

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: S2/14/97 S2/21/97 S2/26/97

A Bill

ACT 690 OF 1997
SENATE BILL 379

4
5 By: Senator Scott
6
7

For An Act To Be Entitled

8
9 "AN ACT RELATING TO REGIONAL INTERMODAL FACILITIES
10 AND LOCAL GOVERNMENTS, PROVIDING FOR COOPERATIVE
11 ESTABLISHMENT OF REGIONAL INTERMODAL FACILITIES
12 AND REGIONAL INTERMODAL FACILITY AUTHORITIES BY
13 COUNTIES AND MUNICIPALITIES; TO DECLARE AN
14 EMERGENCY; AND FOR OTHER PURPOSES."
15

Subtitle

16
17 "TO PROVIDE FOR REGIONAL INTERMODAL
18 FACILITIES."
19

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

22 SECTION 1. TITLE. This Act may be cited as the "Regional Intermodal
23 Facilities Act."
24

25 SECTION 2. DEFINITIONS. As used in this Act, unless the context
26 otherwise requires:

27 (1) "Authority" means any authority created under the provisions of
28 this Act;

29 (2) "Municipality" or "municipal corporation" means a city of the first
30 class, a city of the second class, or an incorporated town;

31 (3) "Governing body" means the council, board of directors, or city
32 commission of any municipality or the county court of any county;

33 (4) "Equip" means to install or place on or in any building or
34 structure, equipment of any and every kind, whether or not affixed, including,
35 without limiting the generality of the foregoing, building service equipment,

1 fixtures, heating equipment, air conditioning equipment, machinery, furniture,
2 furnishings, and personal property of every kind;

3 (5) "Sell" means to sell for such price, in such manner, and upon such
4 terms as the authority shall determine including, without limiting the
5 generality of the foregoing, private or public sale; and if public, pursuant
6 to such advertising as the authority shall determine, sale for cash or credit
7 payable in lump sum, or in installments over such period as the authority
8 shall determine; and if on credit, with or without interest and at such rate
9 or rates as the authority shall determine;

10 (6) "Lease" means to lease for such rentals, for such period or
11 periods, and upon such terms and conditions as the authority shall determine,
12 including, without limiting the generality of the foregoing, the granting of
13 such renewal or extension options for such rentals, for such periods, and upon
14 such terms and conditions as the authority shall determine and the granting of
15 such purchase options for such prices and upon such terms and conditions as
16 the authority shall determine;

17 (7) "Construct" means to acquire or build, in whole or in part, in such
18 manner and by such method, including contracting therefor, and if the latter,
19 by negotiation or bids upon such terms and pursuant to such advertising, as
20 the authority shall determine to be in the public interest and necessary under
21 the circumstances existing at the time to accomplish the purposes of and
22 authorities set forth in this Act;

23 (8) "Facilities" or "property" or "properties" means any real property,
24 personal property, or mixed property of any and every kind that can be used,
25 or that will be useful, to accomplish the purposes of, and powers set forth
26 in, this Act including, without limiting the generality of the foregoing,
27 rights-of-way, roads, streets, utilities, materials, equipment, fixtures,
28 machinery, furnishings, furniture, instrumentalities, and other real,
29 personal, or mixed property of every kind;

30 (9) "County" means any county in this state;

31 (10) "State" means the State of Arkansas;

32 (11) "Person" means any natural person, partnership, corporation,
33 association, organization, business trust, and public or private person or
34 entity;

35 (12) "Intermodal" means more than one mode of interconnected movement
36 of freight, commerce, or passengers;

1 (13) "Mode" means railway, highway, air, pipeline, waterway, transit,
2 and communication systems and related means of movement of freight, commerce,
3 or passengers; and

4 (14) 'Basic local exchange service' means the service provided to the
5 premises of residential or business customers composed of the following:

6 (a) voice grade access to the public switched network, with
7 ability to place and receive calls,

8 (b) touch tone service availability,

9 (c) flat rate residential local service and business local
10 service,

11 (d) access to emergency services (911/E911) where provided by
12 local authorities,

13 (e) access to basic operator services,

14 (f) a standard white page directory listing,

15 (g) access to basic local directory assistance,

16 (h) access to long distance toll service providers, and

17 (i) the minimum service quality as established and required by
18 the Public Service Commission on the effective date of Act 77.

