

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 389 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/2/07

A Bill

HOUSE BILL 1698

5 By: Representatives Wills, Medley, Anderson, Glidewell, Harris, Hawkins, House, Hoyt, D. Hutchinson,
6 King, Maxwell, Pennartz, Rosenbaum, Woods, Wyatt, *Adcock, Berry, E. Brown, Burkes, Chesterfield,*
7 *Cornwell, L. Cowling, Davis, Dickinson, Dunn, L. Evans, Gaskill, R. Green, Greenberg, Hall, Hardwick,*
8 *Hyde, Jeffrey, J. Johnson, Kenney, Kidd, Lovell, Lowery, Norton, Overbey, Pace, Pierce, Ragland,*
9 *Reynolds, J. Roebuck, Rogers, Sample, Saunders, Schulte, Shelby, L. Smith, Sullivan, Thyer, Wells*
10 By: Senators Steele, Wilkins, Altes, Baker, Bisbee, Bookout, Broadway, Bryles, Capps, Faris, Glover,
11 Hendren, Horn, B. Johnson, Madison, Malone, B. Pritchard, T. Smith, J. Taylor, R. Thompson, Wilkinson
12
13

For An Act To Be Entitled

14
15 AN ACT TO REVISE THE REGIONAL MOBILITY AUTHORITY
16 ACT BY PLACING IT IN A STAND-ALONE CHAPTER IN THE
17 ARKANSAS CODE AND BY ADDING THE NECESSARY
18 PROVISIONS TO MAKE IT FEASIBLE FOR COUNTIES AND
19 CITIES TO UTILIZE; AND FOR OTHER PURPOSES.
20

Subtitle

21
22 TO REVISE THE REGIONAL MOBILITY
23 AUTHORITY ACT.
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code Title 27 is amended to add an additional
29 chapter to read as follows:

30 CHAPTER 76

31 Subchapter 1 – General Provisions
32

33 27-76-101. Title.

34 This chapter is known and may be cited as the "Regional Mobility
35 Authority Act".



1
2 27-76-102. Legislative findings.

3 The General Assembly finds that:

4 (1) Many transportation projects cannot be completed because the
5 transportation construction and maintenance needs of the State of Arkansas
6 far exceed the budget for highway construction and maintenance;

7 (2) Counties and municipalities have limited budgets for
8 transportation construction and maintenance. As a result, they are often
9 unable to be financial partners with the Arkansas State Highway and
10 Transportation Department;

11 (3) Through the creation of regional mobility authorities
12 throughout the state, counties and municipalities are empowered to become
13 better partners for highway construction and maintenance with the Arkansas
14 State Highway and Transportation Department and the State Highway Commission;
15 and

16 (4) The funding of regional mobility authorities is intended to
17 supplement state and federal transportation funds. Such funding is not
18 intended to substitute for state and federal transportation aid to counties
19 and municipalities.

20
21 27-76-103. Definitions.

22 As used in this chapter:

23 (1)(A) "Bond" means a revenue bond or note issued under this
24 chapter by a regional mobility authority created under the Regional Mobility
25 Authority Act, § 27-76-101 et seq.

26 (B) "Bond" includes any other financial obligation of a
27 regional mobility authority authorized by this chapter, the laws of this
28 state, or the Arkansas Constitution;

29 (2)(A) "Compensation" means any payment for the value of the use
30 of time or the expenditure of moneys including without limitation:

31 (i) A salary; or

32 (ii) Per diem allowance.

33 (B) "Compensation" does not include reimbursement as
34 provided under § 27-76-302(d);

35 (3) "Debt service" means the amounts necessary for paying
36 principal, interest, trustee's and paying agent's fees, and rebate costs, and

1 the amounts necessary to establish and maintain debt service reserves as
2 provided in the authorizing resolution or trust indenture identified under
3 this chapter;

4 (4) "Governmental entity" means a lawfully created branch,
5 department, or agency of the federal, state, or local government;

6 (5) "Owner" means any individual, partnership, association,
7 corporation, or organization having any title or interest in any property,
8 rights, easements, and interest authorized to be acquired by and under the
9 regional mobility authority of this chapter;

10 (6) "Person" means any individual, partnership, corporation, or
11 other entity recognized by law as having power to contract;

12 (7) "Project development" means all phases of implementation
13 conducted in relation to a transportation project, including without
14 limitation:

15 (A) Planning;

16 (B) Environmental clearances;

17 (C) Surveys;

18 (D) Design;

19 (E) Utility adjustments;

20 (F) Right-of-way acquisition;

21 (G) Construction; and

22 (H) Construction inspection.

23 (8) "Public utility facility" means a facility that is either
24 publicly or privately owned and that provides direct or indirect utility
25 service to the public, including without limitation:

26 (A) Sewage and water pumping stations;

27 (B) Sewage and water treatment facilities;

28 (C) Telephone electronic structures; and

29 (D) Major electrical power lines, pipelines, or
30 substations whose major purpose is transport through a community;

31 (9) "Registered owner" means an owner of a motor vehicle as
32 shown on the vehicle registration records maintained by the Office of Motor
33 Vehicle or the analogous department or agency of another state or country;

34 (10)(A) "Toll facility project" means:

35 (i) Any new highway constructed under the provisions
36 of this chapter by a regional mobility authority as a toll road; and

1 (ii) All property, rights, easements, rights-of-way,
2 and interest that may be acquired by the regional mobility authority for or
3 in connection with the construction or operation of a toll road.

4 (B) "Toll facility project" includes without limitation
5 the following as the regional mobility authority deems necessary or desirable
6 for the operation of a toll road:

7 (i) Lands;

8 (ii) Rights-of-way;

9 (iii) Bridges;

10 (iv) Tunnels;

11 (v) Overpasses;

12 (vi) Underpasses;

13 (vii) Interchanges;

14 (viii) Entrance plazas;

15 (ix) Approaches;

16 (x) Toll houses;

17 (xi) Administration buildings;

18 (xii) Storage buildings;

19 (xiii) Other buildings; and

20 (xiv) Facilities;

21 (11)(A) "Toll facility project costs" means any direct and
22 indirect costs incurred in connection with the acquisition of rights-of-way
23 for and constructing and equipping toll facility projects, including without
24 limitation:

25 (i) The cost of the acquisition of all lands,
26 property, rights, rights-of-way, easements, and interests acquired by a
27 governmental entity;

28 (ii) The cost of demolishing or removing buildings
29 or structures on the land so acquired;

30 (iii) The cost of acquiring any lands to which those
31 buildings or structures may be moved;

32 (iv) The cost of all machinery and equipment;

33 (v) Financing charges, including interest accrued:

34 (a) Prior to construction;

35 (b) During construction; or

36 (c) For a period after construction;

1 (vi) The establishment of necessary funds and
2 reserves;

3 (vii) The cost of traffic estimates, engineering
4 fees, legal fees, plans, specifications, surveys, and estimates of cost and
5 revenues;

6 (viii) Administration expense, expenditures, or any
7 other expense that is necessary or incidental to determining the feasibility
8 or practicability of a toll facility project; and

9 (ix) Cost, expenditure, or any other expense that is
10 necessary or incidental to the construction of a toll facility project, the
11 finance of the construction, and the placement of the toll facility project
12 into operation.

13 (B) Any obligation, expense, or expenditure incurred or
14 made by the regional mobility authority for matters pertaining to a toll
15 facility project, including without limitation:

16 (i) Feasibility studies;

17 (ii) Traffic surveys;

18 (iii) Borings;

19 (iv) Preparation of plans and specifications;

20 (v) Engineering services; and

21 (vi) Cost, expenditure, or any other expense that is
22 regarded as part of the costs of a toll facility project and that may be
23 reimbursed to the State Highway Commission or other agency or department of
24 the state out of the proceeds of revenue bonds or out of any other available
25 funds of the commission;

26 (12) "Toll facility project revenues" means, without limitation,
27 any tolls, rentals, license and permit revenues, contractual receipts, gifts,
28 grants, moneys, charges, and other funds, including federal aid highway
29 funds, and property of whatever nature coming into the possession of or under
30 the control of the board of directors of the regional mobility authority by
31 virtue of this chapter, except the proceeds derived from the sale of revenue
32 bonds issued under this chapter;

33 (13) "Transponder" means a device placed on or within a vehicle
34 that is capable of transmitting or receiving information used to assess or
35 collect tolls;

36 (14) "Transportation project" means:

- 1 (A) Any part of a transportation system;
- 2 (B) Construction on or of any part of a transportation
- 3 system;
- 4 (C) Maintenance on or operation of any part of a
- 5 transportation system; or
- 6 (D) Preservation of any part of a transportation system;
- 7 and

8 (15) "Transportation system" means infrastructure that provides
 9 mobility for people or goods in a region, including without limitation:

- 10 (A) Roads;
- 11 (B) Streets;
- 12 (C) Highways;
- 13 (D) Bridges;
- 14 (E) Tunnels;
- 15 (F) Sidewalks;
- 16 (G) Bicycle paths;
- 17 (H) Toll facilities;
- 18 (I) Pedestrian ways;
- 19 (J) Intermodal facilities;
- 20 (K) Port authorities;
- 21 (L) Railroads that are ninety-nine percent (99%) publicly
- 22 owned;
- 23 (M) Parking facilities;
- 24 (N) Public transit systems;
- 25 (O) Traveler information systems;
- 26 (P) Intelligent transportation systems;
- 27 (Q) Traffic management systems;
- 28 (R) Traffic signal systems;
- 29 (S) Safety improvements; or
- 30 (T) Any other means of surface or water transportation.

31

32 27-76-104. Exemption from taxation or assessment.

33 (a) A regional mobility authority is exempt from ad valorem property
 34 taxation of or assessments on each of the following:

- 35 (1) A transportation system;
- 36 (2) A transportation project; and

1 (3) Property the regional mobility authority acquires or uses
2 under this chapter for a transportation project or transportation system.

3 (b) Income from the ownership or operation of the regional mobility
4 authority shall be exempt from state income tax.

5
6 27-76-105. Exemption from fees.

7 (a) Except as provided under subsection (b) of this section, a
8 regional mobility authority is exempt from the payment or assessment of any
9 of the following fees levied by a governmental entity, a property owner's
10 association, or a homeowner's association:

11 (1) Development fees;

12 (2) Utility connection fees;

13 (3) Assessments; and

14 (4) Service fees.

15 (b) This section does not apply to fees or assessments charged under
16 approved rate schedules or line extension policies of an electric or a gas
17 utility that is owned by a municipality.

18
19 27-76-106. Immunity.

20 (a) The powers and duties of a regional mobility authority conferred
21 by this chapter are public and governmental functions exercised for a public
22 purpose and for matters of public necessity.

