

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1726

5 By: Representative D. Douglas
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE ARKANSAS HIGHWAY MAINTENANCE AND
9 CONSTRUCTION BOND ACT OF 2017; TO AUTHORIZE BY A VOTE
10 OF THE PEOPLE THE STATE HIGHWAY COMMISSION TO ISSUE
11 GENERAL OBLIGATION BONDS; TO REQUIRE THAT THE BONDS
12 BE ISSUED FOR THE PURPOSES OF MAINTAINING, REPAIRING,
13 RENOVATING, AND CONSTRUCTING HIGHWAYS, ROADS, AND
14 BRIDGES FOR THE CITIZENS OF THE STATE OF ARKANSAS; TO
15 REQUIRE THAT THE BONDS BE PAID FIRST FROM DESIGNATED
16 REVENUES FROM FUEL TAXES LEVIED BY THE GENERAL
17 ASSEMBLY TO BE USED FOR THAT PURPOSE; TO AUTHORIZE
18 THE REPAYMENT OF BONDS TO BE GUARANTEED BY THE FULL
19 FAITH AND CREDIT OF THE STATE; TO PROVIDE A TIME
20 PERIOD DURING WHICH THE ARKANSAS STATE HIGHWAY
21 COMMISSION MAY ISSUE BONDS UNDER THIS ACT; TO
22 PRESCRIBE THE TERMS AND CONDITIONS OF THE ISSUANCE OF
23 THE BONDS; TO PROVIDE FOR A STATEWIDE ELECTION ON THE
24 QUESTION OF ISSUING THE BONDS; TO DECLARE AN
25 EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

26
27
28 TO CREATE THE ARKANSAS HIGHWAY
29 MAINTENANCE AND CONSTRUCTION BOND ACT OF
30 2017; AND TO DECLARE AN EMERGENCY.
31
32
33

34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
35

36 SECTION 1. Arkansas Code Title 27, Chapter 64 is amended to add a new



1 subchapter to read as follows:

2 Subchapter 6 – Arkansas Highway Maintenance and Construction Bond Act of 2017

3
4 27-64-601. Title.

5 This subchapter shall be known and may be cited as the “Arkansas
6 Highway Maintenance and Construction Bond Act of 2017”.

7
8 27-64-602. Legislative findings.

9 The General Assembly finds that:

10 (1) There is an immediate need for highway maintenance and
11 improvements throughout the State of Arkansas in order to provide for the
12 safety, health, and welfare of the citizens of the state and to promote
13 private-sector job creation and advance general economic development within
14 the state;

15 (2) Although progress has been made in improving the condition
16 of the highways of this state, further improvements are needed to promote
17 private-sector job creation and advance the economic welfare of the state;

18 (3) Continued improvement of the state highway system is
19 necessary, and the best way to accomplish the improvements expeditiously is
20 through the issuance of additional general obligation bonds to finance
21 highway improvements;

22 (4) Bonds should be payable from revenues designated to the 2017
23 Highway Maintenance and Construction Bond Account within the State Highway
24 and Transportation Department Fund under §§ 26-64-101 and 26-64-102 and other
25 funds made available by appropriation from the General Assembly for that
26 purpose; and

27 (5) The repayment of the bonds should be guaranteed by the full
28 faith and credit of the state.

29
30 27-64-603. Definitions.

31 As used in this subchapter:

32 (1) “Bonds” means the 2017 Arkansas Highway Maintenance and
33 Construction Bonds authorized and issued under this subchapter;

34 (2) “Debt service” means all amounts required for the payment of
35 principal, interest, and premium, if any, due with respect to bonds in any
36 fiscal year along with all associated costs, including without limitation the

1 fees and costs of paying agents and trustees, remarketing agent fees, credit
 2 enhancement costs, and other amounts necessary in connection with the bonds;

3 (3) "Designated revenues" means:

4 (A) The portion of funds received or to be received from
 5 amounts deposited in accordance with state law into the 2017 Highway
 6 Maintenance and Construction Bond Account of the State Highway and
 7 Transportation Department Fund from the taxes levied under §§ 26-64-101 and
 8 26-64-102; and

9 (B) Any other funds appropriated by the General Assembly
 10 for repayment of the bonds; and

11 (4) "Highway improvements" or "highway improvement projects"
 12 means the maintenance, restoration, rehabilitation, improvements, and
 13 construction of the highway systems within Arkansas, including without
 14 limitation roadways, bridges, facilities, or rights-of-way under the
 15 jurisdiction of the State Highway Commission.