19
20 SECTION 3. ESTABLISHMENT OF AUTHORITIES. (a)(1) Any two (2) or more
21 municipalities, any two (2) or more contiguous counties, or any one (1) or
22 more municipalities together with any one (1) or more contiguous counties, are
23 authorized to create and establish an authority as prescribed in this Act for
24 the purpose of acquiring, equipping, constructing, maintaining, and operating
25 regional intermodal facilities.

26 (2) No county or municipality shall participate in such authority
27 unless and until its governing body so provides by ordinance, and enters into
28 an agreement with the other participating governmental units establishing the
29 terms and conditions for the operation of the authority within the limitations
30 provided in this Act and such other laws of the State of Arkansas as may be
31 applicable.

32 (b) To the extent that it is consistent with this Act, the agreement
33 shall specify the information provided for in § 25-20-104(c).

34 (c) The agreement shall be filed with the Secretary of State.

35
36 SECTION 4. AUTHORITY AS PUBLIC CORPORATION. (a) Each authority when

1 created, and the members thereof, shall constitute a public corporation and,
2 as such, shall have perpetual succession, may contract and be contracted with,
3 sue and be sued, and have and use a common seal.

4 (b) The exercise of the powers and performance of duties provided for in
5 this Act by each authority and its officers, agents, and employees are
6 declared to be public and governmental functions, exercised for a public
7 purpose and matters of public necessity, conferring upon each authority
8 governmental immunity from suit in tort.

9
10 SECTION 5. APPOINTMENT OF BOARD. (a) Subject to such limitations as
11 may be contained in the agreement provided for in Section 3 of this Act, the
12 management and control of each authority and its property, operations,
13 business, and affairs shall be lodged in a board of not less than six (6) nor
14 more than twenty-four (24) persons who shall be appointed for terms of six (6)
15 years each as hereinafter provided.

16 (b) The number of members that each of the participating governmental
17 units is entitled to appoint to the board shall be set forth in the agreement
18 provided for in Section 3 of this Act. However, each of the participating
19 governmental units shall be entitled to appoint at least one (1) member to the
20 board. Appointments shall be made by the mayor of each participating
21 municipality and the county judge of each participating county.

22 (c) The members of the authority shall have staggered terms, as provided
23 in the agreement establishing the authority, as follows: One-third (1/3) of
24 the members for six-year terms; one-third (1/3) of the members for four-year
25 terms; and one-third (1/3) of the members for two-year terms. Thereafter, all
26 appointments shall be for six-year terms.

27 (d) All members of the board appointed by the participating
28 municipalities and counties shall be bona fide residents and qualified
29 electors of the county or municipality which the members represent.

30
31 SECTION 6. VACANCY ON BOARD. (a) If any member of an authority dies,
32 resigns, is removed, or for any other reason ceases to be a member of the
33 authority, the mayor or the county judge, as appropriate to the governmental
34 unit which the member represented, shall appoint another person to fill the
35 unexpired portion of the term of the member.

36 (b) A member of the authority once qualified shall not be removed during

1 his appointment except for cause by the mayor or the county judge, as
2 appropriate to the governmental unit which the member represents, or upon such
3 other conditions as shall be set forth in the agreement establishing the
4 authority.

5
6 SECTION 7. COMPENSATION PROHIBITED. REIMBURSEMENT OF EXPENSES. (a) No
7 member of the board of an authority shall receive any compensation, whether in
8 form of salary, per diem allowance, or otherwise, for or in connection with
9 his services as a member.

10 (b) Each member shall, however, be entitled to reimbursement by the
11 authority for any necessary expenditures in connection with the performance of
12 his general duties as a member.