23 (b) The exercise of the powers and the performance of the duties by a
24 regional mobility authority under this chapter are immune from suit in tort
25 unless immunity is expressly waived in writing.

26
27 27-76-107. Approval required.

28 Any design or proposal for a road or highway improvement must be
29 approved by the governmental entity that owns the roadway prior to the
30 commencement of the development of the transportation project.

31
32 Subchapter 2 – Creation

33
34 27-76-201. Authority to create.

35 (a) A single county may create a regional mobility authority by
36 adoption of an ordinance.

1 (b) A combination of contiguous counties may create a regional
2 mobility authority by each county:

3 (1) Adopting an ordinance that provides for the county's
4 participation in the regional mobility authority; and

5 (2) Entering into a joint agreement with the other participating
6 counties that states the jurisdictional boundaries of the regional mobility
7 authority.

8 (c) This section shall not limit additional contiguous counties or
9 municipalities from becoming a member in the regional mobility authority as
10 provided under § 27-76-203.

11
12 27-76-202. Purposes.

13 The purposes of a regional mobility authority created under this
14 chapter are to:

15 (1) Plan, construct, operate, or fund transportation projects of
16 the regional mobility authority; or

17 (2) Plan, construct, operate, or fund improvements to a
18 transportation system of the regional mobility authority.

19
20 27-76-203. Membership in a regional mobility authority.

21 (a) To become a member of a regional mobility authority, a governing
22 body of a municipality or county within the jurisdictional boundaries of the
23 regional mobility authority shall:

24 (1) Provide by ordinance for the participation of the
25 municipality or county in the regional mobility authority; and

26 (2) Enter into an agreement with the other participating members
27 if such members exist.

28 (b) The agreement between members of a regional mobility authority
29 shall establish the terms and conditions of the operation of the regional
30 mobility authority with the limitations provided in this chapter and other
31 applicable laws.

32 (c) To the extent that it is consistent with this chapter, the
33 agreement shall comply with the provisions of § 25-20-104(c).

34
35 27-76-204. Public corporation status.

36 Upon creation of a regional mobility authority:

- 1 (1) The regional mobility authority and its members shall:
2 (A) Constitute a public corporation; and
3 (B) Have perpetual succession; and
4 (2) The regional mobility authority and its members may:
5 (A) Contract and be contracted with;
6 (B) Sue and be sued in tort to the extent that it has
7 expressly waived liability in writing; and
8 (C) Have and use a common seal.

9
10 Subchapter 3 – Governance

11
12 27-76-301. Generally.

13 A regional mobility authority created under this chapter shall be
14 operated and controlled by a board of directors.

15
16 27-76-302. Board of directors.

17 (a) A board of directors shall manage and control each regional
18 mobility authority created under this chapter, including the following:

- 19 (1) Property;
20 (2) Operations;
21 (3) Business; and
22 (4) Affairs.

23 (b) The board of directors shall be solely responsible for selecting
24 the chair of the board of directors and establishing procedures by which it
25 shall operate.

26 (c) A director shall not receive compensation in any form from or for
27 his or her services as a director.

28 (d) Each director shall be entitled to reimbursement by the regional
29 mobility authority for any necessary expenditures incurred in connection with
30 the performance of his or her general duties as a director.

31
32 27-76-303. Membership on the board of directors.

33 (a) Unless the structure of the board of directors is otherwise
34 specified in the agreement establishing the regional mobility authority, the
35 board of directors of a regional mobility authority shall consist of no fewer
36 than five (5) directors as provided under this section.

1 (b)(1) The board of directors shall include the county judge or
2 designated representative of each county that is a member of the regional
3 mobility authority and the mayor or designated representative of each city of
4 the first class that is a member of the regional mobility authority.

5 (2) If the number of directors is fewer than five (5) after
6 fulfilling the requirements of subdivision (b)(1) of this section, then
7 mayors or designated representatives of the cities of the second class that
8 are members of the regional mobility authority are appointed to the board of
9 directors in descending order of population as determined by the last federal
10 decennial census until five (5) directors have been appointed.

11 (c) The designated representative of a county judge or mayor under
12 subsection (b) of this section shall be a qualified elector of the
13 jurisdiction that the designated representative is appointed to represent.

14 (d) If a city of the second class becomes a city of the first class
15 and is a member of the regional mobility authority, the mayor of that city or
16 designated representative shall become a director.

17 (e) Membership of cities of the second class on the board of directors
18 shall be adjusted after each federal decennial census.

19
20 27-76-304. Terms of directors.

21 (a) A director who is a public official may serve on the board of
22 directors during his or her term of office as the county judge or mayor of a
23 member of a regional mobility authority.

24 (b) A director who is the designated representative of the mayor or
25 county judge of a member of the regional mobility authority serves at the
26 pleasure of the mayor of the municipality or the county judge of the county
27 that is a member of the regional mobility authority.

28
29 Subchapter 4 – Powers and Duties

30
31 27-76-401. Powers generally.

32 The board of directors of a regional mobility authority created under
33 this chapter may:

34 (1) Make and adopt all necessary bylaws for its organization and
35 operation;

36 (2) Elect officers and employ personnel necessary for its

- 1 operation;
- 2 (3) Build, operate, maintain, expand, fund, or own a
- 3 transportation project or a transportation system;
- 4 (4) Apply for, receive, and spend grants for any purpose under
- 5 this chapter;
- 6 (5) Enter into contracts as provided in § 27-76-402;
- 7 (6) Enter into any agreement with any road or street improvement
- 8 district established under § 14-316-101 et seq., § 14-317-101 et seq., and §
- 9 14-322-101 et seq.;
- 10 (7) Enter into any agreement with the State Highway Commission
- 11 and the Arkansas State Highway and Transportation Department;
- 12 (8) Acquire lands and hold title to the lands acquired in its
- 13 own name;
- 14 (9) Acquire, own, use, and dispose of property in the exercise
- 15 of its powers and the performance of its duties under this chapter;
- 16 (10) Acquire any property necessary to carry out the purposes of
- 17 this chapter by exercising the power of eminent domain as provided under
- 18 subchapter 5 of this chapter;
- 19 (11) Enter into agreements or contracts as provided under this
- 20 chapter;
- 21 (12) Construct or change grade separations as provided under §
- 22 27-76-404;
- 23 (13) Fund feasibility studies as provided under §§ 27-76-405 and
- 24 27-76-406;
- 25 (14) Enter into agreements for joint transportation projects or
- 26 transportation systems between regional mobility authorities as provided
- 27 under § 27-76-407;
- 28 (15) Transfer a transportation project or transportation system
- 29 as provided under § 27-76-408;
- 30 (16) Develop and utilize financing options as provided under
- 31 subchapter 6 of this chapter;
- 32 (17) Issue revenue bonds and provide for the financing of
- 33 revenue bonds as provided under subchapter 6 of this chapter;
- 34 (18) Impose and collect tolls for a toll facility project owned
- 35 or operated by the regional mobility authority subject to voter approval as
- 36 provided under § 27-76-701(d);

1 (19) Impose and collect charges or rates for the use of a
2 transportation system or transportation project that is owned or operated by
3 the regional mobility authority, other than a toll facility project,
4 specifically to set:

5 (A) Passenger charges for public transit system users;

6 (B) Parking fees for users of parking decks or other
7 parking facilities;

8 (C) Ferry fees for the use of ferries;

9 (D) Passenger and freight fees for the use of railroads;

10 (E) Freight and user fees for the use of Intermodal and
11 port facilities;

12 (F) Access fees and charges for the use of traveler
13 information systems; or

14 (G) Other fees and charges that are usually and
15 customarily charged of users of a transportation system or a transportation
16 project;

17 (20) Index the cost for construction materials to the cost set
18 by the market;

19 (21) Request and receive from time to time from counties or
20 cities within the boundaries of the regional mobility authority funds to
21 finance and support the regional mobility authority, including county or city
22 turnback funds as set forth in §§ 27-70-206 and 27-70-207;

23 (22) Promote the use of a transportation project through
24 advertising or marketing as it determines to be appropriate, including the
25 promotion of a transportation project operated by a regional mobility
26 authority on behalf of another entity;

27 (23) Receive property or funds by gift or donation for the
28 finance and support of the regional mobility authority; and

29 (24) Do all things necessary or appropriate to carry out the
30 powers expressly granted or duties expressly imposed under this chapter.

31
32 27-76-402. Limitations.

33 (a) Notwithstanding any other provision of law, a regional mobility
34 authority shall not sell a toll facility project to a private entity or enter
35 into a lease for a toll facility or concession agreement related to a toll
36 facility.

1 (b) Notwithstanding any other provision of law, a toll facility
2 project established by a regional mobility authority shall be for
3 construction of new highways only.

4 (c) Notwithstanding any other provision of law, a regional mobility
5 authority shall not establish a toll facility project without voter approval
6 of the initial imposition of the tolls, including the initial toll rate and,
7 if revenue bonds are to be issued by the regional mobility authority to fund
8 all or a portion of the costs of the toll facility project, the issuance of
9 the maximum principal amount of bonded indebtedness.

10 (d) Notwithstanding any other provision of law, a regional mobility
11 authority shall not acquire or receive by conveyance a transportation project
12 or transportation system from another public or private entity that is either
13 completed or for which a construction notice to proceed has been issued to
14 convert the transportation project or transportation system to a toll
15 facility project.

16
17 27-76-403. Authority to contract.

18 (a) A regional mobility authority created under this chapter may enter
19 into agreements or contracts with a governmental entity or a private entity.

20 (b) The types of agreements or contracts that a regional mobility
21 authority may enter into under this chapter includes without limitation:

- 22 (1) Lease agreements;
23 (2) Rental agreements;
24 (3) Operating agreements;
25 (4) Service agreements;
26 (5) License agreements;
27 (6) Promotional agreements; and
28 (7) Purchasing agreements.

29 (c) The scope of agreements or contracts that a regional mobility
30 authority may enter into under this chapter includes without limitation:

31 (1) Rent, lease, or make property available for the benefit of
32 users of a transportation project or a transportation system other than a
33 public utility facility;

34 (2) Plan, design, construct, operate, or maintain a
35 transportation project on behalf of a governmental entity within the
36 boundaries of the regional mobility authority; and

1 (3) Acquire with the consent of a governmental entity or private
2 entity a transportation project or transportation system from that entity and
3 assume any debts, obligations, and liabilities of the entity relating to a
4 transportation project or transportation system transferred to the regional
5 mobility authority provided, that a regional mobility authority shall not
6 acquire a transportation project or transportation system from another public
7 or private entity that is completed or for which a construction notice to
8 proceed has been issued to convert the transportation project or
9 transportation system to a toll facility project.

10 (d) A regional mobility authority shall not sell a toll facility
11 project to a private entity or enter into a lease for a toll facility or a
12 concession agreement related to a toll facility.