16
 17 27-64-604. Authorization – Purposes – Sunset.

18 (a)(1) Subject to the one-time approval of the voters in a statewide
 19 election, the State Highway Commission may issue bonds as authorized under
 20 this subchapter.

21 (2) The bonds shall be issued in one (1) or more series of
 22 various principal amounts.

23 (b) The purposes of the bonds are to:

24 (1) Finance the maintenance, preservation, reconstruction, or
 25 renovation of existing highways within the State of Arkansas;

26 (2) Accelerate highway improvement projects already underway or
 27 planned;

28 (3) Fund construction of new highway improvement projects where
 29 necessary; and

30 (4) Pay the costs of issuance of the bonds or other credit
 31 enhancements.

32 (c) The authority of the commission to issue bonds under this
 33 subchapter shall begin on April 1, 2018, and shall expire on March 31, 2038.

34
 35 27-64-605. Election.

36 (a)(1) Bonds shall not be issued under this subchapter unless the

1 authority of the State Highway Commission to issue the bonds is approved by a
2 majority of the qualified electors of the state voting on the question at a
3 statewide election called by proclamation of the Governor.

4 (2) The election may be in conjunction with a general election,
5 or it may be a special election.

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

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

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

12 (2) The notice of election provided under this subsection shall
13 state that the election is to be held for the purpose of submitting to the
14 people the following proposition in substantially the following form:

15 “Authorizing the State Highway Commission to issue 2017 Arkansas
16 Highway Maintenance and Construction Bonds. If approved, the bonds will be
17 issued in several series of various principal amounts from time to time, for
18 the purpose of paying the cost of maintaining, resurfacing, repairing,
19 widening, or reconstructing existing highways within the state and
20 constructing new highways where necessary.

21 “The bonds shall be general obligations of the State of Arkansas,
22 payable from certain designated revenues, including particularly and without
23 limitation a wholesale sales tax on motor fuel and a wholesale sales tax on
24 special motor fuel tax. The wholesale sales tax on motor fuel and the
25 wholesale sales tax on special motor fuel have already been enacted but will
26 not become effective unless the issuance of bonds is approved by a vote of
27 the people. The bonds are also secured by the full faith and credit of the
28 State of Arkansas, including its general revenues.

29 “Under the Arkansas Highway Maintenance and Construction Bond Act of
30 2017 (the “Bond Act”), the bonds will be repaid first from:

31 (1) Revenues derived from the taxes levied in Arkansas Code §§
32 26-64-101 and 26-64-102 that are deposited into the 2017 Highway Maintenance
33 and Construction Bond Account within the State Highway and Transportation
34 Department Fund; and

35 (2) Other revenues provided by the General Assembly for use in
36 paying the bonds.

1 To the extent that designated revenues are insufficient to make timely
2 payment of debt service on the bonds, the payment shall be made from the
3 general revenues of the State of Arkansas. The bonds shall be issued under
4 the authority of and the terms stated in the Bond Act.”

5 (c) The ballot title shall be “Issuance of 2017 Arkansas Highway
6 Maintenance and Construction Bonds and pledge of the full faith and credit of
7 the State of Arkansas”.

8 (d) On each ballot there shall be printed the title, the proposition
9 stated in subdivision (b)(2) of this section, and the following:

10 “FOR authorizing the State Highway Commission to issue 2017 Arkansas Highway
11 Maintenance and Construction Bonds for the improvement of existing highways
12 and construction of new highways where necessary; such bonds to be issued in
13 one (1) or more series of various principal amounts; the debt service on the
14 bonds to be paid with “designated revenues” as defined in the Arkansas
15 Highway Maintenance and Construction Bond Act of 2017; such designated
16 revenues consisting of taxes that have already been enacted by the General
17 Assembly but will not become effective unless the issuance of bonds is
18 approved by a vote of the people; and the pledge of the full faith and credit
19 of the State of Arkansas to further secure the bonds. . . []”