13
14 SECTION 8. FACILITIES AUTHORIZED. Each authority is authorized and
15 empowered to acquire, equip, construct, maintain, and operate an intermodal
16 facility and appurtenant facilities or properties so located to best serve the
17 region in which they are located. Each authority is further authorized and
18 empowered to acquire, equip, construct, maintain, and operate industrial,
19 warehouse, distribution and related types of facilities, including education,
20 training, office and support facilities, located at or near an intermodal
21 facility for the purpose of securing and developing industry.

22
23 SECTION 9. POWERS OF AUTHORITY GENERALLY. (a) Each authority is given
24 power and authority as follows:

25 (1) To make and adopt all necessary bylaws, rules, and regulations
26 for its organization and operations not inconsistent with law;

27 (2) To elect its own officers, to appoint committees, and to
28 employ and fix the compensation for personnel necessary for its operation;

29 (3) To enter into contracts with any person, governmental
30 department, firm, or corporation, including both public and private
31 corporations, and generally to do any and all things necessary or convenient
32 for the purpose of acquiring, equipping, constructing, maintaining, improving,
33 extending, financing, and operating an intermodal facility including, without
34 limitation, railway-highway terminals, highway-railway terminals, shipping
35 facilities, railroad sidings, turnouts, spur branches, switches, yards tracks,
36 bridges and trestles, parks for industrial facilities, buildings, warehouses,

1 utilities, highways, roads, streets, roadways and approaches, bulk loading and
2 unloading facilities, elevators, tipples, compresses, refrigeration storage
3 plants, transfer equipment, and related improvements and facilities as it may
4 deem feasible for the expeditious and efficient handling of freight, commerce,
5 and passengers to and from any other part of the State or any other state and
6 foreign countries to best serve the region in which it is located;

7 (4) To assume the rights and responsibilities of the municipality
8 with respect to all existing and future permits and franchises with public
9 utilities for the supplying of public utility service to be intermodal
10 facility;

11 (5) To delegate any authority given to it by law to any of its
12 officers, committees, agents, or employees;

13 (6) To apply for, receive, and use grants-in-aid, donations, and
14 contributions from any source, including, but not limited to, the federal
15 government, or any agency thereof, and the State of Arkansas, or any agency
16 thereof, and to accept and use bequests, devises, gifts, and donations from
17 any person, firm, or corporation;

18 (7) To acquire lands and hold title thereto in its own name;

19 (8) To acquire, own, hold, lease as lessor or as lessee, sell,
20 encumber, dispose of, or otherwise deal in and with any facilities or real,
21 personal, or mixed property, wherever located;

22 (9) To borrow money and execute and deliver negotiable notes,
23 mortgage bonds, other bonds, debentures, and other evidences of indebtedness
24 therefor, and give such security therefor as shall be requisite, including
25 giving a mortgage or deed of trust on its properties and facilities in
26 connection with the issuance of mortgage bonds;

27 (10) To raise funds by the issuance and sale of revenue bonds in
28 the manner and according to the terms set forth in this Act;

29 (11) To expend its funds in the execution of the powers and
30 authorities given in this Act and to invest and reinvest any of its funds
31 pending need therefor;

32 (12) To apply for, receive, and use loans, grants, donations,
33 technical assistance, and contributions from any agency of the federal
34 government or the State of Arkansas;

35 (13) To constitute the authority, or a committee thereof, as
36 improvement district commissioners and to create and operate an improvement

1 district, composed of the area encompassed within the jurisdictions of the
2 participating governing bodies, upon the petition of persons claiming to be
3 two-thirds (2/3) in value of the owners of real property in the area, as shown
4 by the last county assessment. The improvement district shall be for the
5 purpose of financing the construction, reconstruction, or repair of the
6 regional intermodal facilities. The creation and operation of an improvement
7 district shall, to the extent consistent with this Act, be in accordance with
8 the procedures established by the laws of this state for the creation and
9 operation of municipal improvement districts;

10 (14) To enforce all rules, regulations, and statutes relating to
11 its intermodal facilities;