13
14 27-76-404. Actions affecting existing roads – Grade separation.

15 (a) A regional mobility authority may construct a grade separation at
16 an intersection of a transportation project with a railroad or highway and
17 change the line of the railroad or grade of a highway to accommodate the
18 design of the grade separation as provided under this section.

19 (b) A regional mobility authority shall obtain consent from the
20 Arkansas State Highway and Transportation Department and the State Highway
21 Commission before constructing a grade separation under this section that
22 affects a segment of the state highway system.

23 (c) A regional mobility authority shall pay the cost of a grade
24 separation and any damage incurred in changing a line of a railroad or the
25 grade of a highway as part of the cost of the transportation project.

26 (d)(1) On request of the county, a regional mobility authority that
27 has changed the location of a segment of a county road as part of its
28 development of a transportation project shall reconstruct that segment of the
29 road at a location that the regional mobility authority determines restores
30 the utility of the road.

31 (2) On request of the city, a regional mobility authority that
32 has changed the location of a segment of a city road as part of its
33 development of a transportation project shall reconstruct that segment of the
34 road at a location that the regional mobility authority determines restores
35 the utility of the road.

36 (3) Determinations under this subsection (d) as to the

1 relocation of a road shall be at the discretion of the regional mobility
2 authority.

3 (4) Any reconstruction under this subsection (d) and the
4 associated costs of reconstruction are deemed to be in furtherance of a
5 transportation project.

6
7 27-76-405. Expenditures for feasibility studies.

8 (a) A regional mobility authority may pay the expenses of studying the
9 cost and feasibility and any other expenses relating to the preparation and
10 issuance of bonds for a proposed transportation project by:

11 (1) Using legally available revenue derived from an existing
12 transportation project;

13 (2) Borrowing money, issuing bonds, or entering into a loan
14 agreement payable out of legally available revenue anticipated to be derived
15 from the operation of an existing transportation project;

16 (3) Pledging to the payment of the bonds or a loan agreement
17 legally available revenue anticipated to be derived from the operation of a
18 transportation project; or

19 (4) Pledging to the payment of the bonds or loan agreement
20 legally available revenue to the regional mobility authority from another
21 source.

22 (b) Money spent by a regional mobility authority under this section
23 for a proposed transportation project shall be reimbursed to the
24 transportation project from which the money was spent from the proceeds of
25 bonds issued for the acquisition and construction of the proposed
26 transportation project.

27 (c) The use of any money of a transportation project to study the
28 feasibility of another transportation project or used to repay any money used
29 for that purpose does not constitute an operating expense of the
30 transportation project producing the revenue and may be paid only from the
31 surplus money of the transportation project as determined by the regional
32 mobility authority.

33
34 27-76-406. Reimbursement for feasibility studies.

35 (a) The following are allowable reimbursable expenses for studying the
36 cost and feasibility of a transportation project as provided under this

1 section:

2 (1) The preparation and issuance of bonds for the acquisition or
3 construction of a proposed transportation project by a regional mobility
4 authority; or

5 (2) The improvement, extension, or expansion of an existing
6 transportation project of the regional mobility authority.

7 (b) Any of the following may pay all or part of the expenses under
8 this section related to a transportation project and be reimbursed as
9 provided under this section:

10 (1) One (1) or more municipalities, counties, or other
11 governmental entities;

12 (2) A combination of municipalities, counties, or other
13 governmental entities;

14 (3) A governmental entity or private entity with its place of
15 business in this state; or

16 (4) An individual who resides in this state.

17 (c)(1) Funds expended under this section for a proposed transportation
18 project are reimbursable without interest and with the consent of the
19 regional mobility authority to the person paying the expenses as provided
20 under this section.

21 (2) The reimbursements shall be paid out of the proceeds from
22 revenue bonds issued for or other proceeds that may be used for the
23 acquisition, construction, improvement, extension, expansion, maintenance,
24 repair, or operation of the transportation project.

25
26 27-76-407. Joint transportation projects or joint transportation
27 systems between regional mobility authorities.

28 (a) If two (2) or more regional mobility authorities determine that
29 the traffic needs within the boundaries of each regional mobility authority
30 could be most efficiently and economically met by jointly operating two (2)
31 or more transportation projects in the separate regional mobility
32 authorities, then the regional mobility authorities may create one (1)
33 operational and financial enterprise to operate the transportation projects.

34 (b) If a regional mobility authority determines that a transportation
35 project could most efficiently and economically be acquired or constructed if
36 it were a part of the transportation system and that the addition will

1 benefit the system, the regional mobility authority may:

2 (1) Create more than one (1) transportation system and may
3 combine two (2) or more transportation systems into one (1) system; or

4 (2) Finance, acquire, construct, and operate additional
5 transportation projects as additions to or expansions of a transportation
6 system.

7 (c) The revenue of a transportation system that is merged under this
8 section shall be accounted for separately and shall not be commingled with
9 the revenue of a transportation project that is not a part of the
10 transportation system that was merged under this section or with the revenue
11 of another transportation system.

12
13 27-76-408. Transfer of a transportation project or transportation
14 system – Procedure.

15 (a) A regional mobility authority may sell, lease, or convey any of
16 its transportation projects or transportation systems to one (1) or more
17 governmental entities or a governmental entity may convey a transportation
18 project or a transportation system to a regional mobility authority if:

19 (1) The transferee has executed written commitments to assume
20 jurisdiction over the transferred transportation project or transportation
21 system;

22 (2) The property and contract rights in the transferred
23 transportation project or transportation system and bonds issued for the
24 project or system are not unfavorably affected by the transfer;

25 (3) The transfer is not prohibited under the bond proceedings
26 applicable to the transferred transportation project or transportation
27 system;

28 (4) An adequate provision has been made for the assumption of
29 all debts, obligations, and liabilities relating to the transferred
30 transportation project or transportation system by the regional mobility
31 authority or governmental entity that is assuming jurisdiction over the
32 transferred transportation project or transportation system;

33 (5) The transferee lawfully assumes:

34 (A) Jurisdiction over the transferred transportation
35 project or transportation system; and

36 (B) The debts, obligations, and liabilities of the

1 regional mobility authority relating to the transferred transportation
2 project or transportation system; and

3 (6) The transfer has been approved by the board of directors of
4 the regional mobility authority and the transferee or transferor.

5 (b) If the requirements of subsection (a) of this section are met,
6 then a regional mobility authority or governmental entity may transfer its
7 work product to determine the feasibility of the construction, improvement,
8 extension, or expansion of a transportation system or transportation project,
9 including without limitation:

10 (1) Traffic estimates;

11 (2) Revenue estimates;

12 (3) Plans;

13 (4) Specifications;

14 (5) Surveys;

15 (6) Appraisals;

16 (7) Financial work products; or

17 (8) Other work product developed by the regional mobility
18 authority or governmental entity to determine the feasibility of the
19 construction, improvement, extension, or expansion of a transportation
20 project or transportation system.

21 (c)(1) A regional mobility authority or governmental entity that
22 accepts a transfer under this section may reimburse the transferor for any
23 expenditures that it made prior to the transfer and any other amounts
24 expended under related agreements.

25 (2) The reimbursement may be made from the feasibility study
26 fund or other lawful funding source to pay the costs of work product for a
27 transferred transportation project or transportation system.

28 (3) The reimbursement may be made over time, as determined by
29 the parties.

30
31 27-76-409. Agreements to construct, maintain, and operate
32 transportation projects.

33 (a)(1) A regional mobility authority may enter into an agreement with
34 a governmental entity.

35 (2) For purposes of this section, a governmental entity may
36 include:

- 1 (A) The federal government;
2 (B) A state of the United States;
3 (C) Another governmental entity;
4 (D) A political subdivision of another governmental
5 entity; or
6 (E) A toll road corporation owned or operated by any
7 governmental entity.

8 (b)(1) A regional mobility authority may enter into an agreement to
9 allow a public or private entity to:

- 10 (A) Study the feasibility of a transportation project; or
11 (B) Design, construct, maintain, or repair a
12 transportation project.

13 (2) A regional mobility authority and one (1) or more entities
14 described under subsection (a) of this section may enter into a joint
15 agreement to study the feasibility of a transportation project or to acquire,
16 design, finance, construct, maintain, repair, operate, extend, or expand a
17 transportation project.

18 (3) A regional mobility authority shall not sell a toll facility
19 project to a private entity or enter into a lease for a toll facility or a
20 concession agreement related to a toll facility.

21 (c)(1) A regional mobility authority has broad discretion to negotiate
22 provisions in a development agreement through which a governmental entity or
23 private entity may contribute resources or improvements to a project.

24 (2) The development agreement may include provisions relating
25 to:

26 (A) The design, financing, and construction of a
27 transportation project in accordance with standards adopted by the regional
28 mobility authority; and

29 (B) Professional and consulting services to be rendered
30 under standards adopted by the regional mobility authority in connection with
31 a transportation project.

32 (d) A regional mobility authority shall not incur a financial
33 obligation on behalf of or guarantee the obligations of a governmental entity
34 or a private entity that constructs, maintains, or operates a transportation
35 project.

36 (e) A regional mobility authority or a county or municipality that is

1 a member of a regional mobility authority is not liable for any financial or
2 other obligation of a transportation project solely because a governmental
3 entity or a private entity constructs or finances part of a transportation
4 project.

5 (f) A regional mobility authority shall not directly provide water,
6 wastewater, natural gas, petroleum pipeline, electric transmission, electric
7 distribution, telecommunications, information, or cable television services.

8
9 27-76-410. Consistency of planning.

10 (a)(1) A regional mobility authority may develop plans for
11 transportation projects.

12 (2) The plans shall be consistent with state implementation
13 plans, statewide transportation improvement programs if federal aid funds are
14 involved, statewide long-range transportation plans, city and county master
15 street plans, and metropolitan transportation plans in metropolitan areas as
16 required under 23 U.S.C. § 134 as it existed on January 1, 2007.

17 (b) Nothing in this section shall interfere with the responsibility
18 and authority of metropolitan planning organizations to perform
19 transportation systems planning as required under 23 U.S.C. § 134 as it
20 existed on January 1, 2007.

21 (c) Nothing in this section shall interfere with the responsibility
22 and authority of the Arkansas State Highway and Transportation Department and
23 the State Highway Commission to perform transportation systems planning.

24
25 Subchapter 5 – Eminent Domain

26
27 27-76-501. Generally.

28 A regional mobility authority may acquire any property necessary to
29 carry out the public purposes of this chapter by exercising the power of
30 eminent domain.

31
32 27-76-502. Entering property.

33 (a) A regional mobility authority, its agents, or its employees may
34 with the consent of the owner enter upon real property to:

35 (1) Make surveys;

36 (2) Perform examinations;

1 (3) Take photographs;

2 (4) Perform tests or samplings; or

3 (5) Engage in other activities for the purpose of appraising the
4 property or determining whether it is suitable for the regional mobility
5 authority's purpose.

