Arkansas Rules of
20 Civil Procedure.

21
22 27-76-504. Declaration of taking.

23 (a) When the immediate possession of lands and property is sought to
24 be obtained, the regional mobility authority may file a declaration of taking
25 with a court of competent jurisdiction at any time before judgment or
26 together with the petition in condemnation.

27 (b) The petitioner may file a declaration of taking at any time before
28 a judgment is signed or with the petition in condemnation in any proceeding
29 instituted by and in the name of the regional mobility authority that
30 involves the acquisition of real property, an interest in real property, or
31 an easement.

32 (c) The declaration of taking shall contain or have annexed to it the
33 following:

34 (1) A statement that the regional mobility authority is taking
35 the real property, the interest in the real property, or the easement;

36 (2) A statement of the purpose for which the regional mobility

1 authority is taking the real property, the interest in the real property, or
2 the easement for the use of the regional mobility authority;

3 (3) A description of the real property, the interest in the real
4 property, or the easement that the regional mobility authority is taking,
5 sufficient for the identification thereof;

6 (4) A plat showing the real property, the interest in the real
7 property, or the easement that the regional mobility authority is taking; and

8 (5) A statement of the amount of money estimated by the
9 acquiring regional mobility authority to be just compensation for the taking
10 of the real property, the interest in the real property, or the easement.

11
12 27-76-505. Condemnation proceedings and judgment.

13 (a) The circuit court shall impanel a jury of twelve (12) persons, as
14 in other civil cases, to ascertain the amount of compensation that the
15 regional mobility authority shall pay for the real property, the interest in
16 the real property, or the easement which the regional mobility authority is
17 taking.

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

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

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

26
27 Subchapter 6 – Financing and Bonds

28
29 27-76-601. Financing generally.

30 (a) A regional mobility authority may be financed or supported by
31 receiving the following:

32 (1) If requested and adopted, revenue from the levy by a member
33 county of a sales tax under § 26-74-201 et seq., § 26-74-301 et seq., and §
34 26-74-401 et seq. for the benefit of the regional mobility authority;

35 (2) If requested and adopted, revenue from the levy by a member
36 city of a sales tax under § 26-75-201 et seq. and § 26-75-301 et seq. for the

1 benefit of the regional mobility authority;

2 (3) Revenue from a motor vehicle tax imposed by a county that is
 3 a member of a regional mobility authority under § 26-78-101 et seq.;

4 (4) If authorized by law, requested, and adopted, revenue from
 5 the levy of an additional sales and use tax for the benefit of a regional
 6 mobility authority by a county or city not to exceed one-half of one percent
 7 (1/2 of 1%);

8 (5) Proceeds from tolls from toll facility projects owned by the
 9 regional mobility authority;

10 (6) Proceeds from charges and rates imposed on surface
 11 transportation systems owned by the regional mobility authority that are not
 12 toll facility projects;

13 (7) Proceeds from the sale of bonds;

14 (8) State turnback funds received from counties that are members
 15 of the regional mobility authority and cities that are within the boundaries
 16 of a regional mobility authority, under §§ 27-70-206 and 27-70-207;

17 (9) Other state funding that is appropriated; or

18 (10) Other funds from a state agency.

19 (b) Taxes and tolls imposed under subdivisions (a)(1)-(5) of this
 20 section shall be approved by voters pursuant to all applicable election laws.

21 (c)(1) A regional mobility authority shall not use revenue from a
 22 transportation project in a manner that is not authorized by this chapter or
 23 other law.

24 (2) Except as provided by this chapter, revenue derived from a
 25 transportation project shall not be applied for a purpose or to pay a cost
 26 other than a cost or purpose that is reasonably related to or anticipated to
 27 be for the benefit of a transportation project.

28
 29 27-76-602. Authority to issue bonds.

30 (a) If a regional mobility authority created under this chapter owns
 31 or operates a transportation system and desires to construct improvements,
 32 betterments, and extensions thereto, the regional mobility authority may
 33 issue revenue bonds pursuant to a bond resolution and under the provisions of
 34 this chapter to pay the cost of a transportation project or to pay all or
 35 part of the cost of a transportation project that will become part of a
 36 transportation system.

1 (b) If a regional mobility authority pursues the development of a toll
 2 facility project, the regional mobility authority may issue revenue bonds
 3 pursuant to a bond resolution and under the provisions of this chapter to pay
 4 the toll facility project costs with toll facility project revenues.

5
 6 27-76-603. Tax exempt status.

7 Bonds issued under this chapter and income from the bonds, including
 8 any profit made on the sale or transfer of the bonds, are exempt from
 9 taxation in this state.

10
 11 27-76-604. Bond resolution required.

12 (a) Bonds issued in accordance with this chapter shall be authorized
 13 by resolution of the board of directors of the regional mobility authority.

14 (b) The bonds may be issued as registered bonds and may be
 15 exchangeable for bonds of another denomination or in another form.

16 (c) As determined in the bond resolution, the bonds of each issue
 17 shall:

18 (1) Be dated;

19 (2) Bear interest at the rate or rates provided by the bond
 20 resolution beginning on the dates provided by the bond resolution as
 21 authorized by law, or bear no interest;

22 (3) Mature at the time or times provided by the bond resolution,
 23 not exceeding forty (40) years from their date or dates; and

24 (4) Be made redeemable before maturity at the price or prices
 25 and under the terms provided by the bond resolution.

26 (d) As determined in the bond resolution, the bonds of each issue may:

27 (1) Be in such form and denominations;

28 (2) Be payable at such places within or without the state; or

29 (3) Contain such terms and conditions as the members of the
 30 regional mobility authority shall determine.

31 (e) The bonds shall have all of the qualities of and shall be deemed
 32 to be negotiable instruments under the laws of the State of Arkansas, subject
 33 to provisions as to registration as set forth in this section.

34 (f) The authorizing resolution may contain any other terms, covenants,
 35 and conditions that the board of directors of the regional mobility authority
 36 deem to be reasonable and desirable, including without limitation, those

1 pertaining to the:

- 2 (1) Maintenance of various funds and reserves;
- 3 (2) Nature and extent of any security for payment of the bonds;
- 4 (3) Custody and application of the proceeds of the bonds;
- 5 (4) Collection and disposition of revenues;
- 6 (5) Investment for authorized purposes; and
- 7 (6) Rights, duties, and obligations of the regional mobility
- 8 authority and the holders and registered owners of the bonds.

9 (g)(1) The authorizing resolution may provide for the execution of a
10 trust indenture between the regional mobility authority and any financial
11 institution within or without the State of Arkansas.