12 (15) To plan, establish, develop, construct, enlarge, improve,
13 maintain, equip, operate, and regulate its intermodal facilities and auxiliary
14 services and facilities, and to establish minimum building codes and
15 regulations and to protect and police the intermodal facilities and other
16 facilities of the authority, in cooperation with the law enforcement agencies
17 and officers having jurisdiction in the area where the facilities of the
18 authority are located;

19 (16) To levy and collect a tax or fee, which tax or fee shall be
20 levied upon and collected from the shippers, transporters, or other users
21 loading or unloading freight, commerce or passengers at the terminal or other
22 facilities of the authority, and the authority is empowered to make reasonable
23 classifications of such shippers, transporters, or users for this purpose;

24 (17) To receive real and personal property from the United States
25 for intermodal facilities and related purposes, by donation, purchase, lease
26 or otherwise, and subject to such conditions and requirements relating thereto
27 as the United States may require and to which the authority may agree;

28 (18) To apply to the proper authorities of the United States
29 pursuant to appropriate law for the right to establish, operate, and maintain
30 foreign trade zones within the area of jurisdiction of the member
31 municipalities and/or counties and to establish, operate, and maintain such
32 foreign trade zones;

33 (19) To promote, advertise, and publicize the authority and its
34 facilities; provide information to shippers, transporters, users, operators
35 and other commercial interests; and to represent and promote the interests of
36 the authority; and

1 (20) To take such other action, not inconsistent with law, as may
2 be necessary or desirable to carry out the powers and authorities conferred by
3 this Act and the intent and purposes of it.

4 (b) The enumeration of these powers shall not limit or circumscribe the
5 broad objectives and purposes of this Act and the broad objectives of
6 developing to the utmost, intermodal facilities and necessary and desirable
7 related facilities or properties, in order to stimulate commercial
8 development.

9 (c) Nothing herein, however, authorizes this Authority or any
10 municipality, county, or state to provide, directly or indirectly, basic local
11 exchange service.

12
13 SECTION 10. ISSUANCE OF REVENUE BONDS. AUTHORIZATION. (a) Authorities
14 are authorized to use any available revenues for the accomplishment of the
15 purposes and the implementation of the powers authorized by this Act,
16 including the proceeds of revenue bonds issued from time to time pursuant to
17 the provisions of this Act, either alone or together with other available
18 funds and revenues.

19 (b) The amount of each issue of bonds issued may be sufficient to pay:

20 (1) The costs of accomplishing the purposes for which it is being
21 issued;

22 (2) The cost of issuing the bonds;

23 (3) The amount necessary for a reserve, if it is determined to be
24 desirable in favorably marketing the bonds;

25 (4) The amount, if any, necessary to provide for debt service on
26 the bonds until revenues for the payment thereof are available; and

27 (5) Any other costs and expenditures of whatever nature incidental
28 to the accomplishment of the specified purposes.

29
30 SECTION 11. ISSUANCE OF REVENUE BONDS. RESOLUTION OF AUTHORITY.
31 NATURE OF BONDS. (a) The issuance of revenue bonds shall be by resolution of
32 the authority.

33 (b) The bonds of each issue may:

34 (1) Be coupon bonds payable to bearer or may be registrable as to
35 principal only or as to both principal and interest;

36 (2) Be in such form and denominations;

