

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

SENATE BILL 305

5 By: Senator J. Hutchinson
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE UNEMPLOYMENT TRUST FUND
9 FINANCING ACT OF 2011; TO ENSURE THE ECONOMIC
10 STABILITY OF THE STATE BY PROVIDING FOR BOND ISSUANCE
11 FOR THE UNEMPLOYMENT TRUST FUND; TO AUTHORIZE THAT
12 THE REPAYMENT OF THE BONDS BE GUARANTEED BY THE FULL
13 FAITH AND CREDIT OF THE STATE; AND FOR OTHER
14 PURPOSES.
15

Subtitle

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18 TO CREATE THE UNEMPLOYMENT TRUST FUND
19 FINANCING ACT OF 2011.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code Title 11, Chapter 10 is amended to add an
25 additional subchapter to read as follows:

26 Subchapter 10 – Unemployment Trust Fund Financing Act of 2011.
27

28 11-10-1001. Title.

29 This subchapter shall be known and cited as the "Unemployment Trust
30 Fund Financing Act of 2011".
31

32 11-10-1002. Legislative findings and intent.

33 The General Assembly finds that:

34 (1) With a recession or economic slowdown now underway, the
35 state's unemployment trust fund face higher claims levels and longer benefit
36 durations that accompany any economic downturn;



(2) The Arkansas Unemployment Trust Fund:

(A) Provides partial wage replacement to workers who find themselves out of work;

(B) Provides economic stability for a community when major unemployment occurs; and

(C) Encourages workers to remain in the community and to be available for work recalls by employers;

(3) The state is in debt to the federal government for unemployment funds paid to citizens of the State of Arkansas;

(4) The bonds should be payable from revenues raised by increasing the wage base; and

(5) The repayment of the bonds shall also be guaranteed by the full faith and credit of the state.

11-10-1003. Definitions.

As used in this subchapter:

(1) "Bonds" means the Arkansas Unemployment Trust Fund Bonds", as authorized in this subchapter; and

(2) "Debt service" means all amounts required for the payment of principal, interest, and premium, if any, due with respect to the bonds in any fiscal year along with all associated costs, including the fees and costs of paying agents and trustees, remarketing agent fees, credit enhancement costs, and other amounts necessary in connection with the bonds.

11-10-1004. Authorization – Purposes.

(a) The Director of the Department of Workforce Services is authorized, subject to the approval of the voters in a statewide election, to issue bonds to be known as Arkansas Unemployment Trust Fund Bonds in an amount to cover the debt owed to the federal government for Arkansas's portion of the federal Unemployment Trust Fund.

(b) The purpose of the bond issuance shall be to:

(1) Repay the federal Unemployment Trust Fund debt; and

(2) Pay the costs of issuance of the bonds, including the costs of bond issuance or other credit enhancement.

(c) The authorization to issue bonds shall not be ongoing, but shall be a one-time issuance of bonds in an amount not to exceed six hundred

1 million dollars (\$600,000,000).

3 11-10-1005. Governor proclamation.

4 (a) The Director of the Department of Workforce Services shall prepare
5 and distribute to the Governor a report that shall contain a plan for
6 repaying the federal Unemployment Trust Fund debt and the estimated time and
7 cost to repay the debt.

8 (b) Upon receipt of the report described in subsection (a) of this
9 section, the Governor shall, if the Governor deems it to be in the public
10 interest, by proclamation call an election on the question of issuing the
11 bonds.

13 11-10-1006. Election.

14 (a)(1) Arkansas Unemployment Trust Fund Bonds shall not be issued
15 under this subchapter unless the issuance of bonds has been approved by a
16 majority of the qualified electors of the state voting on the question at a
17 statewide election called by proclamation of the Governor as provided under §
18 11-10-1005.

19 (2)(A) An election under this section may be in conjunction with
20 a general election, or it may be a special election.

21 (B) A special election held under this section shall occur
22 on the second Tuesday of any month, except as otherwise provided for in this
23 subsection (a).