6 (b) If an owner of real property does not consent, a regional mobility
7 authority may seek a court order to enter a property under this section.

8
9 27-76-503. Condemnation petition.

10 (a) A regional mobility authority may exercise its power of eminent
11 domain by filing an appropriate petition in condemnation in the circuit court
12 of the county in which the property sought to be taken is situated to have
13 the compensation for right-of-way determined.

14 (b) The petition in condemnation shall describe the lands and property
15 sought to be taken.

16 (c) The regional mobility authority shall give the owner of the
17 property to be taken at least ten (10) days' notice in writing of the time
18 and place where the petition will be heard.

19 (d)(1) If the property sought to be taken is located in more than one
20 (1) county, the petition may be filed in any circuit court having
21 jurisdiction in any county in which any part of the property may be located.

22 (2) The proceedings held in the circuit court shall apply to all
23 of the property described in the petition.

24 (e) If the owner of the property sought to be taken is a nonresident
25 of the state, notice shall be made in accordance with the Arkansas Rules of
26 Civil Procedure.

27
28 27-76-504. Declaration of taking.

29 (a) When the immediate possession of lands and property is sought to
30 be obtained, the regional mobility authority may file a declaration of taking
31 with a court of competent jurisdiction at any time before judgment or
32 together with the petition in condemnation.

33 (b) The petitioner may file a declaration of taking at any time before
34 a judgment is signed or with the petition in condemnation in any proceeding
35 instituted by and in the name of the regional mobility authority that
36 involves the acquisition of real property, an interest in real property, or

1 an easement.

2 (c) The declaration of taking shall contain or have annexed to it the
3 following:

4 (1) A statement that the regional mobility authority is taking
5 the real property, the interest in the real property, or the easement;

6 (2) A statement of the purpose for which the regional mobility
7 authority is taking the real property, the interest in the real property, or
8 the easement for the use of the regional mobility authority;

9 (3) A description of the real property, the interest in the real
10 property, or the easement that the regional mobility authority is taking,
11 sufficient for the identification thereof;

12 (4) A plat showing the real property, the interest in the real
13 property, or the easement that the regional mobility authority is taking; and

14 (5) A statement of the amount of money estimated by the
15 acquiring regional mobility authority to be just compensation for the taking
16 of the real property, the interest in the real property, or the easement.

17
18 27-76-505. Condemnation proceedings and judgment.

19 (a) The circuit court shall impanel a jury of twelve (12) persons, as
20 in other civil cases, to ascertain the amount of compensation that the
21 regional mobility authority shall pay for the real property, the interest in
22 the real property, or the easement which the regional mobility authority is
23 taking.

24 (b) The matter shall proceed and be determined as in other civil
25 cases.

26 (c) In all cases of infants or incompetent persons, when no legal
27 representative or guardian appears in their behalf at the hearing, it shall
28 be the duty of the circuit court to appoint a guardian ad litem who shall
29 represent their interest for all purposes.

30 (d) Compensation shall be ascertained and awarded in the proceeding
31 and established by judgment therein.

32
33 Subchapter 6 – Financing and Bonds

34
35 27-76-601. Financing generally.

36 (a) A regional mobility authority may be financed or supported by

1 receiving the following:

2 (1) If requested and adopted, revenue from the levy by a member
3 county of a sales tax under § 26-74-201 et seq., § 26-74-301 et seq., and §
4 26-74-401 et seq. for the benefit of the regional mobility authority;

5 (2) If requested and adopted, revenue from the levy by a member
6 city of a sales tax under § 26-75-201 et seq. and § 26-75-301 et seq. for the
7 benefit of the regional mobility authority;

8 (3) Revenue from a motor vehicle tax imposed by a county that is
9 a member of a regional mobility authority under § 26-78-101 et seq.;

10 (4) If authorized by law, requested, and adopted, revenue from
11 the levy of an additional sales and use tax for the benefit of a regional
12 mobility authority by a county or city not to exceed one-half of one percent
13 (1/2 of 1%);

14 (5) Proceeds from tolls from toll facility projects owned by the
15 regional mobility authority;

16 (6) Proceeds from charges and rates imposed on surface
17 transportation systems owned by the regional mobility authority that are not
18 toll facility projects;

19 (7) Proceeds from the sale of bonds;

20 (8) State turnback funds received from counties that are members
21 of the regional mobility authority and cities that are within the boundaries
22 of a regional mobility authority, under §§ 27-70-206 and 27-70-207;

23 (9) Other state funding that is appropriated; or

24 (10) Other funds from a state agency.

25 (b) Taxes and tolls imposed under subdivisions (a)(1)-(5) of this
26 section shall be approved by voters pursuant to all applicable election laws.

27 (c)(1) A regional mobility authority shall not use revenue from a
28 transportation project in a manner that is not authorized by this chapter or
29 other law.

30 (2) Except as provided by this chapter, revenue derived from a
31 transportation project shall not be applied for a purpose or to pay a cost
32 other than a cost or purpose that is reasonably related to or anticipated to
33 be for the benefit of a transportation project.

34
35 27-76-602. Authority to issue bonds.

36 (a) If a regional mobility authority created under this chapter owns

1 or operates a transportation system and desires to construct improvements,
2 betterments, and extensions thereto, the regional mobility authority may
3 issue revenue bonds pursuant to a bond resolution and under the provisions of
4 this chapter to pay the cost of a transportation project or to pay all or
5 part of the cost of a transportation project that will become part of a
6 transportation system.

7 (b) If a regional mobility authority pursues the development of a toll
8 facility project, the regional mobility authority may issue revenue bonds
9 pursuant to a bond resolution and under the provisions of this chapter to pay
10 the toll facility project costs with toll facility project revenues.

11
12 27-76-603. Tax exempt status.

13 Bonds issued under this chapter and income from the bonds, including
14 any profit made on the sale or transfer of the bonds, are exempt from
15 taxation in this state.

16
17 27-76-604. Bond resolution required.

18 (a) Bonds issued in accordance with this chapter shall be authorized
19 by resolution of the board of directors of the regional mobility authority.

20 (b) The bonds may be issued as registered bonds and may be
21 exchangeable for bonds of another denomination or in another form.

22 (c) As determined in the bond resolution, the bonds of each issue
23 shall:

24 (1) Be dated;

25 (2) Bear interest at the rate or rates provided by the bond
26 resolution beginning on the dates provided by the bond resolution as
27 authorized by law, or bear no interest;

28 (3) Mature at the time or times provided by the bond resolution,
29 not exceeding forty (40) years from their date or dates; and

30 (4) Be made redeemable before maturity at the price or prices
31 and under the terms provided by the bond resolution.

32 (d) As determined in the bond resolution, the bonds of each issue may:

33 (1) Be in such form and denominations;

34 (2) Be payable at such places within or without the state; or

35 (3) Contain such terms and conditions as the members of the
36 regional mobility authority shall determine.

1 (e) The bonds shall have all of the qualities of and shall be deemed
2 to be negotiable instruments under the laws of the State of Arkansas, subject
3 to provisions as to registration as set forth in this section.

4 (f) The authorizing resolution may contain any other terms, covenants,
5 and conditions that the board of directors of the regional mobility authority
6 deem to be reasonable and desirable, including without limitation, those
7 pertaining to the:

8 (1) Maintenance of various funds and reserves;

9 (2) Nature and extent of any security for payment of the bonds;

10 (3) Custody and application of the proceeds of the bonds;

11 (4) Collection and disposition of revenues;

12 (5) Investment for authorized purposes; and

13 (6) Rights, duties, and obligations of the regional mobility
14 authority and the holders and registered owners of the bonds.

15 (g)(1) The authorizing resolution may provide for the execution of a
16 trust indenture between the regional mobility authority and any financial
17 institution within or without the State of Arkansas.

18 (2) The trust indenture may contain any terms, covenants, and
19 conditions that are deemed desirable by the board of directors of the
20 regional mobility authority, including without limitation those pertaining to
21 the:

22 (A) Maintenance of various funds and reserves;

23 (B) Nature and extent of any security for the payment of
24 the bonds;

25 (C) Custody and application of the proceeds of the bonds;

26 (D) Collection and disposition of revenues;

27 (E) Investment and reinvestment of any moneys during
28 periods not needed for authorized purposes; and

29 (F) Rights, duties, and obligations of the regional
30 mobility authority and the holders and registered owners of the bonds.

31 (h)(1) An authorizing resolution and trust indenture relating to the
32 issuance and security of the bonds shall constitute a contract between the
33 regional mobility authority and the holders or registered owners of the
34 bonds.

35 (2) The contract and all covenants, agreements, and obligations
36 in the contract shall be promptly performed in strict compliance with the

1 terms and provisions of the contract, and the covenants, agreements, and
2 obligations of the regional mobility authority may be enforced by mandamus or
3 other appropriate proceeding at law or in equity.

4 (i)(1) The resolution shall fix the minimum fees, fares, tolls, or
5 charges to be collected prior to the payment of all of the bonds, with
6 exceptions as may be provided in the resolution, and shall pledge the
7 revenues derived from the regional mobility authority's transportation system
8 or any specified portion of the regional mobility authority's transportation
9 system for the purpose of paying the bonds and interest on the bonds.

10 (2) The rates to be charged for the use of the regional mobility
11 authority's transportation system shall be sufficient to provide for the
12 payment of all principal of and interest on all bonds when due.

13 (j)(1) Additional bonds may be issued in the same manner to pay the
14 costs of a transportation project.

15 (2) Unless otherwise provided in the bond resolution, the
16 additional bonds shall be on a parity, without preference or priority, with
17 bonds previously issued and payable from the revenue of the transportation
18 project.

19 (3) A regional mobility authority may issue bonds for a
20 transportation project secured by a lien on the revenue of the transportation
21 project subordinate to the lien on the revenue securing other bonds issued
22 for the transportation project.

23
24 27-76-605. Sale.

25 (a) The bonds may be sold in such manner, either at public or private
26 sale, and upon such terms as the members of the regional mobility authority
27 shall determine to be reasonable and expedient for effectuating the purposes
28 of the regional mobility authority.

29 (b) The bonds may be sold at a price that the board of directors of
30 the regional mobility authority determine to be in the best interest of the
31 regional mobility authority, including sale at discount.

32 (c)(1) The bonds shall be executed by manual or facsimile signature of
33 the chair of the regional mobility authority and the manual or facsimile
34 signature of the secretary of the regional mobility authority or any other
35 officer of the regional mobility authority authorized to do so by resolution
36 of the board of directors.