20 “AGAINST authorizing the State Highway Commission to issue 2017 Arkansas
21 Highway Maintenance and Construction Bonds for the improvement of existing
22 highways and construction of new highways where necessary; such bonds to be
23 issued in one (1) or more series of various principal amounts; the debt
24 service on the bonds to be paid with “designated revenues” as defined in the
25 Arkansas Highway Maintenance and Construction Bond Act of 2017; such
26 designated revenues consisting of taxes that have already been enacted by the
27 General Assembly but will not become effective unless the issuance of bonds
28 is approved by a vote of the people; and the pledge of the full faith and
29 credit of the state of Arkansas to further secure the bonds. . . []”

30 (e)(1) Each county board of election commissioners shall hold and
31 conduct the election required under this section and may take any action with
32 respect to the appointment of election officials and other matters as
33 required by the laws of the state.

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

36 (B) Within ten (10) days after the date of the election,

1 the results shall be certified by the county boards of election commissioners
2 to the Secretary of State, who shall tabulate all returns received and
3 certify to the Governor the total vote for and against the proposition
4 submitted under this section.

5 (f)(1) The result of the election held under this section shall be
6 proclaimed by the Governor by the publication of the proclamation one (1)
7 time in a newspaper of general circulation in the State of Arkansas.

8 (2) The results as proclaimed shall be conclusive unless a
9 complaint is filed challenging the results in Pulaski County Circuit Court
10 within thirty (30) days after the date of the publication under subdivision
11 (f)(1) of this section.

12 (g) If a majority of the qualified electors voting on the proposition
13 submitted under this section vote:

14 (1) In favor of the proposition, the commission may issue bonds
15 in the manner and on the terms stated in this subchapter; or

16 (2) Against the proposition, the commission shall not issue
17 bonds.

18
19 27-64-606. Procedure for issuing bonds.

20 (a) Before any series of bonds are issued under this subchapter, the
21 State Highway Commission shall adopt a resolution authorizing the issuance of
22 the series of bonds.

23 (b) Each resolution adopted under this section shall contain the
24 terms, covenants, and conditions that are desirable and consistent with this
25 subchapter, including without limitation terms pertaining to the
26 establishment and maintenance of funds and accounts, the deposit and
27 investment of bond proceeds, and the rights and obligations of the state,
28 officers and officials of the state, the commission, and the registered
29 owners of the bonds.

30 (c)(1) A resolution of the commission under this section may provide
31 for the execution and delivery by the commission of a trust indenture or
32 trust indentures with one (1) or more banks or trust companies located within
33 or without the state, containing any of the terms, covenants, and conditions
34 required under subsection (b) of this section and any other terms and
35 conditions deemed necessary by the commission.

36 (2) The trust indenture or trust indentures are binding upon the

1 commission, the state, and the officers and officials of the commission and
2 the state.

3
4 27-64-607. Terms of bonds.

5 The bonds are subject to the following terms and conditions:

6 (1)(A) The bonds shall be issued in series in amounts sufficient
7 to finance all or part of the costs of highway improvements.

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

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

12 (2)(A) The bonds of each series shall have the date or dates
13 determined by the State Highway Commission.

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

17 (C) Refunding bonds issued under § 26-64-612 shall mature
18 or be subject to mandatory sinking fund redemption over a period not ending
19 later than twelve (12) years after the date of issue of the original bonds of
20 each series;

21 (3)(A) The bonds of each series shall bear interest at the rate
22 or rates determined by the commission at the sale of the bonds.

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

26 (C) The interest shall be payable at the times determined
27 by the commission;

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

30 (5) The commission shall determine:

31 (A) The denominations of the bonds;

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

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

36 (D) Whether the bonds may be made subject to redemption

1 before maturity and the manner of and prices for redemption; and

2 (E) Any other terms and conditions; and

3 (6)(A) Each bond shall be executed with the facsimile signatures
4 of the Chair of the State Highway Commission and the secretary of the
5 commission, and the seal of the commission shall be affixed or imprinted on
6 the bond.

7 (B) Delivery of executed bonds shall be valid
8 notwithstanding any change in the persons holding the offices stated in
9 subdivision (6)(A) of this section that occurs after the bonds have been
10 executed.