12 (2) The trust indenture may contain any terms, covenants, and
13 conditions that are deemed desirable by the board of directors of the
14 regional mobility authority, including without limitation those pertaining to
15 the:

- 16 (A) Maintenance of various funds and reserves;
- 17 (B) Nature and extent of any security for the payment of
- 18 the bonds;
- 19 (C) Custody and application of the proceeds of the bonds;
- 20 (D) Collection and disposition of revenues;
- 21 (E) Investment and reinvestment of any moneys during
- 22 periods not needed for authorized purposes; and
- 23 (F) Rights, duties, and obligations of the regional
- 24 mobility authority and the holders and registered owners of the bonds.

25 (h)(1) An authorizing resolution and trust indenture relating to the
26 issuance and security of the bonds shall constitute a contract between the
27 regional mobility authority and the holders or registered owners of the
28 bonds.

29 (2) The contract and all covenants, agreements, and obligations
30 in the contract shall be promptly performed in strict compliance with the
31 terms and provisions of the contract, and the covenants, agreements, and
32 obligations of the regional mobility authority may be enforced by mandamus or
33 other appropriate proceeding at law or in equity.

34 (i)(1) The resolution shall fix the minimum fees, fares, tolls, or
35 charges to be collected prior to the payment of all of the bonds, with
36 exceptions as may be provided in the resolution, and shall pledge the

1 revenues derived from the regional mobility authority's transportation system
 2 or any specified portion of the regional mobility authority's transportation
 3 system for the purpose of paying the bonds and interest on the bonds.

4 (2) The rates to be charged for the use of the regional mobility
 5 authority's transportation system shall be sufficient to provide for the
 6 payment of all principal of and interest on all bonds when due.

7 (j)(1) Additional bonds may be issued in the same manner to pay the
 8 costs of a transportation project.

9 (2) Unless otherwise provided in the bond resolution, the
 10 additional bonds shall be on a parity, without preference or priority, with
 11 bonds previously issued and payable from the revenue of the transportation
 12 project.

13 (3) A regional mobility authority may issue bonds for a
 14 transportation project secured by a lien on the revenue of the transportation
 15 project subordinate to the lien on the revenue securing other bonds issued
 16 for the transportation project.

17
 18 27-76-605. Sale.

19 (a) The bonds may be sold in such manner, either at public or private
 20 sale, and upon such terms as the members of the regional mobility authority
 21 shall determine to be reasonable and expedient for effectuating the purposes
 22 of the regional mobility authority.

23 (b) The bonds may be sold at a price that the board of directors of
 24 the regional mobility authority determine to be in the best interest of the
 25 regional mobility authority, including sale at discount.

26 (c)(1) The bonds shall be executed by manual or facsimile signature of
 27 the chair of the regional mobility authority and the manual or facsimile
 28 signature of the secretary of the regional mobility authority or any other
 29 officer of the regional mobility authority authorized to do so by resolution
 30 of the board of directors.

31 (2) In case any of the officers whose signatures appear on the
 32 bonds shall cease to be the officers before delivery of the bonds, their
 33 signatures nevertheless shall be valid and sufficient for all purposes.

34 (d) Each bond shall be impressed or imprinted with the seal of the
 35 regional mobility authority.

36

27-76-606. Proceeds.

(a) The proceeds of each bond issue shall be disbursed in the manner and under any restrictions as provided in the bond resolution.

(b)(1) The proceeds derived from the sale of the bonds shall be used solely for the purpose of:

(A) Making betterments, improvements, and extensions to the surface transportation system owned and operated by the regional mobility authority;

(B) Paying interest on the bonds during the period of construction of the betterments, improvements, and extensions;

(C) Establishing any necessary reserves for the bonds;

(D) Paying the costs of issuing the bonds; and

(E) Paying any other costs and expenditures of whatever nature incidental to the accomplishment of the betterments, improvements, and extensions.

(2) The terms "betterments", "improvements", and "extensions" include surface transportation systems as well as all other real and personal property, buildings, structures, or other improvements or facilities as may be necessary or advisable for the proper and efficient operation of the regional mobility authority's surface transportation system.

(c) If the proceeds of a bond issue exceed the cost of the transportation project for which the bonds were issued, the surplus shall be segregated from the other money of the regional mobility authority and used only for the purposes specified in the bond resolution.

(d) To the extent permitted under the applicable bond proceedings, revenue from one (1) transportation project or toll facility project of a regional mobility authority may be used to pay the cost of another transportation project or toll facility project of the same regional mobility authority.

27-76-607. Repayment.

(a) Bonds issued under the provisions of this chapter shall be payable from revenues derived from the regional mobility authority's transportation system.

(b) The bonds shall not in any event constitute an indebtedness of nor pledge the faith and credit of the State of Arkansas or the county or

1 counties or municipality or municipalities creating the regional mobility
 2 authority within the meaning of any constitutional provisions or limitations.

3 (c) It shall be plainly stated on the face of each bond that it:

4 (1) Is issued under the provisions of this chapter;

5 (2) Does not constitute an indebtedness of the State of Arkansas
 6 or the county or counties or the municipality or municipalities creating the
 7 regional mobility authority within any constitutional provisions or
 8 limitations; and

9 (3) Is not backed by the full faith and credit of the State of
 10 Arkansas or the county or counties or municipality or municipalities creating
 11 the regional mobility authority.

12 (d) The bonds and the interest on the bonds shall be exempt from all
 13 state, county, and municipal taxation, including without limitation, income
 14 taxation and inheritance taxation.

15
 16 27-76-608. Lien in favor of bondholders.

17 (a) The payment of the principal of bonds issued under this chapter
 18 and the interest thereon may be secured by a lien on and security interest in
 19 the regional mobility authority's surface transportation system or any
 20 specified portion of the regional mobility authority's surface transportation
 21 system.

22 (b) It shall not be necessary to the perfection of the lien and pledge
 23 for such purposes that the trustee in connection with the bond issue or the
 24 holders of the bonds take possession of the collateral security.

25 (c) Subject to whatever restrictions may be contained in the
 26 resolution or indenture governing the bonds, any holder of bonds issued under
 27 the provisions of this chapter may enforce either at law or in equity the
 28 lien and may compel by proper suit the performance of the duties of the
 29 officers of the board of directors of the issuing regional mobility authority
 30 set forth in this chapter.

31 (d)(1) In the event there is default in the payment of the principal
 32 or interest on any of the bonds, a court of competent jurisdiction may
 33 appoint a receiver to:

34 (A) Administer the regional mobility authority's surface
 35 transportation system pledged to the payment of the bonds; or

36 (B) Administer the specified portion of the regional

1 mobility authority's surface transportation system pledged to the payment of
 2 the bonds.