1 (2) In case any of the officers whose signatures appear on the
2 bonds shall cease to be the officers before delivery of the bonds, their
3 signatures nevertheless shall be valid and sufficient for all purposes.

4 (d) Each bond shall be impressed or imprinted with the seal of the
5 regional mobility authority.

6
7 27-76-606. Proceeds.

8 (a) The proceeds of each bond issue shall be disbursed in the manner
9 and under any restrictions as provided in the bond resolution.

10 (b)(1) The proceeds derived from the sale of the bonds shall be used
11 solely for the purpose of:

12 (A) Making betterments, improvements, and extensions to
13 the surface transportation system owned and operated by the regional mobility
14 authority;

15 (B) Paying interest on the bonds during the period of
16 construction of the betterments, improvements, and extensions;

17 (C) Establishing any necessary reserves for the bonds;

18 (D) Paying the costs of issuing the bonds; and

19 (E) Paying any other costs and expenditures of whatever
20 nature incidental to the accomplishment of the betterments, improvements, and
21 extensions.

22 (2) The terms "betterments", "improvements", and "extensions"
23 include surface transportation systems as well as all other real and personal
24 property, buildings, structures, or other improvements or facilities as may
25 be necessary or advisable for the proper and efficient operation of the
26 regional mobility authority's surface transportation system.

27 (c) If the proceeds of a bond issue exceed the cost of the
28 transportation project for which the bonds were issued, the surplus shall be
29 segregated from the other money of the regional mobility authority and used
30 only for the purposes specified in the bond resolution.

31 (d) To the extent permitted under the applicable bond proceedings,
32 revenue from one (1) transportation project or toll facility project of a
33 regional mobility authority may be used to pay the cost of another
34 transportation project or toll facility project of the same regional mobility
35 authority.

36

1 27-76-607. Repayment.

2 (a) Bonds issued under the provisions of this chapter shall be payable
3 from revenues derived from the regional mobility authority's transportation
4 system.

5 (b) The bonds shall not in any event constitute an indebtedness of nor
6 pledge the faith and credit of the State of Arkansas or the county or
7 counties or municipality or municipalities creating the regional mobility
8 authority within the meaning of any constitutional provisions or limitations.

9 (c) It shall be plainly stated on the face of each bond that it:

10 (1) Is issued under the provisions of this chapter;

11 (2) Does not constitute an indebtedness of the State of Arkansas
12 or the county or counties or the municipality or municipalities creating the
13 regional mobility authority within any constitutional provisions or
14 limitations; and

15 (3) Is not backed by the full faith and credit of the State of
16 Arkansas or the county or counties or municipality or municipalities creating
17 the regional mobility authority.

18 (d) The bonds and the interest on the bonds shall be exempt from all
19 state, county, and municipal taxation, including without limitation, income
20 taxation and inheritance taxation.

21
22 27-76-608. Lien in favor of bondholders.

23 (a) The payment of the principal of bonds issued under this chapter
24 and the interest thereon may be secured by a lien on and security interest in
25 the regional mobility authority's surface transportation system or any
26 specified portion of the regional mobility authority's surface transportation
27 system.

28 (b) It shall not be necessary to the perfection of the lien and pledge
29 for such purposes that the trustee in connection with the bond issue or the
30 holders of the bonds take possession of the collateral security.

31 (c) Subject to whatever restrictions may be contained in the
32 resolution or indenture governing the bonds, any holder of bonds issued under
33 the provisions of this chapter may enforce either at law or in equity the
34 lien and may compel by proper suit the performance of the duties of the
35 officers of the board of directors of the issuing regional mobility authority
36 set forth in this chapter.

1 (d)(1) In the event there is default in the payment of the principal
2 or interest on any of the bonds, a court of competent jurisdiction may
3 appoint a receiver to:

4 (A) Administer the regional mobility authority's surface
5 transportation system pledged to the payment of the bonds; or

6 (B) Administer the specified portion of the regional
7 mobility authority's surface transportation system pledged to the payment of
8 the bonds.

9 (2) The receiver shall perform the duties specified in
10 subdivision (d)(1) of this section on behalf of the public body.

11 (3) The receiver shall have the power to:

12 (A) Charge and collect rates sufficient to provide for:

13 (i) The payment of the bonds;

14 (ii) The interest on the bonds;

15 (iii) The payment of any operating expenses of the
16 surface transportation system pledged to the payment of the bonds or the
17 portion of the surface transportation system pledged to the payment of the
18 bonds; and

19 (B) Apply the income and revenues of the surface
20 transportation system pledged to the payment of the bonds or the portion of
21 the surface transportation system pledged to the payment of the bonds in
22 conformity with this chapter and the resolution or indenture providing for
23 the issuance of the bonds.

24
25 27-76-609. Refunding bonds.

26 (a)(1) Bonds may be issued for the purpose of refunding any
27 obligations issued under this chapter or otherwise.

28 (2) The refunding bonds may be combined with bonds issued under
29 the provisions of § 27-70-314 into a single issue.

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

33 (2) If sold, the proceeds may, either at maturity or upon any
34 authorized redemption date, be either:

35 (A) Applied to the payment of the obligations refunded; or

36 (B) Deposited in escrow for the retirement thereof.

1 (c)(1) All bonds issued under this section shall in all respects be
2 authorized, issued, and secured in the manner provided for other bonds issued
3 under this chapter and shall have all the attributes of such bonds.

4 (2) The resolution or indenture under which the refunding bonds
5 are issued may provide that any of the refunding bonds shall have the same
6 priority of lien on the revenues pledged for their payment as was enjoyed by
7 the obligations refunded thereby.

8
9 27-76-610. Interim bonds.

10 (a) Before issuing definitive bonds, a regional mobility authority may
11 issue interim bonds with or without coupons exchangeable for definitive
12 bonds.

13 (b) The interim bonds may be authorized and issued in accordance with
14 this chapter without regard to a requirement, restriction, or procedural
15 provision in any other law.

16 (c)(1) A bond resolution authorizing interim bonds may provide that
17 the interim bonds recite that the bonds are issued under this chapter.

18 (2) The recital is conclusive evidence of the validity and the
19 regularity of the interim bonds' issuance.

20
21 27-76-611. Revolving fund.

22 (a) A regional mobility authority may maintain a revolving fund to be
23 held in trust by a banking institution chosen by the regional mobility
24 authority separate from any other funds and administered by the regional
25 mobility authority's board of directors.

26 (b) A regional mobility authority may transfer into its revolving fund
27 money from any permissible source, including:

28 (1) Funds from a transportation project if the transfer does not
29 diminish the money available for the project to less than any amount required
30 to be retained by the bond proceedings pertaining to the project;

31 (2) Funds received by the regional mobility authority from any
32 source and not otherwise committed, including money from the transfer of a
33 transportation project or system as provided under § 27-76-408 or the sale of
34 surplus assets of the regional mobility authority;

35 (3) Funds received from the Arkansas State Highway and
36 Transportation Department and the State Highway Commission; and

1 (4) Contributions, loans, grants, or assistance from any
2 governmental entity, private entity, or person.

3 (c) The regional mobility authority may use money in the revolving
4 fund to:

5 (1) Finance the acquisition, construction, maintenance, or
6 operation of a transportation project of a regional mobility authority
7 including the extension, expansion, or improvement of a transportation
8 project;

9 (2) Provide matching money required in connection with any
10 federal, state, local, or private aid, grant, or other funding, including aid
11 or funding by or with public-private partnerships;

12 (3) Provide credit enhancement either directly or indirectly for
13 bonds issued to acquire, construct, extend, expand, or improve a
14 transportation project or a transportation system;

15 (4) Provide security for or payment of future or existing debt
16 for the design, acquisition, construction, operation, maintenance, extension,
17 expansion, or improvement of a transportation project or a transportation
18 system;

19 (5) Borrow money and issue promissory notes or other
20 indebtedness payable out of the revolving fund for any purpose authorized by
21 this chapter; and

22 (6) Provide for any other reasonable purpose that assists in the
23 financing of a regional mobility authority as authorized by this chapter.

24 (d)(1) Money spent or advanced from the revolving fund for a
25 transportation project or a transportation system must be reimbursed from the
26 money of that transportation project or transportation system.

27 (2) At the time that the expenditure or advancement is
28 authorized, a reasonable expectation of repayment must exist.

29
30 Subchapter 7 – Tolling

31
32 27-76-701. Setting tolling fees, fare, and other charges on a toll
33 facility project.

34 (a) A regional mobility authority shall set tolls, fees, fares, or
35 other charges at rates or amounts so that the aggregate of tolls, fees,
36 fares, or other charges from the transportation project, together with other

1 revenue of the project:

2 (1) Provides toll facility project revenue sufficient to pay:

3 (A) The toll facility project costs;

4 (B) The cost of maintaining, repairing, and operating the
5 transportation project; and

6 (C) The principal of and interest on any bonds issued for
7 the toll facility project as those bonds become due and payable; and

8 (2) Creates reserves for one (1) or more of the purposes stated
9 under subdivision (a)(1) of this section.

10 (b) A toll, fee, fare, or other charge imposed on an owner of a public
11 utility facility shall be imposed in a manner that is competitively neutral
12 and nondiscriminatory among similarly situated users of the toll facility
13 project.

14 (c) A toll, fee, fare, or other usage charge is not subject to
15 supervision or regulation by any agency of this state or other governmental
16 entity.

17 (d) Notwithstanding any of the provisions of this subchapter, a
18 regional mobility authority's power to charge tolls for use of a toll
19 facility project shall be subject to approval by the voters within the
20 boundaries of the regional mobility authority as follows:

21 (1) Voter approval of the initial imposition of the tolls
22 including the initial toll rate by the regional mobility authority; and

23 (2) If revenue bonds are to be issued by the regional mobility
24 authority to fund all or a portion of the costs of the toll facility project,
25 voter approval of the development of the toll facility project including the
26 initial toll rate and the issuance of the maximum principal amount of bonded
27 indebtedness.

28
29 27-76-702. Controlled access to toll facility projects.

30 (a) A regional mobility authority may adopt a resolution that
31 designates a toll road, a toll facility project, or a portion of a
32 transportation project as a controlled-access toll road.

33 (b) A regional mobility authority may adopt a resolution to:

34 (1) Prohibit the use of or access to or from a toll road by a
35 motor vehicle, bicycle, any other classification or type of vehicle, or a
36 pedestrian;

1 (2) Deny access to or from:

2 (A) A toll road;

3 (B) Real property adjacent to a toll road; or

4 (C) A street, road, alley, highway, or other public or
5 private way intersecting a toll road;

6 (3) Designate locations on a toll road at which access to or
7 from the toll road is permitted;

8 (4) Control, restrict, and determine the type and extent of
9 access permitted at a designated location of access to a toll road; or

10 (5) Erect appropriate protective devices to preserve the
11 utility, integrity, and use of a toll road.