24 (C) A special election that is held in months in which a
25 presidential preferential primary election, preferential primary election,
26 general primary election, or general election is scheduled to occur shall be
27 held on the date of the presidential preferential primary election,
28 preferential primary election, general primary election, or general election.

29 (D)(i) If a special election is held on the date of the
30 presidential preferential primary election, preferential primary election, or
31 general primary election, the issue or issues to be voted upon at the special
32 election shall be included on the ballot of each political party.

33 (ii) However, separate ballots containing only the
34 issue or issues to be voted upon at the special election shall be prepared
35 and made available to voters requesting a separate ballot.

36 (iii) A voter shall not be required to vote in a

1 political party's presidential preferential primary election, preferential
2 primary election, or general primary election in order to be able to vote in
3 the special election.

4 (E) Special elections scheduled to occur in a month in
5 which the second Tuesday is a legal holiday shall be held on the third
6 Tuesday of the month.

7 (b)(1) Notice of the election shall be:

8 (A) Published by the Secretary of State in a newspaper of
9 general circulation in the state at least thirty (30) days prior to the
10 election; and

11 (B) Mailed to each county board of election commissioners
12 and the sheriff of each county at least sixty (60) days prior to the
13 election.

14 (2) The notice of election shall state that the election is to
15 be held for the purpose of submitting to the people the following proposition
16 in substantially the following form:

17
18 "Authorizing the Department of Workforce Services to issue Arkansas
19 Unemployment Trust Fund Bonds (the "Bonds") in a total principal amount not
20 to exceed six hundred million dollars (\$600,000,000). If approved, the bonds
21 will be issued in several series of various principal amounts from time to
22 time for the purpose of repaying the federal Unemployment Trust Fund debt.

23
24 "The bonds shall be general obligations of the State of Arkansas, payable
25 from certain designated revenues and also secured by the full faith and
26 credit of the State of Arkansas, including its general revenues. Pursuant to
27 the Unemployment Trust Fund Financing Act of 2011, ("the Bond Act"), the
28 bonds will be repaid from an increase in the wage base. To the extent that
29 designated revenues are insufficient to make timely payment of debt service
30 on the bonds, the payment shall be made from the general revenues of the
31 State of Arkansas. The bonds shall be issued under the authority of and the
32 terms set forth in the Bond Act."

33
34 (c) The ballot title shall be "Issuance of Arkansas Unemployment Trust
35 Fund Bonds and pledge of full faith and credit of the State of Arkansas". On
36 each ballot there shall be printed the title, the proposition set forth in

1 subdivision (b)(2) of this section, and the following:

2
3 “FOR issuance of Arkansas Unemployment Trust Fund Bonds in an amount not
4 to exceed \$600,000,000 and the pledge of the full faith and credit of the
5 State of Arkansas to further secure the bonds.....[]

6
7 “AGAINST issuance of Arkansas Unemployment Trust Fund Bonds in an amount
8 not to exceed \$600,000,000 and the pledge of the full faith and credit of the
9 State of Arkansas to further secure the bonds[]”

10
11 (d)(1) Each county board of election commissioners shall hold and
12 conduct the election and may take any action with respect to the appointment
13 of election officials and other matters as required by the laws of the state.

14 (2)(A) The vote shall be canvassed and the result of the vote
15 declared in each county by the board.

16 (B) Within ten (10) days after the date of the election,
17 the results shall be certified by the boards to the Secretary of State, who
18 shall tabulate all returns received and certify to the Governor the total
19 vote for and against the proposition submitted pursuant to this subchapter.

20 (e)(1) The result of the election shall be proclaimed by the Governor
21 by the publication of a proclamation one (1) time in a newspaper of general
22 circulation in the State of Arkansas.

23 (2) The results as proclaimed shall be conclusive unless a
24 complaint challenging the proclaimed results is filed in Pulaski County
25 Circuit Court within thirty (30) days after the date of the publication.