1 (3) Be made payable at such places within or without the state;
2 (4) Be issued in one (1) or more series;
3 (5) Bear such date or dates;
4 (6) Mature at such time or times, not exceeding forty (40) years
5 from their respective dates;
6 (7) Bear interest at such rate or rates;
7 (8) Be payable in such medium of payment;
8 (9) Be subject to such terms of redemption; and
9 (10) Contain such terms, covenants, and conditions as the
10 resolution authorizing their issuance may provide including, without
11 limitation, those pertaining to:
12 (A) The custody and application of the proceeds of the
13 bonds;
14 (B) The collection and disposition of revenues;
15 (C) The maintenance and investment of various funds and
16 reserves;
17 (D) The imposition and maintenance of taxes, fees, rates and
18 charges for the use of the terminal and other facilities;
19 (E) The nature and extent of the security;
20 (F) The rights, duties, and obligations of the authority and
21 the trustee for the holders and registered owners of the bonds; and
22 (G) The rights of the holders and registered owners of the
23 bonds.
24 (c)(1) There may be successive bond issues for the purpose of financing
25 the same project. There may also be successive bond issues for financing the
26 cost of reconstructing, replacing, constructing additions to, extending,
27 improving, and equipping projects already in existence, whether or not
28 originally financed by bonds issued under this Act, with each successive issue
29 to be authorized as provided by this Act.
30 (2) Priority between and among issues and successive issues as to
31 security, the pledge of revenues and lien on and security interest in the
32 land, buildings, and facilities involved, may be controlled by the resolutions
33 authorizing the issuance of bonds under this Act.
34 (d) Subject to the provisions of this Section and Sections 10 and 12
35 through 18 of this Act pertaining to registration, the bonds shall have all
36 the qualities of negotiable instruments under the laws of the State of

1 Arkansas.

2

3 SECTION 12. ISSUANCE OF REVENUE BONDS. INDENTURE. (a) The resolution
4 authorizing the bonds may provide for the execution by the authority of an
5 indenture which defines the rights of the holders and registered owners of the
6 bonds and provides for the appointment of a trustee for the holders and
7 registered owners of the bonds.

8 (b) Indenture may control the priority between successive issues and may
9 contain any other terms, covenants, and conditions that are deemed desirable,
10 including, without limitation, those pertaining to:

11 (1) The custody and application of the proceeds of the bonds;

12 (2) The collection and disposition of revenues;

13 (3) The maintenance of various funds and reserves;

14 (4) The imposition and maintenance of taxes, fees, rates and
15 charges for the use of regional intermodal facilities and other facilities of
16 the authority;

17 (5) The nature and extent of the security;

18 (6) The rights, duties, and obligations of the authority and the
19 trustee; and

20 (7) The rights of the holders and registered owners of the bonds.

21

22 SECTION 13. ISSUANCE OF REVENUE BONDS. PRICE AND MANNER SOLD. The
23 bonds may be sold for such price, including sale at a discount, and in such
24 manner as the authority may determine by resolution.

25

26 SECTION 14. ISSUANCE OF REVENUE BONDS. EXECUTION. (a)(1) The bonds
27 shall be executed by the manual or facsimile signatures of the chairman and
28 secretary of the authority.

29 (2) In case any of the officers whose signatures appear on the
30 bonds or coupons shall cease to be such officers before the delivery of the
31 bonds or coupons, their signatures shall nevertheless be valid and sufficient
32 for all purposes.

33 (b) The coupons attached to the bonds may be executed by the facsimile
34 signature of the chairman of the authority.

35

36 SECTION 15. ISSUANCE OF REVENUE BONDS. OBLIGATION OF AUTHORITY. (a)

1 The revenue bonds issued under this Act shall be obligations only of the
2 authority and shall not be general obligations of any county or municipality,
3 or the state.

4 (b)(1) In no event shall the revenue bonds constitute an indebtedness of
5 any county or municipality, or the state within the meaning of any
6 constitutional or statutory limitation.

7 (2) It shall be plainly stated on the face of each bond that it
8 has been issued under the provisions of this Act and that it does not
9 constitute an indebtedness of any county or municipality, or the state within
10 any constitutional or statutory limitation.

11 (c) The principal of and interest on the bonds may be secured, to the
12 extent set forth in the resolution or indenture securing the bonds, by a
13 pledge of and payable from all or any part of revenues derived from the use of
14 facilities of the authority, including, without limitation:

15 (1) Revenues derived from rates and charges imposed and maintained
16 for the use of facilities of the authority;

17 (2) Revenues derived from taxes or fees levied under subsection
18 (15) of Section 9 of this Act; and

19 (3) Lease rentals under leases or payments under security
20 agreements or other instruments entered into under this Act.