12 (c) A regional mobility authority may grant access to or from a toll
13 facility.

14
15 27-76-703. Tolling power subject to voter approval.

16 The approval of the voters within the boundaries of the regional
17 mobility authority is required to authorize the development of a toll
18 facility, the initial toll rate, and the maximum amount of bonded
19 indebtedness pledged thereto subject to the provisions of 27-76-701(d).

20
21 27-76-704. Use of revenues – Revenue bonds.

22 (a)(1) Except as provided under subdivision (a)(3) of this section, a
23 regional mobility authority that has issued revenue bonds for a toll facility
24 project or a transportation project and that is financed with dedicated
25 revenue derived from tolls, fees, fares, or other funds shall set aside
26 moneys into a sinking fund that is pledged to and charged with the payment
27 of:

28 (A) Interest on the bonds as it becomes due;

29 (B) Principal of the bonds as it becomes due;

30 (C) Necessary charges of paying agents for paying
31 principal and interest;

32 (D) The redemption price or the purchase price of bonds
33 retired by call or purchase as provided in the bond proceedings; and

34 (E) Any amounts due under credit agreements.

35 (2) Moneys shall be set aside into a sinking fund at regular
36 intervals and as provided in the bond resolution or trust agreement.

1 (3) A regional mobility authority may retain the funds necessary
2 to pay the cost of maintenance, repair, and operation and to provide reserves
3 for those costs as provided in the bond proceedings.

4 (b) The use and disposition of money deposited to the credit of the
5 sinking fund is subject to the bond proceedings.

6
7 27-76-705. Surplus revenue.

8 (a) Each year, a regional mobility authority shall determine whether
9 it has surplus revenue from tolls, fees, or fares collected from the
10 operation of its transportation projects.

11 (b) If a regional mobility authority determines that it has surplus
12 revenue, then it shall either:

13 (1) Reduce the tolls, fees, or fares; or

14 (2) Spend the surplus revenue on other transportation projects
15 in the counties or municipalities within the jurisdictional boundaries of the
16 regional mobility authority as provided under subsection (c) of this section.

17 (c) Consistent with other laws and the rules and resolutions of the
18 regional mobility authority, a regional mobility authority may spend surplus
19 revenue on other transportation projects by:

20 (1) Constructing a transportation project located within the
21 county or counties of the authority;

22 (2) Assisting in the financing of a toll or toll-free
23 transportation project of another governmental entity; or

24 (3) Constructing a toll or toll-free transportation project and,
25 on completion of the project, transferring the project to another
26 governmental entity if:

27 (A) The other governmental entity authorizes the regional
28 mobility authority to construct the project and agrees to assume all
29 liability and responsibility for the maintenance and operation of the project
30 on its transfer; and

31 (B) The project is constructed in compliance with all laws
32 applicable to the governmental entity.

33
34 27-76-706. Arkansas State Highway and Transportation Department
35 contributions to toll road projects.

36 (a)(1) A regional mobility authority and the State Highway and

1 Transportation Department and the State Highway Commission may agree to allow
2 the department to contribute to the payment of costs of any of the following
3 in regards to a toll road:

4 (A) A financial study;

5 (B) An engineering study;

6 (C) A traffic feasibility study; or

7 (D) The design, financing, acquisition, construction,
8 operation, or maintenance of a toll road.

9 (2) The agreement shall not be inconsistent with the rights of
10 the bondholders or persons operating the toll road under a lease or other
11 contract.

12 (b) The department may use its engineering or other personnel,
13 including consulting engineers or traffic engineers, to conduct feasibility
14 studies under subsection (a) of this section.

15 (c)(1) An obligation or expense incurred by a regional mobility
16 authority or the department under this section is a part of the cost of the
17 toll road for which the obligation or expense was incurred.

18 (2) A regional mobility authority may require money contributed
19 under this section to be repaid from tolls or other revenue of the toll road
20 on which the money was spent.

21 (3) Money repaid as required by a regional mobility authority or
22 the department shall be deposited to the credit of the fund from which the
23 contribution was made.

24 (d) A regional mobility authority or the department may use federal
25 money for any purpose described by this chapter.

26 (e) A toll road developed by a regional mobility authority shall not
27 be part of the state highway system unless the regional mobility authority
28 and the State Highway Commission so agree.

29 (f)(1) The State Highway Commission may grant or loan department money
30 to a regional mobility authority for the acquisition of land for the
31 construction, maintenance, or operation of a toll road.

32 (2) The State Highway Commission may require the authority to
33 repay money provided under this section from toll revenue or other sources on
34 terms established by the commission.

35 (g) Money repaid as required by the commission shall be deposited to
36 the credit of the fund from which the money was provided.

1
2 27-76-707. Use and return of transponders.

3 A regional mobility authority may promulgate rules regarding the use
4 and return of transponders.

5
6 27-76-708. Requirement that an operator of a motor vehicle pay a toll.

7 (a)(1) Except as provided under subdivisions (a)(2) and (3) of this
8 section, the operator of a vehicle that is driven or towed through a toll
9 collection facility of a toll road owned by a regional mobility authority
10 shall pay the proper toll.

11 (2) An authorized emergency vehicle as defined under § 27-49-
12 219(d) is not required to pay a toll.

13 (3) A regional mobility authority may waive the requirement of
14 the payment of a toll or may authorize the payment of a reduced toll for any
15 vehicle or class of vehicles.

16 (b)(1) A violation of this section is an administrative offense and a
17 Class B misdemeanor.

18 (2) The regional mobility authority or its designee shall
19 attempt collection of the unpaid toll through the administrative procedures
20 under §§ 27-76-710, 27-76-711, and 27-76-712 before pursuing prosecution
21 under § 27-76-713.

22 (3) If the regional mobility authority or its designee is unable
23 to collect an unpaid toll through administrative procedures, then the matter
24 shall be transferred to the appropriate prosecuting attorney.

25
26 27-76-709. Presumption that the registered owner was the operator.

27 Except as provided under §§ 27-76-711 and 27-76-712, there is a
28 rebuttable presumption that the registered owner of the motor vehicle was the
29 operator of the motor vehicle when the offense occurred.

30
31 27-76-710. General administrative procedure for collection of an
32 unpaid toll.

33 (a)(1) The regional mobility authority or its designee may attempt to
34 collect an unpaid toll under § 27-76-708 and an administrative fee to recover
35 the cost of collecting the unpaid toll.

36 (2) The administrative fee shall not exceed one hundred dollars

1 (\$100).

2 (3) The registered owner shall pay a separate toll and
3 administrative fee for each occurrence of nonpayment under this subsection
4 (a).

5 (b)(1) Upon the occurrence of the offense of failure to pay a toll,
6 the regional mobility authority or its designee shall issue to the registered
7 owner of the motor vehicle a written notice of nonpayment of the toll.

8 (2) The notice of nonpayment shall:

9 (A) Include a statement of the amount of the toll charges
10 and the amount of the administrative fee for which the registered owner of
11 the motor vehicle is liable;

12 (B) Be sent by first-class mail to the registered owner's
13 address as shown in the motor vehicle registration records maintained by the
14 Department of Finance and Administration;

15 (C) Be sent not later than thirty (30) days after the date
16 of the alleged failure to pay; and

17 (D) State that payment is not required until thirty (30)
18 days after the date that the notice was mailed.

19
20 27-76-711. Administrative procedure when the registered owner is a
21 lessor.

22 (a) If the registered owner of the motor vehicle is the lessor of a
23 vehicle and the lessor claims it is not liable an unpaid toll under § 27-76-
24 708 because the vehicle was under a rental contract on the date the offense
25 of nonpayment occurred, then the procedures of this section apply.

26 (b)(1) Not later than thirty (30) days after the date that the notice
27 of nonpayment was mailed to the registered owner, the lessor shall provide to
28 the regional mobility authority or its designee a copy of the rental, lease,
29 or other contract document covering the vehicle on the date of the nonpayment
30 under subsection (a) of this section.

31 (2) The name and address of the lessee shall be clearly legible
32 on the documents provided to the regional mobility authority or its designee.

33 (c)(1) If the lessor provides the required information within the
34 prescribed period, the regional mobility authority or its designee shall send
35 a notice of nonpayment to the lessee.

36 (2) The notice of nonpayment shall:

1 (A) Include a statement of the amount of the toll charges
2 and the amount of administrative fee for which the lessee of the motor
3 vehicle is liable;

4 (B) Be sent by first-class mail to the lessee's address as
5 shown on the rental, lease, or other contract document provided by the
6 lessor;

7 (C) Be sent not later than thirty (30) days after the date
8 of receipt of the required information from the lessor; and

9 (D) State that payment is not required until thirty (30)
10 days after the date that the notice was mailed.

11 (d) The lessee shall pay a separate toll and administrative fee for
12 each event of nonpayment.

13
14 27-76-712. Administrative procedure when the registered owner is a
15 transferor.

16 (a) If the registered owner of a motor vehicle that was mailed notice
17 of nonpayment of a toll under this section transferred ownership of the
18 vehicle to another person before the offense of an unpaid toll under § 27-76-
19 708 occurred, then the procedures of this section apply.

20 (b)(1) Not later than thirty (30) days after the date that the notice
21 of nonpayment was mailed to the transferor of the motor vehicle, the
22 transferor shall submit to the regional mobility authority or its designee a
23 bill of sale or supporting documentation for the transfer of ownership.

24 (2) The name and address of the person in which the motor
25 vehicle was transferred shall be clearly legible on the documents provided to
26 the regional mobility authority or its designee.

27 (c)(1) If the transferor of the motor vehicle provides the required
28 information within the prescribed period, the regional mobility authority or
29 its designee shall send a notice of nonpayment to the transferee.

30 (2) The notice of nonpayment shall:

31 (A) Include a statement of the amount of the toll charges
32 and the amount of administrative fee for which the transferee is liable;

33 (B) Be sent by first-class mail to the transferee's
34 address as shown in the bill of sale or supporting documentation;

35 (C) Be sent not later than thirty (30) days after the date
36 of receipt of the required information from the transferor; and

1 (D) State that payment is not required until thirty (30)
2 days after the date that the notice was mailed.

3 (d) The transferee shall pay a separate toll and administrative fee
4 for each event of nonpayment.

5
6 27-76-713. Prosecution of failure to pay tolls.

7 (a) In the prosecution of a violation of § 27-76-708, the prosecuting
8 attorney shall establish that:

9 (1) The vehicle passed through a toll collection facility
10 without payment of the proper toll; and

11 (2) The defendant was either of the following when the failure
12 to pay the toll occurred:

13 (A) The registered owner of the motor vehicle; or

14 (B) The operator of the motor vehicle.

