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4

A Bill

HOUSE BILL 1774

5 By: Representatives Tyler, D. Meeks
6 By: Senators D. Wyatt, G. Baker, Bookout
7

For An Act To Be Entitled

9 AN ACT TO DEFINE "PUBLIC TRANSPORTATION" RELATED TO
10 CITY AND COUNTY TURNBACK FUNDS UNDER THE ARKANSAS
11 HIGHWAY REVENUE DISTRIBUTION LAW; AND FOR OTHER
12 PURPOSES.
13
14

Subtitle

15
16 TO DEFINE "PUBLIC TRANSPORTATION" RELATED
17 TO CITY AND COUNTY TURNBACK FUNDS UNDER
18 THE ARKANSAS HIGHWAY REVENUE DISTRIBUTION
19 LAW.
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21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 27-70-207 is amended to read as follows:
25 27-70-207. Distribution to county and city funds.

26 (a) As used in this section, "public transportation" means a
27 conveyance of human passengers by bus, van, or any other ground surface
28 vehicle that is:

29 (1) Provided to the general public or selected groups of the
30 public on a regular or continuing basis; and

31 (2) Operated by a city, county, or any other person or entity
32 under a contract or agreement with a city or county.

33 ~~(a)(1)(A)~~ (b)(1)(A) With the exception of those revenues transferred
34 pursuant to Section 2 of the Highway Improvement Revenue Act of 2007, all
35 highway revenues transferred to the County Aid Fund under this subchapter
36 shall be paid over by the Treasurer of State to the treasurers of the



1 respective counties of this state for credit to the county highway fund,
2 there to be used for the maintenance, construction, and reconstruction of
3 roads and bridges in the county highway system, provided, however, that no
4 more than twenty percent (20%) of the revenues received by a county during
5 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 the State Highway Commission and under federal
14 programs of the Federal Highway Administration of the United States
15 Department of Transportation.

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

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

23 (2)(A) Funds disbursed to the County Aid Fund pursuant to
24 Section 2 of the Highway Improvement Revenue Act of 2007 may be expended by
25 the counties on any legitimate county purpose and are not limited to the uses
26 set forth in subdivision ~~(a)(1)~~ (b)(1) of this section.

27 (B) Funds disbursed to the County Aid Fund pursuant to
28 Section 2 of the Highway Improvement Revenue Act of 2007 shall be distributed
29 to the various counties as are other funds contained in the County Aid Fund
30 pursuant to subdivision ~~(a)(3)~~ (b)(3) of this section.

31 (3) The Treasurer of State shall on or before the tenth day next
32 following the last day of each calendar month make distribution of the
33 revenues on the following basis:

34 (A) Thirty-one percent (31%) of the amount according to
35 area, with each county to receive the proportion that its area bears to the
36 area of the state;

1 (B) Seventeen and one-half percent (17.5%) of the amount
 2 according to the amount of state motor vehicle license fees collected in the
 3 calendar year next preceding any distribution as certified to the Treasurer
 4 of State by the Director of the Department of Finance and Administration,
 5 with each county to receive the proportion that the total of fees collected
 6 from the county bears to the total of fees collected in the state;

7 (C) Seventeen and one-half percent (17.5%) of the amount
 8 according to population based upon the most recent federal decennial census,
 9 with each county to receive the proportion that its population bears to the
 10 population of the state;

11 (D) Thirteen and one-half percent (13.5%) of the amount
 12 according to rural population based upon the most recent federal decennial
 13 census, with each county to receive the proportion that its rural population
 14 bears to the rural population of the state; and

15 (E) Twenty and one-half percent (20.5%) of the amount
 16 shall be divided equally among the seventy-five (75) counties.

17 ~~(b)(1)(A)(c)(1)(A)~~ With the exception of those revenues transferred
 18 pursuant to Section 2 of the Highway Improvement Revenue Act of 2007, all
 19 highway revenues transferred to the Municipal Aid Fund under the provisions
 20 of this subchapter shall be paid over by the Treasurer of State to the
 21 treasurers of the respective cities of the first class, cities of the second
 22 class, and incorporated towns for credit to the street fund, there to be used
 23 for the maintenance, construction, and reconstruction of streets that are not
 24 continuations of state highways.