11
12 27-64-608. Sale of bonds.

13 (a)(1) The bonds may be sold in any manner, either at private or
14 public sale, and upon any terms determined by the State Highway Commission to
15 be reasonable and expedient for effecting the purposes of this subchapter.

16 (2)(A) The bonds may be sold at a price acceptable to the
17 commission.

18 (B) The price for which the bonds are sold may include a
19 discount or premium.

20 (b)(1) If the bonds are to be sold at public sale, the commission
21 shall give notice of the offering of the bonds in a manner reasonably
22 designed to notify participants in the public finance industry that the
23 offering is being made.

24 (2) The commission shall set the terms and conditions of
25 bidding, including without limitation the basis on which the winning bid will
26 be selected.

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

31 (d) The commission may enter into any ancillary agreements in
32 connection with the sale of the bonds as it deems necessary and advisable,
33 including without limitation bond purchase agreements, remarketing
34 agreements, and letter of credit reimbursement agreements.

35
36 27-64-609. Employment of professionals.

1 The State Highway Commission may retain any professionals necessary to
2 accomplish the issuance and sale of bonds under this subchapter, including
3 without limitation legal counsel, financial advisors, underwriters, trustees,
4 paying agents, and remarketing agents.

5
6 27-64-610. Sources of repayment.

7 (a) The bonds shall be general obligations of the State of Arkansas
8 secured and payable from the designated revenues and the general revenues of
9 the state.

10 (b) The bonds shall be payable first from designated revenues.

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

14
15 27-64-611. Investment of proceeds.

16 (a) Designated revenues and proceeds of the bonds held pending
17 disbursement on highway improvements shall be invested by the State Highway
18 Commission to the full extent practicable pending disbursement for the
19 purposes intended.

20 (b) Notwithstanding any other provision of law, investments by the
21 commission under this section shall be in accordance with the terms of the
22 resolution or trust indenture authorizing or securing the series of bonds to
23 which the designated revenues or bond proceeds appertain to the extent that
24 the terms of the resolution or trust indenture are applicable.

25
26 27-64-612. Refunding bonds.

27 (a) The State Highway Commission may issue bonds for the purpose of
28 refunding bonds previously issued under this subchapter.

29 (b) The refunding bonds shall be general obligations of the State of
30 Arkansas and shall be secured and sold in accordance with this subchapter.

31
32 27-64-613. Tax exemption – Security.

33 (a) All bonds issued under this subchapter and interest on the bonds
34 are exempt from all taxes of the State of Arkansas, including without
35 limitation 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.

3
4 27-64-614. Powers of the State Highway Commission.

5 (a) All powers granted to the State Highway Commission under this
6 subchapter are in addition to the powers of the commission under Arkansas
7 Constitution, Amendment 42, and the laws of the State of Arkansas.

8 (b) A member of the commission shall not be liable personally for any
9 reason arising from the issuance of bonds under this subchapter unless the
10 member acts with corrupt intent.

11
12 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
13 General Assembly of the State of Arkansas that there is an immediate need for
14 the maintenance, repair, rehabilitation, reconstruction, and expansion of
15 highways, roads, bridges, and appurtenant structures within the State of
16 Arkansas; that these needs cannot be financed with the current funding
17 available to the Arkansas State Highway and Transportation Department; that
18 necessary funding may be obtained by the issuance of bonds to finance the
19 needed repairs; that the issuance of the necessary bonds must be approved by
20 the voters of the state; that time is of the essence, and adequate time will
21 be needed to call and hold an election regarding the issuance of the
22 necessary bonds; and that this act is immediately necessary to provide the
23 necessary funding for necessary highway improvements through the issuance of
24 bonds following the affirmative vote of the people at an election called in
25 accordance with the provision of the Arkansas Constitution. Therefore, an
26 emergency is declared to exist, and this act being immediately necessary for
27 the preservation of the public peace, health, and safety shall become
28 effective on:

29 (1) The date of its approval by the Governor;

30 (2) If the bill is neither approved nor vetoed by the Governor,
31 the expiration of the period of time during which the Governor may veto the
32 bill; or

33 (3) If the bill is vetoed by the Governor and the veto is
34 overridden, the date the last house overrides the veto.