21

22 SECTION 16. ISSUANCE OF REVENUE BONDS. REFUNDING BONDS. (a)(1)
23 Revenue bonds may be issued under this Act for the purpose of refunding any
24 obligations issued under this Act.

25 (2) The refunding bonds may be combined with bonds issued into a
26 single issue.

27 (b)(1) When bonds are issued under this section for refunding purposes,
28 the bonds may either be sold or delivered in exchange for the outstanding
29 obligations.

30 (2) If sold, the proceeds may be either applied to the payment of
31 the obligations refunded or deposited in escrow for the retirement of them.

32 (c)(1) All refunding bonds issued under this Act shall, in all respects,
33 be authorized, issued, and secured in the manner provided for other bonds
34 issued under this Act and shall have all the attributes of these bonds.

35 (2) The resolution under which these refunding bonds are issued
36 may provide that any of the refunding bonds shall have the same priority of

1 lien on the revenues pledged for their payment as was enjoyed by the
2 obligations refunded by them.

3

4 SECTION 17. ISSUANCE OF REVENUE BONDS. MORTGAGE LIEN. (a) The
5 resolution or indenture securing the bonds may impose a forecloseable mortgage
6 lien upon or security interest in the facilities of the authority, or any
7 portion thereof, and the extent of the mortgage lien or security interest may
8 be controlled by the resolution or indenture including, without limitation,
9 provisions pertaining to the release of all or part of the facilities subject
10 to the mortgage lien or security interest in the event of successive issues of
11 bonds.

12 (b) Subject to the terms, conditions, and restrictions contained in the
13 resolution or indenture, any holder of any of the bonds, or of any coupon
14 attached thereto, or a trustee on behalf of the holders may, either at law or
15 in equity, enforce the mortgage lien or security interest and may, by proper
16 suit, compel the performance of the duties of the officials of the authority
17 set forth in this Act and set forth in the resolution or indenture.

18

19 SECTION 18. ISSUANCE OF REVENUE BONDS. DEFAULT. (a)(1) In the event
20 of a default in the payment of the principal of or interest on any bonds
21 issued under this Act, any court having jurisdiction may appoint a receiver to
22 take charge of any facilities upon or in which there is a mortgage lien or
23 security interest securing the bonds in default.

24 (2) The receiver shall have the power to operate and maintain the
25 facilities in receivership and to charge and collect taxes, fees, rates and
26 rents sufficient to provide for the payment of any costs of receivership and
27 operating expenses of the facilities in receivership and to apply the revenues
28 derived from the facilities in receivership in conformity with this Act and
29 the resolution or indenture securing the bonds in default.

30 (3) When the default has been cured, the receivership shall be
31 ended and the facilities returned to the authority.

32 (b) The relief provided for in this section shall be construed to be in
33 addition and as supplemental to the remedies that may be provided for in the
34 resolution or indenture securing the bonds and shall be so granted and
35 administered as to accord full recognition to priority rights of bondholders
36 as to the pledge of revenues from, mortgage lien on, and security interest in

1 facilities as specified in and fixed by the resolution or indenture securing
2 successive issues of bonds.

3

4 SECTION 19. AGREEMENTS TO OBTAIN FUNDS. Each authority may, in
5 connection with obtaining funds for its purposes, enter into any agreement
6 with any person, firm, or corporation including the federal government, or any
7 agency or subdivision thereof, containing such provisions, covenants, terms,
8 and conditions as the authority may deem advisable.

9

10 SECTION 20. ACQUISITION OF PROPERTY. (a) Whenever it shall be deemed
11 necessary by an authority, in connection with the exercise of its powers
12 conferred in this Act, to take or acquire any lands, structures, buildings, or
13 other rights, either in fee or as easements, for the purposes set forth in
14 this Act, the authority may purchase them directly or through its agents from
15 the owners thereof, or failing to agree with the owners, the authority may
16 exercise the power of eminent domain, and these purposes are declared to be
17 public uses for which private property may be taken or damaged.