3 (2) The receiver shall perform the duties specified in
 4 subdivision (d)(1) of this section on behalf of the public body.

5 (3) The receiver shall have the power to:

6 (A) Charge and collect rates sufficient to provide for:

7 (i) The payment of the bonds;

8 (ii) The interest on the bonds;

9 (iii) The payment of any operating expenses of the
 10 surface transportation system pledged to the payment of the bonds or the
 11 portion of the surface transportation system pledged to the payment of the
 12 bonds; and

13 (B) Apply the income and revenues of the surface
 14 transportation system pledged to the payment of the bonds or the portion of
 15 the surface transportation system pledged to the payment of the bonds in
 16 conformity with this chapter and the resolution or indenture providing for
 17 the issuance of the bonds.

18
 19 27-76-609. Refunding bonds.

20 (a)(1) Bonds may be issued for the purpose of refunding any
 21 obligations issued under this chapter or otherwise.

22 (2) The refunding bonds may be combined with bonds issued under
 23 the provisions of § 27-70-314 into a single issue.

24 (b)(1) When bonds are issued under this section for refunding
 25 purposes, the bonds may either be sold or delivered in exchange for the
 26 outstanding obligations.

27 (2) If sold, the proceeds may, either at maturity or upon any
 28 authorized redemption date, be either:

29 (A) Applied to the payment of the obligations refunded; or

30 (B) Deposited in escrow for the retirement thereof.

31 (c)(1) All bonds issued under this section shall in all respects be
 32 authorized, issued, and secured in the manner provided for other bonds issued
 33 under this chapter and shall have all the attributes of such bonds.

34 (2) The resolution or indenture under which the refunding bonds
 35 are issued may provide that any of the refunding bonds shall have the same
 36 priority of lien on the revenues pledged for their payment as was enjoyed by

1 the obligations refunded thereby.

2

3 27-76-610. Interim bonds.

4 (a) Before issuing definitive bonds, a regional mobility authority may
5 issue interim bonds with or without coupons exchangeable for definitive
6 bonds.

7 (b) The interim bonds may be authorized and issued in accordance with
8 this chapter without regard to a requirement, restriction, or procedural
9 provision in any other law.

10 (c)(1) A bond resolution authorizing interim bonds may provide that
11 the interim bonds recite that the bonds are issued under this chapter.

12 (2) The recital is conclusive evidence of the validity and the
13 regularity of the interim bonds' issuance.

14

15 27-76-611. Revolving fund.

16 (a) A regional mobility authority may maintain a revolving fund to be
17 held in trust by a banking institution chosen by the regional mobility
18 authority separate from any other funds and administered by the regional
19 mobility authority's board of directors.

20 (b) A regional mobility authority may transfer into its revolving fund
21 money from any permissible source, including:

22 (1) Funds from a transportation project if the transfer does not
23 diminish the money available for the project to less than any amount required
24 to be retained by the bond proceedings pertaining to the project;

25 (2) Funds received by the regional mobility authority from any
26 source and not otherwise committed, including money from the transfer of a
27 transportation project or system as provided under § 27-76-408 or the sale of
28 surplus assets of the regional mobility authority;

29 (3) Funds received from the Arkansas State Highway and
30 Transportation Department; and

31 (4) Contributions, loans, grants, or assistance from any
32 governmental entity, private entity, or person.

33 (c) The regional mobility authority may use money in the revolving
34 fund to:

35 (1) Finance the acquisition, construction, maintenance, or
36 operation of a transportation project of a regional mobility authority

1 including the extension, expansion, or improvement of a transportation
 2 project;

3 (2) Provide matching money required in connection with any
 4 federal, state, local, or private aid, grant, or other funding, including aid
 5 or funding by or with public-private partnerships;

6 (3) Provide credit enhancement either directly or indirectly for
 7 bonds issued to acquire, construct, extend, expand, or improve a
 8 transportation project or a transportation system;

9 (4) Provide security for or payment of future or existing debt
 10 for the design, acquisition, construction, operation, maintenance, extension,
 11 expansion, or improvement of a transportation project or a transportation
 12 system;

13 (5) Borrow money and issue promissory notes or other
 14 indebtedness payable out of the revolving fund for any purpose authorized by
 15 this chapter; and

16 (6) Provide for any other reasonable purpose that assists in the
 17 financing of a regional mobility authority as authorized by this chapter.

18 (d)(1) Money spent or advanced from the revolving fund for a
 19 transportation project or a transportation system must be reimbursed from the
 20 money of that transportation project or transportation system.

21 (2) At the time that the expenditure or advancement is
 22 authorized, a reasonable expectation of repayment must exist.

23
 24 Subchapter 7 – Tolling

25
 26 27-76-701. Setting tolling fees, fare, and other charges on a toll
 27 facility project.

28 (a) A regional mobility authority shall set tolls, fees, fares, or
 29 other charges at rates or amounts so that the aggregate of tolls, fees,
 30 fares, or other charges from the transportation project, together with other
 31 revenue of the project:

32 (1) Provides toll facility project revenue sufficient to pay:

33 (A) The toll facility project costs;

34 (B) The cost of maintaining, repairing, and operating the
 35 transportation project; and

36 (C) The principal of and interest on any bonds issued for

1 the toll facility project as those bonds become due and payable; and

2 (2) Creates reserves for one (1) or more of the purposes stated
3 under subdivision (a)(1) of this section.

4 (b) A toll, fee, fare, or other charge imposed on an owner of a public
5 utility facility shall be imposed in a manner that is competitively neutral
6 and nondiscriminatory among similarly situated users of the toll facility
7 project.

8 (c) A toll, fee, fare, or other usage charge is not subject to
9 supervision or regulation by any agency of this state or other governmental
10 entity.

11 (d) Notwithstanding any of the provisions of this subchapter, a
12 regional mobility authority's power to charge tolls for use of a toll
13 facility project shall be subject to approval by the voters within the
14 boundaries of the regional mobility authority as follows:

15 (1) Voter approval of the initial imposition of the tolls
16 including the initial toll rate by the regional mobility authority; and

17 (2) If revenue bonds are to be issued by the regional mobility
18 authority to fund all or a portion of the costs of the toll facility project,
19 voter approval of the development of the toll facility project including the
20 initial toll rate and the issuance of the maximum principal amount of bonded
21 indebtedness.

22
23 27-76-702. Controlled access to toll facility projects.

24 (a) A regional mobility authority may adopt a resolution that
25 designates a toll road, a toll facility project, or a portion of a
26 transportation project as a controlled-access toll road.