26 (f)(1) If a majority of the qualified electors voting on the
27 proposition vote in favor of the proposition, the Director of the Department
28 of Workforce Servies shall proceed with the issuance of the bonds in the
29 manner and on the terms set forth in this subchapter.

30 (2) If a majority of the qualified electors voting on the
31 proposition vote against the issuance of the bonds, the director shall have
32 no authority to issue bonds.

33 (g) Subsequent elections may be called by the Governor if the
34 proposition fails, but each such subsequent election may be held no earlier
35 than six (6) months after the date of the preceding election.

1 11-10-1007. Procedure for issuing Arkansas Unemployment Trust Fund
2 Bonds.

3 (a) Prior to the issuance of any series of Arkansas Unemployment Trust
4 Fund Bonds, the Director of the Department of Workforce Services shall adopt
5 a resolution authorizing the issuance of the series of bonds.

6 (b) Each resolution adopted under this section shall contain the
7 terms, covenants, and conditions as are deemed desirable and consistent with
8 this subchapter, including without limitation those pertaining to:

9 (1) The establishment and maintenance of funds and accounts;

10 (2) The deposit and investment of the bond proceeds; and

11 (3) The rights and obligations of the state, its officers and
12 officials, the director, and the registered owners of the bonds.

13 (c)(1) The resolutions of the Department of Workforce Services may
14 provide for the execution and delivery by the director of a trust indenture
15 or trust indentures, with one (1) or more banks or trust companies located
16 within or without the state, containing any of the terms, covenants, and
17 conditions required under subsection (b) of this section and any other terms
18 and conditions deemed necessary by the director.

19 (2) The trust indenture or trust indentures shall be binding
20 upon the department and the state, and their respective officers and
21 officials.

22 (d)(1) The director shall submit to the Legislative Council the
23 selection of review bond company, bond council, or other provider.

24 (2) The review shall occur prior to entering into a contract
25 with the review bond company, bond council, or other provider.

26
27 11-10-1008. Terms of bonds.

28 The Arkansas Unemployment Trust Fund Bonds are subject to the following
29 terms and conditions:

30 (1)(A) The bonds shall be issued in series in amounts sufficient
31 to finance all or part of the repayment of the federal Unemployment Trust
32 Fund debt.

33 (B) The respective series of bonds shall be designated by
34 the year in which the bonds are issued.

35 (C) If more than one (1) series of bonds is to be issued
36 in a particular year, the series shall be designated alphabetically;

1 (2)(A) The bonds of each series shall have the date or dates as
2 the Director of the Department of Workforce Services determines.

3 (B) The bonds shall mature or be subject to mandatory
4 sinking fund redemption over a period ending not later than twelve (12) years
5 after the date of issue of each series;

6 (3)(A) The bonds of each series shall bear interest at the rate
7 or rates determined by the director at the sale of the bonds.

8 (B) The bonds may bear interest at either a fixed or a
9 variable rate or may be convertible from one (1) interest rate mode to
10 another.

11 (C) The interest shall be payable at the times as the
12 director shall determine.

13 (D) The interest rate on the bonds shall not exceed the
14 federal interest rate;

15 (4) The bonds shall be issued in the form of bonds registered as
16 to both principal and interest without coupons;

17 (5) The director shall determine:

18 (A) The denominations of the bonds;

19 (B) Whether the bonds may be made exchangeable for bonds
20 of another form or denomination bearing the same rate of interest;

21 (C) When the bonds may be made payable and the places
22 within or without the state where the bonds may be payable;

23 (D) Whether the bonds may be made subject to redemption
24 prior to maturity and the manner of and prices for redemption; and

25 (E) Any other terms and conditions; and

26 (6)(A) Each bond shall be executed with the facsimile signatures
27 of the director and shall have affixed or imprinted thereon the seal of the
28 state.

29 (B) Delivery of the bonds executed shall be valid
30 notwithstanding any change in the persons holding the offices occurring after
31 the bonds have been executed.

32
33 11-10-1009. Sale of bonds.