18 (b) Should an authority elect to exercise the right of eminent domain,
19 condemnation proceedings shall be maintained by and in the name of the
20 authority, and it may proceed in the manner provided by the general laws of
21 the State of Arkansas for the procedure by any county, municipality, or
22 authority organized under the laws of this State, or by railroad corporations,
23 as the authority may, in its discretion, elect.

24

25 SECTION 21. EXEMPTION FROM TAXATION. (a) Each authority shall be
26 exempt from the payment of any taxes or fees to the state, or any subdivision
27 thereof, or to any office or employee of the state, or of any subdivision
28 thereof; however, each authority shall withhold and remit state income taxes
29 as prescribed by § 26-51-901 et seq.

30 (b)(1) The property of each authority shall be exempt from all local and
31 municipal taxes.

32 (2) Bonds, notes, debentures, and other evidence of indebtedness
33 of the authority are declared to be issued for a public purpose and to be
34 public instrumentalities and, together with interest thereon, shall be exempt
35 from all State, county, and municipal taxes, including, but without
36 limitation, income, inheritance and estate taxes.

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SECTION 22. USE OF SURPLUS FUNDS. (a) If an authority should realize a surplus, whether from operating the intermodal facilities and other facilities or leasing it or them for operation, over and above the amount required for the maintenance, improvement, and operation of the intermodal facility and other facilities and for meeting all required payments on its obligations, it shall set aside the reserve for future operations, improvements, and contingencies as it shall deem proper and shall then apply the residue of the surplus, if any, to the payment of any recognized and established obligations not then due.

(b) After all the recognized and established obligations have been paid off and discharged in full, the authority shall, at the end of each fiscal year, set aside the reserve for future operations, improvements, and contingencies as prescribed in subsection (a) and then pay the residue of the surplus, if any, to the counties and municipalities in direct proportion to their financial contribution, provided that no such distribution of said residue of the surplus shall violate United States law or the terms of any deed, grant agreement or other agreement with the United States.

SECTION 23. PUBLIC AND PRIVATE CONTRIBUTIONS. (a) Contributions may be made to authorities from time to time by the counties, municipalities, and the state and persons, firms, or corporations that shall desire to do so.

(b) In order to afford maximum opportunities for contributions, the agreement provided for under Section 3 of this Act may be treated as a cooperative agreement under the provisions of the Interlocal Cooperation Act, 25-20-101 et seq., and may contain language enabling the agreement to be treated as a formal compact under 14-165-201 - 14-165-204 in which case the authority shall hold title to property in its powers and capacity as a public corporation rather than as a commission-trustee as provided in 14-165-201 - 14-165-204, or may be treated as a less formal arrangement for the cooperative use of industrial development bond funds, all to the end that the counties and municipalities may contribute to the authority funds derived from general obligation bonds under Arkansas Constitution Amendments 13 and 49, from revenue bonds under 14-164-201 - 14-164-206 from other available sources, and may contribute funds derived from a combination of these sources.

1 SECTION 24. ACCOUNTS AND REPORTS. (a)(1) All funds received by an
2 authority shall be deposited in such banks as the authority may direct and
3 shall be withdrawn therefrom in such manner as the authority may direct.

4 (2)(A) Each authority shall keep strict account of all of its
5 receipts and expenditures and shall each quarter make a report to those
6 participating entities which have made contributions.

7 (B)(i) The report shall contain an itemized account of its
8 receipts and disbursements during the preceding quarter.

9 (ii) The report shall be made within sixty (60) days
10 after the termination of the quarter.

11 (b)(1) Within sixty (60) days after the end of each fiscal year, each
12 authority shall cause an annual audit to be made by an independent certified
13 public accountant and shall file a copy of the resulting audit report with
14 each of the governing bodies participating in the authority. This audit shall
15 contain an itemized statement of its receipts and disbursements for the
16 preceding year.

17 (2) The books, records, and accounts of each authority shall be
18 subject to audit and examination by any proper public official or body in the
19 manner provided by law.

20 (c) The agreement provided for in Section 3 of this Act may also provide
21 for each authority to furnish the participating governing bodies copies of its
22 annual budget for examination and approval.