15 (b) The court may consider sworn testimony from any of the following:

16 (1) A law enforcement officer;

17 (2) A regional mobility authority employee;

18 (3) An employee of the designee of the regional mobility
19 authority; or

20 (4) An employee of the Department of Finance and Administration.

21 (c) The court may consider any other reasonable evidence, including
22 without limitation:

23 (1) Video surveillance; or

24 (2) Evidence obtained by automated enforcement technology.

25 (d) It is a defense to prosecution under this section that the motor
26 vehicle in question was stolen before the failure to pay the proper toll
27 occurred and was not recovered by the time of the failure to pay, but only if
28 the theft was reported to the appropriate law enforcement authority before
29 the earlier of:

30 (1) The occurrence of the failure to pay; or

31 (2) Eight (8) hours after the discovery of the theft.

32 (e) A person who pleads guilty or nolo contendere to or is found
33 guilty of violating § 27-76-708 is guilty of a Class B misdemeanor.

34 (f) The court in which a person is convicted of an offense under this
35 section shall also collect the proper toll and administrative fee and forward
36 the toll and fee to the regional mobility authority.

1
2 SECTION 2. Arkansas Code § 27-70-207(a)(1)(A), regarding the
3 distribution of highway revenues to county funds, is amended to read as
4 follows:

5 (a)(1)(A) All highway revenues transferred to the County Aid Fund
6 under this subchapter shall be paid over by the Treasurer of State to the
7 treasurers of the respective counties of this state for credit to the county
8 highway fund, there to be used for the maintenance, construction, and
9 reconstruction of roads and bridges in the county highway system, provided,
10 however, that no more than twenty percent (20%) of the revenues received by a
11 county during any fiscal year may also be used for public transportation.

12 (B) A county may also use these funds to construct and
13 maintain parking for county courthouses, county administration buildings,
14 county health units, and county parks and to construct and maintain sidewalks
15 that serve county courthouses, county administration buildings, county health
16 units, county parks, public schools, and other publicly owned property.

17 (C) A county may use these funds to pay for local projects
18 eligible for funding under state programs of the Arkansas State Highway and
19 Transportation *Department* and the State Highway Commission and under federal
20 programs of the Federal Highway Administration of the United States
21 Department of Transportation.

22 (D) Furthermore, the funds may be used to install and
23 maintain traffic signals where needed to preserve public health, safety, and
24 welfare.

25 (E) A county may provide these funds to a regional
26 mobility authority ~~to match federal transportation funds~~ for the financing of
27 surface transportation system improvements on state highways, county roads,
28 and city streets.

29
30 SECTION 3. Arkansas Code Title 27, Chapter 70, Subchapter 3 is
31 repealed.

32 ~~27-70-301. Title.~~

33 ~~This subchapter may be cited as the "Regional Mobility Authority Act".~~

34
35 ~~27-70-302. Legislative intent.~~

36 ~~It is the intent of the General Assembly that revenues raised in~~

1 furtherance to this subchapter are supplemental to and not a substitute for
2 the state and federal transportation funds normally invested within the
3 boundaries of the various regional mobility authorities created under this
4 subchapter.

5
6 ~~27-70-303. Definitions.~~

7 ~~As used in this subchapter:~~

8 ~~(1) "Authority" means a regional mobility authority created~~
9 ~~under this subchapter with the powers and duties designated in this~~
10 ~~subchapter;~~

11 ~~(2) "Board" means the board of directors of an authority;~~

12 ~~(3)(A) "Bond" means a bond, certificate, or note.~~

13 ~~(B) "Bond" includes any other obligation of an authority~~
14 ~~authorized by this subchapter, the laws of the State of Arkansas, or the~~
15 ~~Arkansas Constitution;~~

16 ~~(4) "Governing body" means the quorum court of a county;~~

17 ~~(5) "Member" means any county that is a participant in an~~
18 ~~authority;~~

19 ~~(6) "Project development" means all phases of implementation~~
20 ~~conducted in relation to a particular project, including, but not limited to:~~

21 ~~(A) Planning;~~

22 ~~(B) Environmental clearances;~~

23 ~~(C) Surveys;~~

24 ~~(D) Right of way acquisition; and~~

25 ~~(E) Construction; and~~

26 ~~(7) "Surface transportation system" means a system of surface~~
27 ~~transportation that includes, but is not limited to:~~

28 ~~(A) Roads;~~

29 ~~(B) Streets;~~

30 ~~(C) Highways;~~

31 ~~(D) Bridges;~~

32 ~~(E) Tunnels;~~

33 ~~(F) Sidewalks;~~

34 ~~(G) Bicycle paths;~~

35 ~~(H) Toll facilities;~~

36 ~~(I) Pedestrian ways;~~

1 ~~(J) Intermodal facilities;~~
 2 ~~(K) Parking facilities;~~
 3 ~~(L) Public transit systems;~~
 4 ~~(M) Traveler information systems;~~
 5 ~~(N) Intelligent transportation systems;~~
 6 ~~(O) Traffic management systems;~~
 7 ~~(P) Traffic signal systems;~~
 8 ~~(Q) Safety improvements;~~
 9 ~~(R) All other means of surface transportation; or~~
 10 ~~(S) The preservation and maintenance of existing surface~~
 11 ~~transportation facilities.~~

12
 13 ~~27-70-304. Regional mobility authority—Creation.~~

14 ~~(a) A single county or any combination of contiguous counties may~~
 15 ~~create an authority.~~

16 ~~(b) The purpose of an authority created under this subchapter is to~~
 17 ~~plan, construct, operate, fund, or purchase improvements to a surface~~
 18 ~~transportation system.~~

19 ~~(c)(1) A member of an authority shall only participate in the~~
 20 ~~authority if the member's governing body:~~

21 ~~(A) By ordinance provides for the member's participation~~
 22 ~~in the authority; and~~

23 ~~(B) Enters into an agreement with the other participating~~
 24 ~~members if such members exist.~~

25 ~~(2) The agreement between members of an authority shall~~
 26 ~~establish the terms and conditions of the operation of the authority within~~
 27 ~~the limitations provided in this subchapter and the other laws of the State~~
 28 ~~of Arkansas that may be applicable.~~

29 ~~(d) To the extent that it is consistent with this subchapter, the~~
 30 ~~agreement shall specify the information provided for in § 25-20-104(c) of the~~
 31 ~~Interlocal Cooperation Act, § 25-20-101 et seq.~~

32
 33 ~~27-70-305. Authority made a public corporation.~~

34 ~~(a) Upon creation of an authority:~~

35 ~~(1) The authority and its members shall:~~

36 ~~(A) Constitute a public corporation; and~~

1 ~~(B) Have perpetual succession; and~~

2 ~~(2) The authority and its members may:~~

3 ~~(A) Contract and be contracted with;~~

4 ~~(B) Sue and be sued; and~~

5 ~~(C) Have and use a common seal.~~

6 ~~(b) The exercise of the powers and performance of the duties under~~
7 ~~this subchapter by each authority are declared to be public and governmental~~
8 ~~functions that are exercised for a public purpose and for matters of public~~
9 ~~necessity and that confer upon each authority governmental immunity from suit~~
10 ~~in tort.~~

11
12 ~~27-70-306. Board of directors.~~

13 ~~(a) The management and control of each authority, its property,~~
14 ~~operations, business, and affairs shall be governed by a board composed of at~~
15 ~~least the following directors:~~

16 ~~(1) The county judge or designated representative of the county~~
17 ~~judge of each county in which the authority is geographically situated; and~~

18 ~~(2) The mayor or designated representative of the mayor of each~~
19 ~~city of the first class within each county that is a member of an authority.~~

20 ~~(b)(1) The directors of the board shall appoint one (1) or more~~
21 ~~citizen representatives who hold no public office to form a board that has a~~
22 ~~minimum of five (5) directors.~~

23 ~~(2) The terms of the citizen representatives shall be staggered~~
24 ~~and shall not exceed five (5) years.~~

25 ~~(c)(1) The directors of the board shall serve as such throughout their~~
26 ~~terms in office.~~

27 ~~(2) If any director ceases for any reason to be a director, that~~
28 ~~director shall be replaced by the elected official succeeding the director or~~
29 ~~as may be provided further in the bylaws created under this subchapter.~~

30 ~~(d) The directors shall be solely responsible for selecting the chair~~
31 ~~of the board.~~

32 ~~(e) All directors of each authority shall be qualified electors within~~
33 ~~the judicial boundaries of the authority that the directors represent.~~

34 ~~(f)(1) No director of an authority shall receive any compensation~~
35 ~~whether in the form of a salary, per diem allowance, or otherwise for or in~~
36 ~~connection with his or her services as a director.~~

1 ~~(2) However, each director shall be entitled to reimbursement by~~
2 ~~the authority for any necessary expenditures in connection with the~~
3 ~~performance of his or her general duties as a director.~~

4
5 ~~27-70-307. Powers of authority.~~

6 ~~Each authority is given the following powers to:~~

7 ~~(1) Make and adopt all necessary bylaws for its organization and~~
8 ~~operations;~~

9 ~~(2) Elect officers and to employ personnel necessary for its~~
10 ~~operation;~~

11 ~~(3) Enter into contracts necessary or incidental to its powers~~
12 ~~and duties under this subchapter;~~

13 ~~(4) Apply for, receive, and spend grants for any purpose of this~~
14 ~~subchapter;~~

15 ~~(5) Acquire lands and hold title to the lands acquired in its~~
16 ~~own name;~~

17 ~~(6) Build, fund, own, operate, or contract the operation of any~~
18 ~~surface transportation system;~~

19 ~~(7) Acquire, own, use, and dispose of property in the exercise~~
20 ~~of its powers and the performance of its duties under this subchapter;~~

21 ~~(8) Borrow money and execute and deliver negotiable notes in the~~
22 ~~exercise of its powers and the performance of its duties under this~~
23 ~~subchapter;~~

24 ~~(9) Issue bonds;~~

25 ~~(10) Enter into any agreement with any road or street~~
26 ~~improvement district established pursuant to §§ 14-316-101 et seq., 14-317-~~
27 ~~101 et seq., and 14-322-101 et seq.;~~

28 ~~(11) Enter into any agreement with the State Highway Commission;~~

29 ~~(12) Impose and collect tolls, charges, and rates on surface~~
30 ~~transportation systems owned or operated by the authority, the imposition of~~
31 ~~which shall be subject to the approval of voters within the boundaries of the~~
32 ~~authority;~~

33 ~~(13) Request and receive from time to time from counties or~~
34 ~~cities within the boundaries of the authority, funds to finance and support~~
35 ~~the authority, including county or city turnback funds as set forth in §§ 27-~~
36 ~~70-206 and 27-70-207 for the purpose of matching federal transportation~~

1 funds;

2 ~~(14) Receive property or funds by gift or donation for the~~
3 ~~finance and support of the authority; and~~