27 (b) A regional mobility authority may adopt a resolution to:

28 (1) Prohibit the use of or access to or from a toll road by a
29 motor vehicle, bicycle, any other classification or type of vehicle, or a
30 pedestrian;

31 (2) Deny access to or from:

32 (A) A toll road;

33 (B) Real property adjacent to a toll road; or

34 (C) A street, road, alley, highway, or other public or
35 private way intersecting a toll road;

36 (3) Designate locations on a toll road at which access to or

1 from the toll road is permitted;

2 (4) Control, restrict, and determine the type and extent of
3 access permitted at a designated location of access to a toll road; or

4 (5) Erect appropriate protective devices to preserve the
5 utility, integrity, and use of a toll road.

6 (c) A regional mobility authority may grant access to or from a toll
7 facility.

8
9 27-76-703. Tolling power subject to voter approval.

10 The approval of the voters within the boundaries of the regional
11 mobility authority is required to authorize the development of a toll
12 facility, the initial toll rate, and the maximum amount of bonded
13 indebtedness pledged thereto subject to the provisions of 27-76-701(d).

14
15 27-76-704. Use of revenues – Revenue bonds.

16 (a)(1) Except as provided under subdivision (a)(3) of this section, a
17 regional mobility authority that has issued revenue bonds for a toll facility
18 project or a transportation project and that is financed with dedicated
19 revenue derived from tolls, fees, fares, or other funds shall set aside
20 moneys into a sinking fund that is pledged to and charged with the payment
21 of:

22 (A) Interest on the bonds as it becomes due;

23 (B) Principal of the bonds as it becomes due;

24 (C) Necessary charges of paying agents for paying
25 principal and interest;

26 (D) The redemption price or the purchase price of bonds
27 retired by call or purchase as provided in the bond proceedings; and

28 (E) Any amounts due under credit agreements.

29 (2) Moneys shall be set aside into a sinking fund at regular
30 intervals and as provided in the bond resolution or trust agreement.

31 (3) A regional mobility authority may retain the funds necessary
32 to pay the cost of maintenance, repair, and operation and to provide reserves
33 for those costs as provided in the bond proceedings.

34 (b) The use and disposition of money deposited to the credit of the
35 sinking fund is subject to the bond proceedings.

36

1 27-76-705. Surplus revenue.

2 (a) Each year, a regional mobility authority shall determine whether
 3 it has surplus revenue from tolls, fees, or fares collected from the
 4 operation of its transportation projects.

5 (b) If a regional mobility authority determines that it has surplus
 6 revenue, then it shall either:

7 (1) Reduce the tolls, fees, or fares; or

8 (2) Spend the surplus revenue on other transportation projects
 9 in the counties or municipalities within the jurisdictional boundaries of the
 10 regional mobility authority as provided under subsection (c) of this section.

11 (c) Consistent with other laws and the rules and resolutions of the
 12 regional mobility authority, a regional mobility authority may spend surplus
 13 revenue on other transportation projects by:

14 (1) Constructing a transportation project located within the
 15 county or counties of the authority;

16 (2) Assisting in the financing of a toll or toll-free
 17 transportation project of another governmental entity; or

18 (3) Constructing a toll or toll-free transportation project and,
 19 on completion of the project, transferring the project to another
 20 governmental entity if:

21 (A) The other governmental entity authorizes the regional
 22 mobility authority to construct the project and agrees to assume all
 23 liability and responsibility for the maintenance and operation of the project
 24 on its transfer; and

25 (B) The project is constructed in compliance with all laws
 26 applicable to the governmental entity.

27
 28 27-76-706. Arkansas State Highway and Transportation Department
 29 contributions to toll road projects.

30 (a)(1) A regional mobility authority and the State Highway and
 31 Transportation Department or the State Highway Commission may agree to allow
 32 the department to contribute to the payment of costs of any of the following
 33 in regards to a toll road:

34 (A) A financial study;

35 (B) An engineering study;

36 (C) A traffic feasibility study; or

1 (D) The design, financing, acquisition, construction,
2 operation, or maintenance of a toll road.

3 (2) The agreement shall not be inconsistent with the rights of
4 the bondholders or persons operating the toll road under a lease or other
5 contract.

6 (b) The department may use its engineering or other personnel,
7 including consulting engineers or traffic engineers, to conduct feasibility
8 studies under subsection (a) of this section.

9 (c)(1) An obligation or expense incurred by a regional mobility
10 authority or the department under this section is a part of the cost of the
11 toll road for which the obligation or expense was incurred.

12 (2) A regional mobility authority may require money contributed
13 under this section to be repaid from tolls or other revenue of the toll road
14 on which the money was spent.

15 (3) Money repaid as required by a regional mobility authority or
16 the department shall be deposited to the credit of the fund from which the
17 contribution was made.

18 (d) A regional mobility authority or the department may use federal
19 money for any purpose described by this chapter.

20 (e) A toll road developed by a regional mobility authority shall not
21 be part of the state highway system unless the regional mobility authority
22 and the State Highway Commission so agree.

23 (f)(1) The State Highway Commission may grant or loan department money
24 to a regional mobility authority for the acquisition of land for the
25 construction, maintenance, or operation of a toll road.

26 (2) The State Highway Commission may require the authority to
27 repay money provided under this section from toll revenue or other sources on
28 terms established by the commission.

29 (g) Money repaid as required by the commission shall be deposited to
30 the credit of the fund from which the money was provided.

31
32 27-76-707. Use and return of transponders.

33 A regional mobility authority may promulgate rules regarding the use
34 and return of transponders.

35
36 27-76-708. Requirement that an operator of a motor vehicle pay a toll.

1 (a)(1) Except as provided under subdivisions (a)(2) and (3) of this
 2 section, the operator of a vehicle that is driven or towed through a toll
 3 collection facility of a toll road owned by a regional mobility authority
 4 shall pay the proper toll.

5 (2) An authorized emergency vehicle as defined under § 27-49-
 6 219(d) is not required to pay a toll.

7 (3) A regional mobility authority may waive the requirement of
 8 the payment of a toll or may authorize the payment of a reduced toll for any
 9 vehicle or class of vehicles.

10 (b)(1) A violation of this section is an administrative offense and a
 11 Class B misdemeanor.

12 (2) The regional mobility authority or its designee shall
 13 attempt collection of the unpaid toll through the administrative procedures
 14 under §§ 27-76-710, 27-76-711, and 27-76-712 before pursuing prosecution
 15 under § 27-76-713.

16 (3) If the regional mobility authority or its designee is unable
 17 to collect an unpaid toll through administrative procedures, then the matter
 18 shall be transferred to the appropriate prosecuting attorney.