34 (a) The Arkansas Unemployment Trust Fund Bonds may be sold in any
35 manner, either at private or public sale, and upon terms as the Director of
36 the Department of Workforce Services shall determine to be reasonable and

1 expedient for effecting the purposes of this subchapter.

2 (b)(1) If the bonds are to be sold at public sale, the director shall
3 give notice of the offering of the bonds in a manner reasonably designed to
4 notify participants in the public finance industry that such offering is
5 being made.

6 (2) The director shall set the terms and conditions of bidding,
7 including the basis on which the winning bid will be selected.

8 (c) The director may structure the sale of bonds utilizing financing
9 techniques that are recommended by the director's professional advisors in
10 order to take advantage of market conditions and obtain the most favorable
11 interest rates consistent with the purposes of this subchapter.

12 (d) The director may enter into any ancillary agreements in connection
13 with the sale of the bonds as he or she deems necessary and advisable,
14 including without limitation bond purchase agreements, remarketing
15 agreements, and letter of credit and reimbursement agreements.

16
17 11-10-1010. Employment of professionals.

18 The Director of the Department of Workforce Services may employ and
19 retain any professionals that he or she deems necessary to accomplish the
20 issuance and sale of the Arkansas Unemployment Trust Fund Bonds, including
21 without limitation legal counsel, financial advisors, underwriters, trustees,
22 paying agents, and remarketing agents.

23
24 11-10-1011. Sources of repayment.

25 (a) The Arkansas Unemployment Trust Fund Bonds shall be general
26 obligations of the State of Arkansas, secured and payable from the designated
27 revenues and the general revenues of the state.

28 (b) The bonds shall be payable first from revenues derived from the
29 increase in the wage base as promulgated by the Department of Workforce
30 Services.

31 (c) If the amount of designated revenues is insufficient to make
32 timely payment of debt service on the bonds, the payment shall be made from
33 the general revenues of the State of Arkansas.

34 (d)(1) In order to secure the payment of debt service, any trust
35 instrument, resolution, or other document for the security for the
36 bondholders may provide for the direct payment of the increase in wage base

1 funds that are designated revenues directly into a trust fund or to a paying
2 agent for the payment of debt service on the bonds.

3 (2) It is not necessary for the funds to be deposited into the
4 State Treasury.

5
6 11-10-1012. Investment of proceeds.

7 (a) Any designated revenues and any proceeds of the Arkansas
8 Unemployment Trust Fund Bonds held pending repayment of the federal
9 Unemployment Trust Fund debt shall be invested by the Director of the
10 Department of Workforce Services to the full extent practicable pending
11 disbursement for the purposes intended.

12 (b) The investments shall be in accordance with the terms of the
13 resolution or trust indenture authorizing or securing the series of bonds to
14 which the designated revenues or bond proceeds appertain to the extent that
15 the terms of such resolution or trust indenture are applicable.

16
17 11-10-1013. Refunding bonds.

18 (a) The Director of the Department of Workforce Services may issue the
19 Arkansas Unemployment Trust Fund Bonds for the purpose of refunding bonds
20 previously issued under this subchapter, if the total amount of bonds
21 outstanding after the refunding is completed does not exceed the total amount
22 authorized by this subchapter.

23 (b) The refunding bonds shall be special obligations of the State of
24 Arkansas, secured as set forth in this subchapter, and shall be secured and
25 sold in accordance with the provisions of this subchapter.

26
27 11-10-1014. Liability.

28 (a) The Director of the Department of Workforce Services shall not be
29 liable personally for any reason arising from the issuance of bonds pursuant
30 to this subchapter unless he or she acts with corrupt intent.

31
32 11-10-1015. Tax exemption.

33 (a) All Arkansas Unemployment Trust Fund Bonds issued under this
34 subchapter and interest on the bonds shall be exempt from all taxes of the
35 State of Arkansas, including income, inheritance, and property taxes.

36 (b) The bonds shall be eligible to secure deposits of all public funds

1 and shall be legal for investment of municipal, county, bank, fiduciary,
2 insurance company, and trust funds.

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