

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1825

5 By: Representative Davis
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE ARKANSAS AMENDMENT 82
9 IMPLEMENTATION ACT; TO CLARIFY DEFINITIONS USED UNDER
10 THE ARKANSAS AMENDMENT 82 IMPLEMENTATION ACT; TO
11 SPECIFY THAT THE FIVE PERCENT (5%) LIMITATION ON
12 BONDING AMENDMENT 82 PROJECTS IS BASED ON GENERAL
13 REVENUES; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 TO AMEND THE ARKANSAS AMENDMENT 82
17 IMPLEMENTATION ACT.
18
19
20

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

23 SECTION 1. Arkansas Code § 15-4-3202(1), concerning the definitions
24 used under the Arkansas Amendment 82 Implementation Act, is amended to read
25 as follows:

26 (1) "Amendment 82 agreement" means a contract between the state
27 and a sponsor under which the state is to provide Amendment 82 bond financing
28 in exchange for the sponsor's agreeing to make an investment and to locate a
29 new business or substantially expand an existing business in the State of
30 Arkansas in accordance with the requirements of Arkansas Constitution,
31 Amendment 82, and this subchapter. At a minimum, the agreement shall contain
32 the following provisions:

33 (A) The infrastructure needs or other needs, or both, to
34 be provided by the state in support of the qualified Amendment 82 project and
35 financed under Arkansas Constitution, Amendment 82, and this subchapter;

36 (B) A description of all other economic incentives to be



1 provided by the state in connection with the qualified Amendment 82 project;

2 (C) The commitments of the sponsor, if any, with regard to
 3 investment and job creation associated with the qualified Amendment 82
 4 project, including timetables for meeting and maintaining any investment and
 5 job creation requirements;

6 (D) The agreement of the sponsor to make all specified
 7 records pertaining to the sponsor's commitments available for annual audit by
 8 the Chief Fiscal Officer of the State and, upon request, but no more often
 9 than annually, by the Office of Economic and Tax Policy of the Bureau of
 10 Legislative Research or a person or entity retained by the office;

11 (E) Performance benchmarks and economic goals of the
 12 qualified Amendment 82 project; and

13 (F) The penalties to be applied if the sponsor does not
 14 satisfy its commitments under the Amendment 82 agreement;

15
 16 SECTION 2. Arkansas Code § 15-4-3202(10), concerning the definitions
 17 used under the Arkansas Amendment 82 Implementation Act, is amended to read
 18 as follows:

19 (10) "~~Gross general~~ General revenues" means the revenues of the
 20 state described and enumerated in § 19-6-201 or in any successor law;

21
 22 SECTION 3. Arkansas Code § 15-4-3202(16), concerning the definitions
 23 used under the Arkansas Amendment 82 Implementation Act, is repealed.

24 ~~(16) "Net general revenues" means the amount specified in § 19-~~
 25 ~~5-202(b)(2)(B)(iii), otherwise known as net general revenues of the state~~
 26 ~~available for distribution;~~

27
 28 SECTION 4. Arkansas Code § 15-4-3202(21), concerning the definitions
 29 used under the Arkansas Amendment 82 Implementation Act, is amended to read
 30 as follows:

31 (21) "Project costs" means:

32 (A) All or any part of the costs of ~~developing~~
 33 infrastructure needs or other needs for a proposed or qualified Amendment 82
 34 project and costs incidental or appropriate to the proposed or qualified
 35 Amendment 82 project, including, without limitation, ~~all~~;

36 (i) All costs incurred by the sponsor in developing

1 a proposed project or qualified Amendment 82 project, whether before or after
 2 the Amendment 82 agreement has been executed and bonds have been issued under
 3 this subchapter; and

4 (ii) All costs to the commission associated with the
 5 development or operation of a qualified Amendment 82 project in a supervisory
 6 capacity; and

7 (B) Costs incidental or appropriate to the financing of
 8 the proposed or qualified Amendment 82 project, including, without
 9 limitation:

- 10 (i) Capitalized interest;
- 11 (ii) Costs of issuance;
- 12 (iii) Funding of appropriate reserves for the bonds;
- 13 (iv) Loan fees;
- 14 (v) Guarantee fees;
- 15 (vi) Commitment fees;
- 16 (vii) Grant administration fees;
- 17 (viii) Surety bond premiums;
- 18 (ix) Bond insurance;
- 19 (x) Credit enhancement;
- 20 (xi) Fees of nationally recognized rating agencies;
- 21 (xii) Liquidity facilities fees; and
- 22 (xiii) Costs for engineering, legal, and other
 23 administrative and consultant services;

24
 25 SECTION 5. Arkansas Code § 15-4-3203(e) and (f), concerning Amendment
 26 82 project qualification under the Arkansas Amendment 82 Implementation Act,
 27 are amended to read as follows:

28 (e) If the authority's initial assessment is that Amendment 82 bond
 29 financing for the proposed project is feasible, the authority shall notify
 30 the commission, and the commission shall refer the proposal and the findings
 31 of the commission and the authority to the Chief Fiscal Officer of the State
 32 for review of the impact of the proposed Amendment 82 bond financing on any
 33 agency or program supported from the ~~gross~~ general revenues under the Revenue
 34 Stabilization Law, § 19-5-101 et seq.