19
 20 27-76-709. Presumption that the registered owner was the operator.

21 Except as provided under §§ 27-76-711 and 27-76-712, there is a
 22 rebuttable presumption that the registered owner of the motor vehicle was the
 23 operator of the motor vehicle when the offense occurred.

24
 25 27-76-710. General administrative procedure for collection of an
 26 unpaid toll.

27 (a)(1) The regional mobility authority or its designee may attempt to
 28 collect an unpaid toll under § 27-76-708 and an administrative fee to recover
 29 the cost of collecting the unpaid toll.

30 (2) The administrative fee shall not exceed one hundred dollars
 31 (\$100).

32 (3) The registered owner shall pay a separate toll and
 33 administrative fee for each occurrence of nonpayment under this subsection
 34 (a).

35 (b)(1) Upon the occurrence of the offense of failure to pay a toll,
 36 the regional mobility authority or its designee shall issue to the registered

1 owner of the motor vehicle a written notice of nonpayment of the toll.

2 (2) The notice of nonpayment shall:

3 (A) Include a statement of the amount of the toll charges
 4 and the amount of the administrative fee for which the registered owner of
 5 the motor vehicle is liable;

6 (B) Be sent by first-class mail to the registered owner's
 7 address as shown in the motor vehicle registration records maintained by the
 8 Department of Finance and Administration;

9 (C) Be sent not later than thirty (30) days after the date
 10 of the alleged failure to pay; and

11 (D) State that payment is not required until thirty (30)
 12 days after the date that the notice was mailed.

13
 14 27-76-711. Administrative procedure when the registered owner is a
 15 lessor.

16 (a) If the registered owner of the motor vehicle is the lessor of a
 17 vehicle and the lessor claims it is not liable an unpaid toll under § 27-76-
 18 708 because the vehicle was under a rental contract on the date the offense
 19 of nonpayment occurred, then the procedures of this section apply.

20 (b)(1) Not later than thirty (30) days after the date that the notice
 21 of nonpayment was mailed to the registered owner, the lessor shall provide to
 22 the regional mobility authority or its designee a copy of the rental, lease,
 23 or other contract document covering the vehicle on the date of the nonpayment
 24 under subsection (a) of this section.

25 (2) The name and address of the lessee shall be clearly legible
 26 on the documents provided to the regional mobility authority or its designee.

27 (c)(1) If the lessor provides the required information within the
 28 prescribed period, the regional mobility authority or its designee shall send
 29 a notice of nonpayment to the lessee.

30 (2) The notice of nonpayment shall:

31 (A) Include a statement of the amount of the toll charges
 32 and the amount of administrative fee for which the lessee of the motor
 33 vehicle is liable;

34 (B) Be sent by first-class mail to the lessee's address as
 35 shown on the rental, lease, or other contract document provided by the
 36 lessor;

1 (C) Be sent not later than thirty (30) days after the date
 2 of receipt of the required information from the lessor; and

3 (D) State that payment is not required until thirty (30)
 4 days after the date that the notice was mailed.

5 (d) The lessee shall pay a separate toll and administrative fee for
 6 each event of nonpayment.

7
 8 27-76-712. Administrative procedure when the registered owner is a
 9 transferor.

10 (a) If the registered owner of a motor vehicle that was mailed notice
 11 of nonpayment of a toll under this section transferred ownership of the
 12 vehicle to another person before the offense of an unpaid toll under § 27-76-
 13 708 occurred, then the procedures of this section apply.

14 (b)(1) Not later than thirty (30) days after the date that the notice
 15 of nonpayment was mailed to the transferor of the motor vehicle, the
 16 transferor shall submit to the regional mobility authority or its designee a
 17 bill of sale or supporting documentation for the transfer of ownership.

18 (2) The name and address of the person in which the motor
 19 vehicle was transferred shall be clearly legible on the documents provided to
 20 the regional mobility authority or its designee.

21 (c)(1) If the transferor of the motor vehicle provides the required
 22 information within the prescribed period, the regional mobility authority or
 23 its designee shall send a notice of nonpayment to the transferee.

24 (2) The notice of nonpayment shall:

25 (A) Include a statement of the amount of the toll charges
 26 and the amount of administrative fee for which the transferee is liable;

27 (B) Be sent by first-class mail to the transferee's
 28 address as shown in the bill of sale or supporting documentation;

29 (C) Be sent not later than thirty (30) days after the date
 30 of receipt of the required information from the transferor; and

31 (D) State that payment is not required until thirty (30)
 32 days after the date that the notice was mailed.

33 (d) The transferee shall pay a separate toll and administrative fee
 34 for each event of nonpayment.

35
 36 27-76-713. Prosecution of failure to pay tolls.

1 (a) In the prosecution of a violation of § 27-76-708, the prosecuting
 2 attorney shall establish that:

3 (1) The vehicle passed through a toll collection facility
 4 without payment of the proper toll; and

5 (2) The defendant was either of the following when the failure
 6 to pay the toll occurred:

7 (A) The registered owner of the motor vehicle; or

8 (B) The operator of the motor vehicle.

9 (b) The court may consider sworn testimony from any of the following:

10 (1) A law enforcement officer;

11 (2) A regional mobility authority employee;

12 (3) An employee of the designee of the regional mobility
 13 authority; or

14 (4) An employee of the Department of Finance and Administration.

15 (c) The court may consider any other reasonable evidence, including
 16 without limitation:

17 (1) Video surveillance; or

18 (2) Evidence obtained by automated enforcement technology.

19 (d) It is a defense to prosecution under this section that the motor
 20 vehicle in question was stolen before the failure to pay the proper toll
 21 occurred and was not recovered by the time of the failure to pay, but only if
 22 the theft was reported to the appropriate law enforcement authority before
 23 the earlier of:

24 (1) The occurrence of the failure to pay; or

25 (2) Eight (8) hours after the discovery of the theft.

26 (e) A person who pleads guilty or nolo contendere to or is found
 27 guilty of violating § 27-76-708 is guilty of a Class B misdemeanor.

28 (f) The court in which a person is convicted of an offense under this
 29 section shall also collect the proper toll and administrative fee and forward
 30 the toll and fee to the regional mobility authority.

31
 32 SECTION 2. Arkansas Code § 27-70-207(a)(1)(A), regarding the
 33 distribution of highway revenues to county funds, is amended to read as
 34 follows:

35 (a)(1)(A) All highway revenues transferred to the County Aid Fund
 36 under this subchapter shall be paid over by the Treasurer of State to the

1 treasurers of the respective counties of this state for credit to the county
2 highway fund, there to be used for the maintenance, construction, and
3 reconstruction of roads and bridges in the county highway system, provided,
4 however, that no more than twenty percent (20%) of the revenues received by a
5 county during any fiscal year may also be used for public transportation.