23
24 SECTION 25. COUNTY, MUNICIPAL, AND STATE AUTHORITY. (a) Counties and
25 municipalities are authorized and empowered to appoint members of the
26 authorities and counties, municipalities, and the state are authorized and
27 empowered to contribute to the cost of acquiring, constructing, equipping,
28 maintaining, and operating the regional intermodal facilities and appurtenant
29 facilities.

30 (b) Counties, municipalities, and the state are authorized and empowered
31 to transfer and convey to the authorities property of any kind acquired by the
32 counties, municipalities, and the state for transportation purposes.

33
34 SECTION 26. LEASE OF FACILITIES. (a) Each authority may lease its
35 intermodal facilities and all or any part of its appurtenances and facilities
36 to any available lessee at such rental and upon such terms and conditions as

1 the authority shall deem proper.

2 (b) Leases shall be for some purpose associated with intermodal
3 transportation activities.

4
5 SECTION 27. SALE OF ASSETS. In the event the board shall so determine,
6 any authority may make sale of all or any part of its properties and assets
7 and distribute the proceeds among the participating municipalities and the
8 counties in the proportion each such unit contributed to the authority's funds
9 or otherwise in the manner set forth in the agreement establishing the
10 authority, provided, no sale of properties or assets and no distribution of
11 proceeds of such sale shall be done in a manner which violates United States
12 law or the terms of any deed, grant agreement, or other agreement with the
13 United States.

14
15 SECTION 28. AUTHORIZED INVESTORS. Any municipality, or any board,
16 commission, or other authority duly established by ordinance of any
17 municipality, or the boards of trustees, respectively, of the firemen's relief
18 and pension fund and the policemen's pension and relief fund of any such
19 municipality, or the board of trustees of any retirement system created by the
20 General Assembly of the State of Arkansas, may, in its discretion, invest any
21 of its funds not immediately needed for its purposes, in bonds issued under
22 the provisions of this Act, and bonds issued under the provisions of this Act
23 shall be eligible to secure the deposit of public funds.

24
25 SECTION 29. CONSTRUCTION. This Act shall be liberally construed to
26 accomplish its intent and purposes and shall be the sole authority required
27 for the accomplishment of its purpose. To this end:

28 (1) It shall not be necessary to comply with the general provisions of
29 other laws dealing with public facilities, their acquisition, construction,
30 leasing, encumbering, or disposition, except to the extent provided for in
31 Arkansas Code Ann. 14-206-101, et. seq., 14-207-101, et seq., and 18-15-501,
32 et seq.; and

33 (2) Section 15-5-303 shall not apply.

34
35 SECTION 30. INCORPORATION INTO CODE. All provisions of this Act of a
36 general and permanent nature are amendatory to the Arkansas Code of 1987

1 Annotated and the Arkansas Code Revision Commission shall incorporate the same
2 in the Code.

3

4 SECTION 31. SEVERABILITY. If any provision of this Act or the
5 application thereof to any person or circumstance is held invalid, such
6 invalidity shall not affect other provisions or applications of the Act which
7 can be given effect without the invalid provision or application, and to this
8 end the provisions of this Act are declared to be severable.

9

10 SECTION 32. GENERAL REPEALER. All laws and parts of laws in conflict
11 with this Act are hereby repealed. However, to the extent any provisions of
12 this act conflict with the provisions of Act 77 of 1997, the provisions of Act
13 77 shall prevail.

14

15

16 SECTION 33. EMERGENCY. It is hereby found and determined by the
17 General Assembly that there is currently no specific authority for the
18 creation of regional intermodal facilities through cooperative efforts of
19 municipalities and counties, that the passage of this Act and its immediate
20 effectiveness will make it possible to provide necessary intermodal facilities
21 on a regional basis to meet the transportation needs of the public.
22 Therefore, in order to meet these needs, an emergency is hereby declared to
23 exist, and this Act being necessary for the immediate preservation of the
24 public peace, health, and safety, shall be in full force and effect from and
25 after its passage and approval.

26

/s/Scott

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APPROVED:3-19-97

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