

Stricken language would be deleted from and underlined language would be added to present law.

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

*As Engrossed: H3/10/17*

# 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; AND FOR OTHER*  
25 *PURPOSES.*  
26  
27

## Subtitle

28  
29 *TO CREATE THE ARKANSAS HIGHWAY*  
30 *MAINTENANCE AND CONSTRUCTION BOND ACT OF*  
31 *2017.*  
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 *the 2018*  
19 *general* election, the State Highway Commission may issue bonds as authorized  
20 under 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, 2019, and shall expire on March 31, 2039.

34  
35 27-64-605. Election.

36 (a) 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 the  
3 2018 general election.

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

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

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

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

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

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

27 “Under the Arkansas Highway Maintenance and Construction Bond Act of  
28 2017 (the “Bond Act”), the bonds will be repaid first from:

29 (1) Revenues derived from the taxes levied in Arkansas Code §§  
30 26-64-101 and 26-64-102 that are deposited into the 2017 Highway Maintenance  
31 and Construction Bond Account within the State Highway and Transportation  
32 Department Fund; and

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

35 To the extent that designated revenues are insufficient to make timely  
36 payment of debt service on the bonds, the payment shall be made from the

1 general revenues of the State of Arkansas. The bonds shall be issued under  
2 the authority of and the terms stated in the Bond Act.”

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

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

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

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

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

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

34 (B) Within ten (10) days after the date of the election,  
35 the results shall be certified by the county boards of election commissioners  
36 to the Secretary of State, who shall tabulate all returns received and

1 certify to the Governor the total vote for and against the proposition  
2 submitted under this section.

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

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

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

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

14 (2) Against the proposition, the commission shall not issue  
15 bonds.

16  
17 27-64-606. Procedure for issuing bonds.

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

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

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

34 (2) The trust indenture or trust indentures are binding upon the  
35 commission, the state, and the officers and officials of the commission and  
36 the state.

1  
2 27-64-607. Terms of bonds.

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

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

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

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

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

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

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

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

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

24 (C) The interest shall be payable at the times determined  
25 by the commission;

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

28 (5) The commission shall determine:

29 (A) The denominations of the bonds;

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

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

34 (D) Whether the bonds may be made subject to redemption  
35 before maturity and the manner of and prices for redemption; and

36 (E) Any other terms and conditions; and

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

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

9  
10       27-64-608. Sale of bonds.

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

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

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

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

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

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

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

33  
34       27-64-609. Employment of professionals.

35       The State Highway Commission may retain any professionals necessary to  
36 accomplish the issuance and sale of bonds under this subchapter, including



1 without limitation legal counsel, financial advisors, underwriters, trustees,  
2 paying agents, and remarketing agents.

3  
4 27-64-610. Sources of repayment.

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

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

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

12  
13 27-64-611. Investment of proceeds.

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

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

23  
24 27-64-612. Refunding bonds.

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

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

29  
30 27-64-613. Tax exemption – Security.

31 (a) All bonds issued under this subchapter and interest on the bonds  
32 are exempt from all taxes of the State of Arkansas, including without  
33 limitation income, inheritance, and property taxes.

34 (b) The bonds shall be eligible to secure deposits of all public funds  
35 and shall be legal for investment of municipal, county, bank, fiduciary,  
36 insurance company, and trust funds.

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

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

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

*/s/D. Douglas*