6 (B) A county may also use these funds to construct and
7 maintain parking for county courthouses, county administration buildings,
8 county health units, and county parks and to construct and maintain sidewalks
9 that serve county courthouses, county administration buildings, county health
10 units, county parks, public schools, and other publicly owned property.

11 (C) A county may use these funds to pay for local projects
12 eligible for funding under state programs of the Arkansas State Highway and
13 Transportation Department and under federal programs of the Federal Highway
14 Administration of the United States Department of Transportation.

15 (D) Furthermore, the funds may be used to install and
16 maintain traffic signals where needed to preserve public health, safety, and
17 welfare.

18 (E) A county may provide these funds to a regional
19 mobility authority ~~to match federal transportation funds~~ for the financing of
20 surface transportation system improvements on state highways, county roads,
21 and city streets.

22
23 SECTION 3. Arkansas Code Title 27, Chapter 70, Subchapter 3 is
24 repealed.

25 ~~27-70-301. Title.~~

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

27
28 ~~27-70-302. Legislative intent.~~

29 ~~It is the intent of the General Assembly that revenues raised in~~
30 ~~furtherance to this subchapter are supplemental to and not a substitute for~~
31 ~~the state and federal transportation funds normally invested within the~~
32 ~~boundaries of the various regional mobility authorities created under this~~
33 ~~subchapter.~~

34
35 ~~27-70-303. Definitions.~~

36 ~~As used in this subchapter:~~

1 ~~(1) "Authority" means a regional mobility authority created~~
 2 ~~under this subchapter with the powers and duties designated in this~~
 3 ~~subchapter;~~

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

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

6 ~~(B) "Bond" includes any other obligation of an authority~~
 7 ~~authorized by this subchapter, the laws of the State of Arkansas, or the~~
 8 ~~Arkansas Constitution;~~

9 ~~(4) "Governing body" means the quorum court of a county;~~

10 ~~(5) "Member" means any county that is a participant in an~~
 11 ~~authority;~~

12 ~~(6) "Project development" means all phases of implementation~~
 13 ~~conducted in relation to a particular project, including, but not limited to:~~

14 ~~(A) Planning;~~

15 ~~(B) Environmental clearances;~~

16 ~~(C) Surveys;~~

17 ~~(D) Right of way acquisition; and~~

18 ~~(E) Construction; and~~

19 ~~(7) "Surface transportation system" means a system of surface~~
 20 ~~transportation that includes, but is not limited to:~~

21 ~~(A) Roads;~~

22 ~~(B) Streets;~~

23 ~~(C) Highways;~~

24 ~~(D) Bridges;~~

25 ~~(E) Tunnels;~~

26 ~~(F) Sidewalks;~~

27 ~~(G) Bicycle paths;~~

28 ~~(H) Toll facilities;~~

29 ~~(I) Pedestrian ways;~~

30 ~~(J) Intermodal facilities;~~

31 ~~(K) Parking facilities;~~

32 ~~(L) Public transit systems;~~

33 ~~(M) Traveler information systems;~~

34 ~~(N) Intelligent transportation systems;~~

35 ~~(O) Traffic management systems;~~

36 ~~(P) Traffic signal systems;~~

1 ~~(Q) Safety improvements;~~
 2 ~~(R) All other means of surface transportation; or~~
 3 ~~(S) The preservation and maintenance of existing surface~~
 4 ~~transportation facilities.~~

5
 6 ~~27-70-304. Regional mobility authority—Creation.~~

7 ~~(a) A single county or any combination of contiguous counties may~~
 8 ~~create an authority.~~

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

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

14 ~~(A) By ordinance provides for the member's participation~~
 15 ~~in the authority; and~~

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

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

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

25
 26 ~~27-70-305. Authority made a public corporation.~~

27 ~~(a) Upon creation of an authority:~~

28 ~~(1) The authority and its members shall:~~

29 ~~(A) Constitute a public corporation; and~~

30 ~~(B) Have perpetual succession; and~~

31 ~~(2) The authority and its members may:~~

32 ~~(A) Contract and be contracted with;~~

33 ~~(B) Sue and be sued; and~~

34 ~~(C) Have and use a common seal.~~

35 ~~(b) The exercise of the powers and performance of the duties under~~
 36 ~~this subchapter by each authority are declared to be public and governmental~~

1 ~~functions that are exercised for a public purpose and for matters of public~~
 2 ~~necessity and that confer upon each authority governmental immunity from suit~~
 3 ~~in tort.~~

4
 5 ~~27-70-306. Board of directors.~~

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

9 ~~(1) The county judge or designated representative of the county~~
 10 ~~judge of each county in which the authority is geographically situated; and~~

11 ~~(2) The mayor or designated representative of the mayor of each~~
 12 ~~city of the first class within each county that is a member of an authority.~~

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

16 ~~(2) The terms of the citizen representatives shall be staggered~~
 17 ~~and shall not exceed five (5) years.~~

18 ~~(c)(1) The directors of the board shall serve as such throughout their~~
 19 ~~terms in office.~~

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

23 ~~(d) The directors shall be solely responsible for selecting the chair~~
 24 ~~of the board.~~

25 ~~(e) All directors of each authority shall be qualified electors within~~
 26 ~~the judicial boundaries of the authority that the directors represent.~~

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

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

33
 34 ~~27-70-307. Powers of authority.~~

35 ~~Each authority is given the following powers to:~~

36 ~~(1) Make and adopt all necessary bylaws for its organization and~~

1 operations;

2 ~~(2) Elect officers and to employ personnel necessary for its~~
 3 operation;

4 ~~(3) Enter into contracts necessary or incidental to its powers~~
 5 and duties under this subchapter;

6 ~~(4) Apply for, receive, and spend grants for any purpose of this~~
 7 subchapter;

8 ~~(5) Acquire lands and hold title to the lands acquired in its~~
 9 own name;

10 ~~(6) Build, fund, own, operate, or contract the operation of any~~
 11 surface transportation system;

12 ~~(7) Acquire, own, use, and dispose of property in the exercise~~
 13 of its powers and the performance of its duties under this subchapter;

14 ~~(8) Borrow money and execute and deliver negotiable notes in the~~
 15 exercise of its powers and the performance of its duties under this
 16 subchapter;

17 ~~(9) Issue bonds;~~

18 ~~(10) Enter into any agreement with any road or street~~
 19 improvement district established pursuant to §§ 14-316-101 et seq., 14-317-
 20 101 et seq., and 14-322-101 et seq.;

21 ~~(11) Enter into any agreement with the State Highway Commission;~~

22 ~~(12) Impose and collect tolls, charges, and rates on surface~~
 23 transportation systems owned or operated by the authority, the imposition of
 24 which shall be subject to the approval of voters within the boundaries of the
 25 authority;

26 ~~(13) Request and receive from time to time from counties or~~
 27 cities within the boundaries of the authority, funds to finance and support
 28 the authority, including county or city turnback funds as set forth in §§ 27-
 29 70-206 and 27-70-207 for the purpose of matching federal transportation
 30 funds;

31 ~~(14) Receive property or funds by gift or donation for the~~
 32 finance and support of the authority; and

33 ~~(15) Do all things necessary or appropriate to carry out the~~
 34 powers and duties expressly granted or imposed under this subchapter.