35 (f) If the Chief Fiscal Officer of the State's initial assessment is
 36 that the proposed Amendment 82 financing will not have a substantially

1 negative impact on any agency or program supported from ~~gross~~ general
 2 revenues, then:

3 (1) The Chief Fiscal Officer of the State shall notify the
 4 commission; and

5 (2) The commission shall make a formal proposal to the sponsor
 6 detailing the state's proposed offer with respect to Amendment 82 financing
 7 and all other economic incentives offered by the state in connection with the
 8 proposed project.

9
 10 SECTION 6. Arkansas Code § 15-4-3207 is amended to read as follows:

11 15-4-3207. Maximum ceiling on bond principal.

12 (a) In determining the maximum amount of Amendment 82 bonds that may
 13 be issued, the sum of the outstanding bonded indebtedness plus the principal
 14 amount of the proposed Amendment 82 bonds shall not exceed five percent (5%)
 15 of the ~~net~~ general revenues ~~for~~ collected during the most recent fiscal year
 16 for which revenue calculations are available.

17 (b) It ~~shall not be~~ is not a violation of Arkansas Constitution,
 18 Amendment 82, or this subchapter ~~or~~ and does not affect the validity of
 19 Amendment 82 bonds that were properly issued if:

20 (1) ~~Net-general~~ General revenues decline after Amendment 82
 21 bonds are issued; and

22 (2) The outstanding bonded indebtedness exceeds five percent
 23 (5%) of the ~~net~~ general revenues ~~for~~ collected during the most recent fiscal
 24 year for which revenue calculations are available.

25 (c) Amendment 82 bonds that when issued complied with the five-percent
 26 limitation may be refunded under Arkansas Constitution, Amendment 82, and
 27 this subchapter even if the outstanding bonded indebtedness before or after
 28 the refunding exceeds five percent (5%) of the ~~net~~ general revenues ~~for~~
 29 collected during the most recent fiscal year for which revenue calculations
 30 are available.

31
 32 SECTION 7. Arkansas Code § 15-4-3214(b)(1), concerning general
 33 obligation bonds under the Arkansas Amendment 82 Implementation Act, is
 34 amended to read as follows:

35 (b)(1) The bonds shall be payable from ~~gross~~ general revenues or
 36 special revenues, which shall be appropriated by the General Assembly for

1 that purpose, and the amount of ~~gross~~ general revenues or, if applicable,
 2 special revenues as may be necessary are pledged to the payment of debt
 3 service on the bonds and shall be and remain pledged for those purposes.
 4

5 SECTION 8. Arkansas Code § 15-4-3215(a) and (b), concerning the
 6 annual determination of moneys required for bond repayment, under the
 7 Arkansas Amendment 82 Implementation Act, are amended to read as follows:

8 (a)(1) On or before commencement of each fiscal year, the Chief Fiscal
 9 Officer of the State shall determine the estimated amount required for
 10 payment of all or a part of the debt service on the outstanding bonded
 11 indebtedness during the fiscal year and deduct therefrom the estimated moneys
 12 to be available from special revenues or to the Arkansas Development Finance
 13 Authority from other sources related to the qualified Amendment 82 project to
 14 determine what amount of ~~gross~~ general revenues, if any, will be required.

15 (2) The Chief Fiscal Officer of the State shall certify the
 16 estimated amount to the Treasurer of State.

17 (3) The Treasurer of State shall then make monthly transfers
 18 from the State Apportionment Fund to the appropriate trust fund of the amount
 19 of ~~gross~~ general revenues or, if applicable, special revenues ~~as shall be~~
 20 required to pay the maturing debt service on the outstanding bonded
 21 indebtedness.

22 (b)(1) The obligation to make monthly transfers of general revenues
 23 from the State Apportionment Fund to the appropriate trust fund shall
 24 constitute a first charge against the ~~gross~~ general revenues prior to all
 25 other uses to which the general revenues are devoted, either under present
 26 law or under any laws that may be enacted in the future.

27 (2) To the extent other general obligation bonds of the state
 28 may have been issued or may subsequently be issued, the bonds shall rank on a
 29 parity of security with respect to payment from general revenues.
 30
 31

32 **APPROVED: 03/20/2015**