25 (B)~~(i)~~ Provided, however, that ~~cities with a population in~~
 26 ~~excess of fifty thousand (50,000) inhabitants may use no more than ten~~
 27 ~~percent (10%)~~ twenty percent (20%) of the revenues received by a city during
 28 any fiscal year may also be used for public transportation.

29 ~~(ii) All other cities may use no more than twenty~~
 30 ~~percent (20%) of the revenues for public transportation.~~

31 (C) A city may provide these funds to a regional mobility
 32 authority to match federal transportation funds for the financing of surface
 33 transportation system improvements on state highways, county roads, and city
 34 streets.

35 (2) The Treasurer of State shall on or before the tenth day next
 36 following the last day of each calendar month make distribution of the funds

1 on the basis of population according to the most recent federal census, with
2 the amount to be paid over to each city or incorporated town in the
3 proportion that its population bears to the total population of all cities
4 and towns.

5 (3)(A) Funds disbursed to the Municipal Aid Fund pursuant to
6 Section 2 of the Highway Improvement Revenue Act of 2007 may be expended by
7 the cities on any legitimate municipal purpose and are not limited to the
8 uses set forth in subdivision ~~(b)(1)~~ (c)(1) of this section.

9 (B) Funds disbursed to the Municipal Aid Fund pursuant to
10 Section 2 of the Highway Improvement Revenue Act of 2007 shall be distributed
11 to the various cities as are other funds contained in the Municipal Aid Fund
12 pursuant to subdivision ~~(b)(2)~~ (c)(2) of this section.

13 ~~(e)(1)~~(d)(1) All highway revenues transferred to the State Highway and
14 Transportation Department Fund under the provisions of this subchapter shall
15 be used for the construction, reconstruction, and maintenance of highways and
16 bridges in the state highway system.

17 (2)(A) However, the Arkansas State Highway and Transportation
18 Department may use highway revenues transferred to the State Highway and
19 Transportation Department Fund for the installation, upgrading, or
20 improvement of any highway-railroad crossing safety device, railroad crossing
21 traffic control device, warning lights, crossing gates, or other railroad
22 crossing safety devices at public highway railroad crossings and for the
23 construction, reconstruction, and maintenance of any highway-railroad
24 crossing, including the construction or installation of any underpasses or
25 overpasses.

26 (B) Except for the construction or installation of
27 underpasses or overpasses, the department's goal is to expend one dollar
28 (\$1.00) of state funds for each dollar of federal funds received to improve
29 railroad crossing safety and to reduce railroad crossing accidents.

30 (C) It is the intent of this subdivision ~~(e)(2)~~(d)(2) to
31 encourage the State Highway Commission to continue to upgrade the state's
32 highway-railway crossings with traffic control devices, warning lights,
33 crossing gates, and other appropriate devices in order to increase the safety
34 of persons using the state's highways.

35
36 SECTION 2. Arkansas Code § 10-4-304(12), concerning laws within the

1 purview of the Arkansas Governmental Compliance Act, Arkansas Code § 10-4-301
2 et seq., is amended to read as follows:

3 (12) Sections 26-79-104(b) and 27-70-207~~(b)~~(c);

4
5 SECTION 3. Arkansas Code § 27-64-203(5)(B), concerning the definition
6 of "designated revenues" under the Arkansas Highway Financing Act of 1999, is
7 amended to read as follows:

8 (B) Revenues derived from the increase in taxes levied on
9 distillate special fuels pursuant to § 26-56-201 and transferred to the State
10 Highway and Transportation Department Fund pursuant to § 27-70-207~~(e)~~(d) in
11 accordance with § 26-56-201 and § 26-55-1006; and

12
13 SECTION 4. Arkansas Code § 27-64-206(b)(2)(B), concerning the election
14 under the Arkansas Highway Financing Act of 1999, is amended to read as
15 follows:

16 (B) The bonds shall be general obligations of the State of
17 Arkansas, payable from certain designated revenues and also secured by the
18 full faith and credit of the State of Arkansas, including its general
19 revenues. Pursuant to this subchapter, the "Bond Act", the bonds will be
20 repaid first from revenues derived from federal highway assistance funding
21 allocated to the State of Arkansas designated as federal highway interstate
22 maintenance funds, and, if needed, that portion of national highway system
23 funds authorized by State Highway Commission Minute Order 98-214 adopted
24 September 22, 1998, and, second, from revenue derived from the increase in
25 the excise tax levied on distillate special fuels and diesel pursuant § 26-
26 56-201(e) and transferred to the State Highway and Transportation Department
27 Fund pursuant to § 27-70-207~~(e)~~(d) in accordance with § 26-56-201(f) and §
28 26-55-1006(d). To the extent that designated revenues are insufficient to
29 make timely payment of debt service on the bonds, such payment shall be made
30 from the general revenues of the State of Arkansas. The bonds shall be issued
31 pursuant to the authority of and the terms set forth in this subchapter.

32
33 SECTION 5. Arkansas Code § 27-64-206(b)(2)(D), concerning the election
34 under the Arkansas Highway Financing Act of 1999, is amended to read as
35 follows:

36 (D) Pursuant to this subchapter, "designated revenues" are

1 defined as that portion designated by the commission of all funds received or
2 to be received from the federal government of the United States as federal
3 highway interstate maintenance funds, and, if needed, that portion of
4 national highway system funds authorized by State Highway Commission Minute
5 Order 98-214 adopted September 22, 1998, and revenues derived from the
6 increase in taxes levied on distillate special fuels pursuant to § 26-56-
7 201(e) and transferred to the State Highway and Transportation Department
8 Fund pursuant to § 27-70-207~~(e)~~(d) in accordance with § 26-56-201(f) and §
9 26-55-1006(d). Designated revenues shall not include the revenues derived
10 from the increase in tax on motor fuel, gasoline, resulting from the Arkansas
11 Distillate Special Fuel Excise Tax Act of 1999 and the Motor Fuel Excise Tax
12 Act of 1999, §§ 26-55-1005, 26-55-1006, 26-56-201, and 27-72-305. The bonds
13 are further secured by the full faith and credit of the State of Arkansas,
14 and to the extent that designated revenues are insufficient to make timely
15 payment of debt service on the bonds, the general revenues of the state shall
16 be used to pay debt service on the bonds. Pursuant § 26-56-201, the excise
17 tax on distillate special fuels, in addition to the taxes levied pursuant to
18 §§ 26-56-201, 26-56-502, and 26-56-601, will increase by two cents (2¢) per
19 gallon on the April 1, 1999, and the additional tax levied by § 26-56-201(e)
20 shall increase to four cents (4¢) per gallon on the first anniversary of such
21 date.

22

23 SECTION 6. Arkansas Code § 27-64-211(a)(2)(B), concerning the sources
24 of repayment under the Arkansas Highway Financing Act of 1999, is amended to
25 read as follows:

26 (B) Revenues derived from the increase in taxes levied on
27 distillate special fuels pursuant § 26-56-201 and transferred to the State
28 Highway and Transportation Department Fund pursuant to § 27-70-207~~(e)~~(d) in
29 accordance with § 26-56-201(f) and § 26-55-1006(d).

30

31 SECTION 7. Arkansas Code § 27-64-405(b), concerning the election under
32 the Arkansas Highway Financing Act of 2007, is amended to read as follows:

33 (b) The notice of election shall state that the election is to be held
34 for the purpose of submitting to the people the following proposition in
35 substantially the form set forth in this subsection:

36 "Authorizing the State Highway Commission to issue State of Arkansas Federal

1 Highway Grant Anticipation and Tax Revenue Bonds (the 'Bonds') from time to
2 time provided that the total principal amount outstanding from the issuance
3 of such bonds, together with the total principal amount outstanding from the
4 issuance of bonds pursuant to the Arkansas Highway Financing Act of 1999, §
5 27-64-201 et seq., shall not, at any time, exceed five hundred seventy-five
6 million dollars (\$575,000,000). If approved, the bonds will be issued in one
7 or more series of various principal amounts with the last series being issued
8 no later than December 31, 2015. The bonds shall be issued for the purpose of
9 paying the cost of constructing and renovating improvements to interstate
10 highways and related facilities in the State of Arkansas.