35

36 ~~27-70-308. Eminent domain.~~

1 ~~(a) An authority shall have the right to acquire any property~~
 2 ~~necessary to carry out the purposes of this subchapter by exercising the~~
 3 ~~power of eminent domain.~~

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

9
 10 ~~27-70-309. Condemnation petition—Notice.~~

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

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

20 ~~(2) The proceedings had in the circuit court shall apply to all~~
 21 ~~of the property described in the petition.~~

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

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

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

31 ~~(d)(1) The condemnation petition shall describe the lands and property~~
 32 ~~sought.~~

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

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~~27-70-310. Declaration of taking.~~

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

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

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

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

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

~~(3) A description of the real property, the interest in the real property, or the easement that the authority is taking, sufficient for the identification thereof;~~

~~(4) A plat showing the real property, the interest in the real property, or the easement that the authority is taking; and~~

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

~~27-70-311. Condemnation proceedings and judgment.~~

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

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

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

1 ~~(d) Compensation shall be ascertained and awarded in the proceeding~~
2 ~~and established by judgment therein.~~

3
4 ~~27-70-312. Financing of authority.~~

5 ~~(a) Each authority may be financed or supported by receiving from time~~
6 ~~to time as revenue the following:~~

7 ~~(1) All or any part of any proceeds derived from the levy and~~
8 ~~collection of a sales tax by a county that is a member of an authority,~~
9 ~~pursuant to § 26-74-201 et seq., § 26-74-301 et seq., and § 26-74-401 et~~
10 ~~seq.;~~

11 ~~(2) All or any part of any proceeds derived from the levy and~~
12 ~~collection of a sales tax by a city that is within the boundaries of an~~
13 ~~authority, pursuant to § 26-75-201 et seq. and § 26-75-301 et seq.;~~

14 ~~(3) Proceeds from a motor vehicle tax imposed by a county that~~
15 ~~is a member of an authority, pursuant to § 26-78-101 et seq.;~~

16 ~~(4) Proceeds from tolls, charges, and rates imposed on surface~~
17 ~~transportation systems owned or operated by the authority; and~~

18 ~~(5) State turnback funds received from counties and cities,~~
19 ~~pursuant to §§ 27-70-206 and 27-70-207.~~

20 ~~(b) Taxes imposed under subdivisions (a)(1)-(3) of this section shall~~
21 ~~be approved by voters pursuant to all applicable election laws.~~

22
23 ~~27-70-313. Approval required.~~

24 ~~Any design or proposal for road or highway improvements must be~~
25 ~~approved by the city or county government or the State Highway Commission~~
26 ~~that owns the roadway prior to the commencement of project development.~~

27
28 ~~27-70-314. Improvement financing with bonds.~~

29 ~~(a) Whenever any authority created under this subchapter shall own or~~
30 ~~operate a surface transportation system and shall desire to construct~~
31 ~~improvements, betterments, and extensions thereto, the authority may issue~~
32 ~~revenue bonds under the provisions of this subchapter to pay the costs.~~

33 ~~(b)(1) Bonds issued in accordance with this subchapter shall be~~
34 ~~authorized by resolution of the board of directors of the authority.~~

35 ~~(2) The bonds may be issued as registered bonds and may be~~
36 ~~exchangeable for bonds of another denomination or in another form.~~

1 ~~(3) The bonds may:~~
2 ~~(A) Be in such form and denominations;~~
3 ~~(B) Have such date or dates;~~
4 ~~(C) Be stated to mature at such time or times;~~
5 ~~(D) Bear interest payable at such times and at such rate~~
6 ~~or rates;~~
7 ~~(E) Be payable at such places within or without the state;~~
8 ~~(F) Be subject to such terms of redemption in advance of~~
9 ~~maturity at such prices; and~~
10 ~~(G) Contain such terms and conditions, all as the board of~~
11 ~~directors shall determine.~~

12 ~~(4) The bonds shall have all of the qualities of and shall be~~
13 ~~deemed to be negotiable instruments under the laws of the State of Arkansas,~~
14 ~~subject to provisions as to registration as set forth in this subsection.~~

15 ~~(5) The authorizing resolution may contain any other terms,~~
16 ~~covenants, and conditions that the board of directors deems reasonable and~~
17 ~~desirable, including, without limitation, those pertaining to:~~

- 18 ~~(A) The maintenance of various funds and reserves;~~
- 19 ~~(B) The nature and extent of any security for payment of~~
20 ~~the bonds;~~
- 21 ~~(C) The custody and application of the proceeds of the~~
22 ~~bonds;~~
- 23 ~~(D) The collection and disposition of revenues;~~
- 24 ~~(E) The investing for authorized purposes; and~~
- 25 ~~(F) The rights, duties, and obligations of the public body~~
26 ~~and the holders and registered owners of the bonds.~~

27 ~~(c)(1) The authorizing resolution may provide for the execution of a~~
28 ~~trust indenture between the authority and any financial institution within or~~
29 ~~without the State of Arkansas.~~

30 ~~(2) The trust indenture may contain any terms, covenants, and~~
31 ~~conditions that are deemed desirable by the board of directors, including,~~
32 ~~without limitation, those pertaining to:~~

- 33 ~~(A) The maintenance of various funds and reserves;~~
- 34 ~~(B) The nature and extent of any security for the payment~~
35 ~~of the bonds;~~
- 36 ~~(C) The custody and application of the proceeds of the~~

1 bonds;

2 ~~(D) The collection and disposition of revenues;~~

3 ~~(E) The investing and reinvesting of any moneys during~~
 4 ~~periods not needed for authorized purposes; and~~

5 ~~(F) The rights, duties, and obligations of the public body~~
 6 ~~and the holders and registered owners of the bonds.~~

