

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

*As Engrossed: S4/3/13*

# A Bill

SENATE BILL 824

5 By: Senator D. Johnson  
6 By: Representative Williams  
7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE ENABLING LEGISLATION FOR AMENDMENT  
10 89 TO THE ARKANSAS CONSTITUTION RELATING TO ENERGY  
11 EFFICIENCY BONDS AUTHORIZED BY STATE ENTITIES; TO  
12 PROVIDE FOR THE AUTHORIZATION AND ISSUANCE OF BONDS  
13 FOR ENERGY EFFICIENCY PROJECTS; TO ALLOW THE ARKANSAS  
14 DEVELOPMENT FINANCE AUTHORITY TO ISSUE BONDS AT THE  
15 REQUEST OF A STATE ENTITY FOR ENERGY EFFICIENCY  
16 PROJECTS; TO REGULATE ENERGY EFFICIENCY PROJECT  
17 *BONDS; AND FOR OTHER PURPOSES.*

## Subtitle

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21 TO PROVIDE ENABLING LEGISLATION FOR  
22 AMENDMENT 89 TO THE ARKANSAS CONSTITUTION  
23 RELATING TO ENERGY EFFICIENCY BONDS  
24 AUTHORIZED BY STATE ENTITIES.  
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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29 SECTION 1. Arkansas Code Title 15, Chapter 5, is amended to add an  
30 additional subchapter to read as follows:

31 Subchapter 18 –

32 State Entity Energy Efficiency Project Bond Act

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34 15-5-1801. Title.

35 This subchapter shall be known as the “State Entity Energy Efficiency  
36 Project Bond Act”.



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15-5-1802. Purpose.

(a) The purpose of this subchapter is to provide financing for energy efficiency projects for state entities under Amendment 89 to the Arkansas Constitution.

(b) It is found and determined that:

(1) This subchapter is in furtherance of a public purpose; and

(2) The duties imposed upon the state entities and the Arkansas Development Finance Authority in this subchapter are in furtherance of the conservation of the environment, efficient government spending, and the protection of the public health, welfare, and safety.

15-5-1803. Definitions.

As used in this subchapter:

(1) "Bonds" means all bonds, notes, certificates, financing leases, or other interest-bearing instruments or evidences of indebtedness that are issued under this subchapter;

(2) "Energy efficiency project" means an improvement, repair, alteration, or renovation of a new building design or an existing building or facility owned or operated by a state entity or any equipment, fixture, or furnishing to be added to or used in a building or facility owned or operated by a state entity that is designed to reduce energy consumption or operating costs; and

(3) "State entity" means:

(A) The state; and

(B) An agency, board, commission, or instrumentality of the state.

15-5-1804. Issuance of bonds.

(a) Upon the request of a state entity, the Arkansas Development Finance Authority may issue bonds for the purpose of:

(1) Providing financing or refinancing for an energy efficiency project;

(2) Refunding bonds issued under this subchapter; and

(3) Paying the costs of issuing the bonds.

(b)(1) The bonds may be:

1 (A) Secured by a pledge of the savings derived from the  
2 energy efficiency project; and

3 (B) Paid from general revenues, special revenues, revenues  
4 derived from taxes, or any other revenues available to the state entity.

5 (2) A state entity may pledge or assign any guaranteed energy  
6 savings contract to secure the bonds.

7 (3) A state entity may enter into a long-term loan agreement  
8 with the authority to secure the bonds.

9 (4) Notwithstanding any law to the contrary, a state entity may  
10 use maintenance and operations appropriations to pay for an energy efficiency  
11 project.

12 (c)(1)(A) Bonds issued under this subchapter shall:

13 (i) Be authorized by a resolution of the state  
14 entity and the Board of Directors of the Arkansas Development Finance  
15 Authority; and

16 (ii) Have the form and characteristics and bear the  
17 designations provided in the resolution and permitted under this chapter,  
18 including without limitation §§ 15-5-301 – 15-5-317.

19 (B) The resolution under subdivision (c)(1)(A)(i) of this  
20 section may include the provisions and covenants that the state entity or the  
21 board determines to be necessary.

22 (2) The board may:

23 (A) Require additional proceedings; and

24 (B) Approve and have executed any other proceedings,  
25 agreements, trust agreements, or other instruments necessary or convenient to  
26 the issuance of the bonds.

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28 15-5-1805. Terms and conditions.

29 (a) The Arkansas Development Finance Authority shall be the issuer of  
30 bonds for energy efficiency projects under this subchapter.

31 (b)(1) The authority shall not issue bonds under this subchapter  
32 unless:

33 (A) A state entity has:

34 (i) Applied for approval; and

35 (ii) Submitted a resolution to the authority  
36 authorizing the issuance of bonds.

1                   (B) The authority determines that the energy savings to be  
2 realized from the energy efficiency project and other available revenues are  
3 sufficient to fund the requested bond issue.

4                   (2)(A) Upon approval, the authority shall proceed with the  
5 issuance of the bonds under this subchapter.

6                   (B) If the bonds are not approved, the state entity may  
7 resubmit a request for approval of the issuance of bonds, and a resubmitted  
8 request shall be handled in the same manner as the initial request under this  
9 section.