11 "The bonds shall be general obligations of the State of Arkansas, payable
12 from certain designated revenues and also secured by the full faith and
13 credit of the State of Arkansas, including its general revenues. Pursuant to
14 the Arkansas Interstate Highway Financing Act of 2007 (the 'Bond Act'), § 27-
15 64-401 et seq., the bonds will be repaid first from: (1) revenues derived
16 from federal highway assistance funding allocated to the State of Arkansas
17 designated as federal highway interstate maintenance funds, and (2) revenue
18 derived from the increase in the excise tax levied on distillate special
19 fuels (diesel) pursuant to § 26-56-201(e) and transferred to the State
20 Highway and Transportation Department Fund pursuant to § 27-70-207~~(e)~~(d) in
21 accordance with § 26-55-1006(d). To the extent that designated revenues are
22 insufficient to make timely payment of debt service on the bonds, such
23 payment shall be made from the general revenues of the State of Arkansas. The
24 bonds shall be issued pursuant to the authority of and the terms set forth in
25 the Bond Act, § 27-64-401 et seq.

26 "Pursuant to the Bond Act, § 27-64-401 et seq., the highway improvements to
27 be financed are limited to the restoration and improvements to all of the
28 interstate highway system within the state, including roadways, bridges, or
29 rights-of-way under jurisdiction of the State Highway Commission, which shall
30 also include the acquisition, construction, reconstruction, and renovation of
31 such interstate highway system and facilities appurtenant or pertaining
32 thereto.

33 "Pursuant to the Bond Act, § 27-64-401 et seq., 'designated revenues' are
34 defined as: (1) that portion designated by the commission of all funds
35 received or to be received from the federal government as federal highway
36 interstate maintenance funds, and (2) revenues derived from the increase in

1 taxes levied on distillate special fuels pursuant to § 26-56-201(e) and
2 transferred to the State Highway and Transportation Department Fund pursuant
3 to Arkansas Code § 27-70-207~~(e)~~(d) in accordance with § 26-55-1005(d).
4 Designated revenues shall not include the revenues derived from the increase
5 in tax on motor fuel (gasoline) resulting from the ‘Arkansas Distillate
6 Special Fuel Excise Tax Act of 1999’ and the ‘Motor Fuel Excise Tax Act of
7 1999’, §§ 26-55-1005, 26-55-1006, 26-56-201, and 27-72-305. The bonds are
8 further secured by the full faith and credit of the State of Arkansas, and to
9 the extent ‘designated revenues’ are insufficient to make timely payment of
10 debt service on the bonds, the general revenues of the state shall be used to
11 pay debt service on the bonds.”

12
13 SECTION 8. Arkansas Code § 27-64-410 is amended to read as follows:

14 27-64-410. Sources of repayment.

15 The bonds shall be general obligations of the State of Arkansas secured
16 and payable from the designated revenues, as defined herein, and the general
17 revenues of the state. The bonds will be payable first from certain
18 designated revenues, specifically: (1) that portion designated by the State
19 Highway Commission of funds received or to be received from the federal
20 government as federal highway assistance funding allocated to the state
21 designated as federal highway interstate maintenance funds, and (2) revenues
22 derived from the increase in taxes levied on distillate special fuels
23 pursuant to section 2 of the “Arkansas Distillate Special Fuel Excise Tax Act
24 of 1999” and the “Motor Fuel Excise Tax Act of 1999”, §§ 26-55-1005, 26-55-
25 1006, 26-56-201, and 27-72-305 and transferred to the State Highway and
26 Transportation Department Fund pursuant to § 27-70-207~~(e)~~(d) in accordance
27 with § 26-55-1005(d). To the extent that designated revenues are insufficient
28 to make timely payment of debt service on the bonds, such payment shall be
29 made from the general revenues of the State of Arkansas. In order to secure
30 the payment of debt service, any trust instrument, resolution, or other
31 document setting forth the security for the bondholders may provide for the
32 direct payment of the federal highway assistance funds that are designated
33 revenues directly into a trust fund, or to a paying agent, for the payment of
34 debt service on the bonds and it shall not be necessary for such funds to be
35 deposited into the State Treasury.

36