7 ~~(d)(1) Any authorizing resolution and trust indenture relating to the~~
 8 ~~issuance and security of the bonds shall constitute a contract between the~~
 9 ~~authority and holders and registered owners of the bonds.~~

10 ~~(2) The contract and all covenants, agreements, and obligations~~
 11 ~~therein shall be promptly performed in strict compliance with the terms and~~
 12 ~~provisions of the contract, and the covenants, agreements, and obligations of~~
 13 ~~the authority may be enforced by mandamus or other appropriate proceeding at~~
 14 ~~law or in equity.~~

15 ~~(e)(1) The resolution shall fix the minimum fees, fares, tolls, or~~
 16 ~~charges to be collected prior to the payment of all of the bonds, with~~
 17 ~~exceptions as may be provided in the resolution, and shall pledge the~~
 18 ~~revenues derived from the authority's surface transportation system or any~~
 19 ~~specified portion of the authority's surface transportation system for the~~
 20 ~~purpose of paying the bonds and interest thereon.~~

21 ~~(2) The rates to be charged for the use of the authority's~~
 22 ~~surface transportation system shall be sufficient to provide for the payment~~
 23 ~~of all principal of and interest on all bonds as and when due.~~

24 ~~(f)(1) The proceeds derived from the sale of the bonds shall be used~~
 25 ~~solely for the purpose of:~~

26 ~~(A) Making betterments, improvements, and extensions to~~
 27 ~~the surface transportation system owned and operated by the authority;~~

28 ~~(B) Paying interest on the bonds during the period of~~
 29 ~~construction of the betterments, improvements, and extensions;~~

30 ~~(C) Establishing any necessary reserves for the bonds;~~

31 ~~(D) Paying the costs of issuing the bonds; and~~

32 ~~(E) Paying any other costs and expenditures of whatever~~
 33 ~~nature incidental to the accomplishment of the betterments, improvements, and~~
 34 ~~extensions.~~

35 ~~(2) The terms "betterments", "improvements", and "extensions"~~
 36 ~~include surface transportation systems as well as all other real and personal~~

1 ~~property, buildings, structures, or other improvements or facilities as may~~
 2 ~~be necessary or advisable for the proper and efficient operation of the~~
 3 ~~authority's surface transportation system.~~

4 ~~(g)(1) Bonds issued under the provisions of this section shall be~~
 5 ~~payable solely from revenues derived from the authority's surface~~
 6 ~~transportation system.~~

7 ~~(2) The bonds shall not in any event constitute an indebtedness~~
 8 ~~of nor pledge the faith and credit of the State of Arkansas or the county or~~
 9 ~~counties creating the authority within the meaning of any constitutional~~
 10 ~~provisions or limitations.~~

11 ~~(3) It shall be plainly stated on the face of each bond that it:~~

12 ~~(A) Is issued under the provisions of this subchapter;~~

13 ~~(B) Does not constitute an indebtedness of the State of~~
 14 ~~Arkansas or the county or counties creating the authority within any~~
 15 ~~constitutional provisions or limitations; and~~

16 ~~(C) Is not backed by the full faith and credit of the~~
 17 ~~State of Arkansas or the county or counties creating the authority.~~

18 ~~(4) The bonds and the interest thereon shall be exempt from all~~
 19 ~~state, county, and municipal taxation. This exemption includes income~~
 20 ~~taxation and inheritance taxation.~~

21 ~~(h)(1) The bonds may be sold in such manner, either at public or~~
 22 ~~private sale, and upon such terms as the board of directors shall determine~~
 23 ~~to be reasonable and expedient for effectuating the purposes of the~~
 24 ~~authority.~~

25 ~~(2) The bonds may be sold at a price the board of directors may~~
 26 ~~accept, including sale at discount.~~

27 ~~(i)(1) The bonds shall be executed by manual or~~
 28 ~~faecsimile signature of the chair of the board of directors and the manual or~~
 29 ~~faecsimile signature of the secretary of the board of directors or any other~~
 30 ~~officer of the authority authorized to do so by resolution of the board of~~
 31 ~~directors.~~

32 ~~(2) In case any of the officers whose signatures appear on the~~
 33 ~~bonds shall cease to be the officers before delivery of the bonds, their~~
 34 ~~signatures nevertheless shall be valid and sufficient for all purposes.~~

35 ~~(3) Each bond shall be impressed or imprinted with the seal of~~
 36 ~~the public body.~~

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~~27-70-315. Lien in favor of bondholders.~~

~~(a) The payment of the principal of bonds issued under this subchapter and the interest thereon may be secured by a lien on and security interest in the authority's surface transportation system or any specified portion of the authority's surface transportation system.~~

~~(b) It shall not be necessary to the perfection of the lien and pledge for such purposes that the trustee in connection with the bond issue or the holders of the bonds take possession of the collateral security.~~

~~(c) Subject to whatever restrictions may be contained in the resolution or indenture governing the bonds, any holder of bonds issued under the provisions of this subchapter may enforce either at law or in equity the mortgage lien and may compel by proper suit the performance of the duties of the officers of the issuing authority set forth in this subchapter.~~

~~(d) If there be default in the payment of the principal of or interest on any of the bonds, any court having jurisdiction in any proper action may appoint a receiver to administer the authority's surface transportation system or the specified portion of the authority's surface transportation system pledged to the payment of the bonds on behalf of the public body with power to charge and collect rates sufficient to provide for the payment of the bonds and the interest thereon and for the payment of the operating expenses and to apply the income and revenues in conformity with this subchapter and the resolution or indenture providing for the issuance of the bonds.~~

~~27-70-316. Refunding bonds.~~

~~(a) Bonds may be issued for the purpose of refunding any obligations issued under this subchapter or otherwise. The refunding bonds may be combined with bonds issued under the provisions of § 27-70-314 into a single issue.~~

~~(b) When bonds are issued under this section for refunding purposes, the bonds may either be sold or delivered in exchange for the outstanding obligations. If sold, the proceeds may be either applied to the payment of the obligations refunded or deposited in escrow for the retirement thereof either at maturity or upon any authorized redemption date.~~

~~(c)(1) All bonds issued under this section shall in all respects be~~

1 ~~authorized, issued, and secured in the manner provided for other bonds issued~~
2 ~~under this subchapter and shall have all the attributes of such bonds.~~

3 ~~(2) The resolution or indenture under which the refunding bonds~~
4 ~~are issued may provide that any of the refunding bonds shall have the same~~
5 ~~priority of lien on the revenues pledged for their payment as was enjoyed by~~
6 ~~the obligations refunded thereby.~~

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