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11                   15-5-1806. Tax exemption.

12                   The interest on the bonds issued under this subchapter shall be exempt  
13 from state, county, and municipal income, inheritance, and estate taxes.

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15                   15-5-1807. Refunding bonds.

16                   (a) The Arkansas Development Finance Authority may provide by  
17 resolution for the issuance of refunding bonds to refund outstanding bonds  
18 issued under this subchapter and any accrued interest on those bonds.

19                   (b) The authority may:

20                   (1) Sell the refunding bonds and use the proceeds to retire the  
21 outstanding bonds issued under this subchapter;

22                   (2) Exchange the refunding bonds for the outstanding bonds; and

23                   (3) Refund the bonds in the manner provided by any other  
24 applicable statute.

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26                   15-5-1808. Applicability.

27                   This subchapter:

28                   (1) Applies only to the following governmental units:

29                   (A) The state; and

30                   (B) An agency board, commission, or instrumentality of the  
31 state; and

32                   (2) Does not apply to the following governmental units:

33                   (A) A county, municipality, school district, or other  
34 political subdivision of the state;

35                   (B) A special assessment or taxing district established  
36 under the laws of the state; and

1                   (C) An agency, board, commission, or instrumentality of an  
2 entity listed in subdivisions (2)(A) or (2)(B) of this section.

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4                   15-5-1809. Subchapter supplemental to other laws.

5                   This subchapter is:

6                   (1) Supplemental to other laws on the subject, and the Arkansas  
7 Development Finance Authority may use provisions of other applicable laws in  
8 the issuance of bonds and other obligations under this subchapter; and

9                   (2) Sufficient authority for the issuance of bonds and the  
10 performance of all other acts and procedures authorized by this subchapter.

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12                   15-5-1810. Rules.

13                   The Arkansas Development Finance Authority may promulgate rules to  
14 implement this subchapter.

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16                   SECTION 2. Arkansas Code § 15-5-103, concerning the definitions to be  
17 used under the Arkansas Development Finance Authority Act, is amended to add  
18 an additional subdivision to read as follows:

19                   (25) "Energy efficiency project" means the same as defined under  
20 the State Entity Energy Efficiency Project Bond Act, § 15-5-1801 et seq.

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22                   SECTION 3. Arkansas Code § 15-5-207(b)(10)(A), concerning the rights,  
23 powers, privileges, and duties of the Arkansas Development Finance Authority,  
24 is amended to read as follows:

25                   (10)(A) To issue bonds to provide financing for a specific  
26 activity or particular project authorized ~~herein~~ under this chapter or to  
27 provide on a pooled or consolidated basis financing for activities or  
28 projects authorized ~~hereunder which~~ under this chapter that shall be secured  
29 by and payable solely from the bonds, lease payments, or other obligations  
30 issued by or payable to the state agencies, political subdivisions of the  
31 state, or others for whose benefit the authority may issue bonds, and the  
32 security and sources of payments thereof.

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34                   SECTION 4. Arkansas Code § 15-5-301(a)(1), concerning the Arkansas  
35 Development Finance Authority's power to issue bonds, is amended to read as  
36 follows:

1 (a)(1) The Arkansas Development Finance Authority is authorized and  
2 empowered to issue bonds ~~from time to time~~, whether or not the interest on  
3 the bonds is subject to federal income taxation, either for a specific  
4 activity or for a particular project or on a pooled or consolidated basis for  
5 a series of related or unrelated activities or projects in such amounts as  
6 shall be determined by the authority for the purpose of enhancing the Public  
7 School Fund or financing qualified agricultural business enterprises, capital  
8 improvement facilities, educational facilities, health care facilities,  
9 housing developments, industrial enterprises, exports of goods and short-term  
10 advance funding of local government obligations, scientific and technical  
11 services businesses, technology-based enterprises, tourism enterprises,  
12 nonprofit organizations, energy efficiency projects, or any combination of  
13 those facilities or enterprises, or any interest in facilities, including,  
14 without limitation, leasehold interests in and mortgages on those facilities.  
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16 *SECTION 5. Arkansas Code § 19-4-522(d)(1)(S), as created by Section 1*  
17 *of Act 554 of 2013 and concerning maintenance and operations*  
18 *subclassifications and expenses, is amended to read as follows:*

19 *(S) Debt service on equipment or measures required by a*  
20 *guaranteed energy cost savings contract executed under the Guaranteed Energy*  
21 *Cost Savings Act, § 19-11-1201 et seq., or an energy efficiency project*  
22 *financed under the State Entity Energy Efficiency Act, § 15-5-1801 et seq.;*  
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24 *SECTION 6. Arkansas Code § 19-11-1208, as created by Section 7 of Act*  
25 *554 of 2013, is amended to read as follows:*

26 *19-11-1208. Use of maintenance and operation appropriations.*

27 *(a) Notwithstanding any law to the contrary, a state agency may*  
28 *utilize maintenance and operations appropriations for the payment of*  
29 *equipment and energy cost savings measures required by a guaranteed energy*  
30 *cost savings contract.*

31 *(b) An energy cost savings measure shall be treated as an energy*  
32 *efficiency project under Arkansas Constitution, Amendment 89.*  
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34 */s/D. Johnson*  
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