4 ~~(15) Do all things necessary or appropriate to carry out the~~
5 ~~powers and duties expressly granted or imposed under this subchapter.~~

6
7 ~~27-70-308. Eminent domain.~~

8 ~~(a) An authority shall have the right to acquire any property~~
9 ~~necessary to carry out the purposes of this subchapter by exercising the~~
10 ~~power of eminent domain.~~

11 ~~(b) The authority, its agents, and its employees may seek a court~~
12 ~~order to enter upon real property and make surveys, examinations,~~
13 ~~photographs, tests, and samplings or to engage in other activities for the~~
14 ~~purpose of appraising the property or determining whether it is suitable for~~
15 ~~the authority's purpose.~~

16
17 ~~27-70-309. Condemnation petition—Notice.~~

18 ~~(a) The authority may exercise its power of eminent domain by filing~~
19 ~~an appropriate petition in condemnation in the circuit court of the county in~~
20 ~~which the property sought to be taken is situated to have the compensation~~
21 ~~for right of way determined, giving the owner of the property to be taken at~~
22 ~~least ten (10) days' notice in writing of the time and place where the~~
23 ~~petition will be heard.~~

24 ~~(b)(1) If the property sought to be condemned is located in more than~~
25 ~~one (1) county, the petition may be filed in any circuit court having~~
26 ~~jurisdiction in any county in which any part of the property may be located.~~

27 ~~(2) The proceedings had in the circuit court shall apply to all~~
28 ~~of the property described in the petition.~~

29 ~~(c)(1)(A) If the owner of the property sought to be taken is a~~
30 ~~nonresident of the state, notice shall be by publication in any newspaper in~~
31 ~~the county that is authorized by law to publish legal notices.~~

32 ~~(B) This notice shall be published for the same length of~~
33 ~~time as may be required in other civil causes.~~

34 ~~(2) If there is no such newspaper published in the county, then~~
35 ~~publication shall be made in a newspaper designated by the circuit clerk, and~~
36 ~~one (1) written or printed notice thereof shall be posted on the door of the~~

1 ~~county courthouse.~~

2 ~~(d)(1) The condemnation petition shall describe the lands and property~~
3 ~~sought.~~

4 ~~(2) When the immediate possession of lands and property is~~
5 ~~sought to be obtained, the authority may file a declaration of taking under~~
6 ~~this subchapter at any time before judgment or together with the condemnation~~
7 ~~petition.~~

8
9 ~~27-70-310. Declaration of taking.~~

10 ~~(a)(1) The petitioner may file a declaration of taking at any time~~
11 ~~before a judgment is signed by the chair of the board or with the~~
12 ~~condemnation petition in any proceeding instituted by and in the name of the~~
13 ~~authority that involves the acquisition of real property, an interest in real~~
14 ~~property, or an easement.~~

15 ~~(2) The declaration shall declare that the authority is taking~~
16 ~~the real property, the interest in the real property, or the easement for the~~
17 ~~use of the authority.~~

18 ~~(b) The declaration of taking shall contain or have annexed to it the~~
19 ~~following:~~

20 ~~(1) A statement that the authority is taking the real property,~~
21 ~~the interest in the real property, or the easement;~~

22 ~~(2) A statement of the purpose for which the authority is taking~~
23 ~~the real property, the interest in the real property, or the easement;~~

24 ~~(3) A description of the real property, the interest in the real~~
25 ~~property, or the easement that the authority is taking, sufficient for the~~
26 ~~identification thereof;~~

27 ~~(4) A plat showing the real property, the interest in the real~~
28 ~~property, or the easement that the authority is taking; and~~

29 ~~(5) A statement of the amount of money estimated by the~~
30 ~~acquiring authority to be just compensation for the taking of the real~~
31 ~~property, the interest in the real property, or the easement.~~

32
33 ~~27-70-311. Condemnation proceedings and judgment.~~

34 ~~(a) The circuit court shall impanel a jury of twelve (12) persons, as~~
35 ~~in other civil cases, to ascertain the amount of compensation that the~~
36 ~~authority shall pay for the real property, the interest in the real property,~~

1 ~~or the easement which the authority is taking.~~

2 ~~(b) The matter shall proceed and be determined as in other civil~~
3 ~~eases.~~

4 ~~(c) In all cases of infants or incompetent persons, when no legal~~
5 ~~representative or guardian appears in their behalf at the hearing, it shall~~
6 ~~be the duty of the court to appoint a guardian ad litem who shall represent~~
7 ~~their interest for all purposes.~~

8 ~~(d) Compensation shall be ascertained and awarded in the proceeding~~
9 ~~and established by judgment therein.~~

10
11 ~~27-70-312. Financing of authority.~~

12 ~~(a) Each authority may be financed or supported by receiving from time~~
13 ~~to time as revenue the following:~~

14 ~~(1) All or any part of any proceeds derived from the levy and~~
15 ~~collection of a sales tax by a county that is a member of an authority,~~
16 ~~pursuant to § 26-74-201 et seq., § 26-74-301 et seq., and § 26-74-401 et~~
17 ~~seq.;~~

18 ~~(2) All or any part of any proceeds derived from the levy and~~
19 ~~collection of a sales tax by a city that is within the boundaries of an~~
20 ~~authority, pursuant to § 26-75-201 et seq. and § 26-75-301 et seq.;~~

21 ~~(3) Proceeds from a motor vehicle tax imposed by a county that~~
22 ~~is a member of an authority, pursuant to § 26-78-101 et seq.;~~

23 ~~(4) Proceeds from tolls, charges, and rates imposed on surface~~
24 ~~transportation systems owned or operated by the authority; and~~

25 ~~(5) State turnback funds received from counties and cities,~~
26 ~~pursuant to §§ 27-70-206 and 27-70-207.~~

27 ~~(b) Taxes imposed under subdivisions (a)(1)-(3) of this section shall~~
28 ~~be approved by voters pursuant to all applicable election laws.~~

29
30 ~~27-70-313. Approval required.~~

31 ~~Any design or proposal for road or highway improvements must be~~
32 ~~approved by the city or county government or the State Highway Commission~~
33 ~~that owns the roadway prior to the commencement of project development.~~

34
35 ~~27-70-314. Improvement financing with bonds.~~

36 ~~(a) Whenever any authority created under this subchapter shall own or~~

1 ~~operate a surface transportation system and shall desire to construct~~
2 ~~improvements, betterments, and extensions thereto, the authority may issue~~
3 ~~revenue bonds under the provisions of this subchapter to pay the costs.~~

4 ~~(b)(1) Bonds issued in accordance with this subchapter shall be~~
5 ~~authorized by resolution of the board of directors of the authority.~~

6 ~~(2) The bonds may be issued as registered bonds and may be~~
7 ~~exchangeable for bonds of another denomination or in another form.~~

8 ~~(3) The bonds may:~~

9 ~~(A) Be in such form and denominations;~~

10 ~~(B) Have such date or dates;~~

11 ~~(C) Be stated to mature at such time or times;~~

12 ~~(D) Bear interest payable at such times and at such rate~~
13 ~~or rates;~~

14 ~~(E) Be payable at such places within or without the state;~~

15 ~~(F) Be subject to such terms of redemption in advance of~~
16 ~~maturity at such prices; and~~

17 ~~(G) Contain such terms and conditions, all as the board of~~
18 ~~directors shall determine.~~

19 ~~(4) The bonds shall have all of the qualities of and shall be~~
20 ~~deemed to be negotiable instruments under the laws of the State of Arkansas,~~
21 ~~subject to provisions as to registration as set forth in this subsection.~~

22 ~~(5) The authorizing resolution may contain any other terms,~~
23 ~~covenants, and conditions that the board of directors deems reasonable and~~
24 ~~desirable, including, without limitation, those pertaining to:~~

25 ~~(A) The maintenance of various funds and reserves;~~

26 ~~(B) The nature and extent of any security for payment of~~
27 ~~the bonds;~~

28 ~~(C) The custody and application of the proceeds of the~~
29 ~~bonds;~~

30 ~~(D) The collection and disposition of revenues;~~

31 ~~(E) The investing for authorized purposes; and~~

32 ~~(F) The rights, duties, and obligations of the public body~~
33 ~~and the holders and registered owners of the bonds.~~

34 ~~(c)(1) The authorizing resolution may provide for the execution of a~~
35 ~~trust indenture between the authority and any financial institution within or~~
36 ~~without the State of Arkansas.~~

1 ~~(2) The trust indenture may contain any terms, covenants, and~~
2 ~~conditions that are deemed desirable by the board of directors, including,~~
3 ~~without limitation, those pertaining to:~~

4 ~~(A) The maintenance of various funds and reserves;~~

5 ~~(B) The nature and extent of any security for the payment~~
6 ~~of the bonds;~~

7 ~~(C) The custody and application of the proceeds of the~~
8 ~~bonds;~~

9 ~~(D) The collection and disposition of revenues;~~

10 ~~(E) The investing and reinvesting of any moneys during~~
11 ~~periods not needed for authorized purposes; and~~

12 ~~(F) The rights, duties, and obligations of the public body~~
13 ~~and the holders and registered owners of the bonds.~~

14 ~~(d)(1) Any authorizing resolution and trust indenture relating to the~~
15 ~~issuance and security of the bonds shall constitute a contract between the~~
16 ~~authority and holders and registered owners of the bonds.~~

17 ~~(2) The contract and all covenants, agreements, and obligations~~
18 ~~therein shall be promptly performed in strict compliance with the terms and~~
19 ~~provisions of the contract, and the covenants, agreements, and obligations of~~
20 ~~the authority may be enforced by mandamus or other appropriate proceeding at~~
21 ~~law or in equity.~~

22 ~~(e)(1) The resolution shall fix the minimum fees, fares, tolls, or~~
23 ~~charges to be collected prior to the payment of all of the bonds, with~~
24 ~~exceptions as may be provided in the resolution, and shall pledge the~~
25 ~~revenues derived from the authority's surface transportation system or any~~
26 ~~specified portion of the authority's surface transportation system for the~~
27 ~~purpose of paying the bonds and interest thereon.~~

28 ~~(2) The rates to be charged for the use of the authority's~~
29 ~~surface transportation system shall be sufficient to provide for the payment~~
30 ~~of all principal of and interest on all bonds as and when due.~~

31 ~~(f)(1) The proceeds derived from the sale of the bonds shall be used~~
32 ~~solely for the purpose of:~~

33 ~~(A) Making betterments, improvements, and extensions to~~
34 ~~the surface transportation system owned and operated by the authority;~~

35 ~~(B) Paying interest on the bonds during the period of~~
36 ~~construction of the betterments, improvements, and extensions;~~

1 ~~(C) Establishing any necessary reserves for the bonds;~~
2 ~~(D) Paying the costs of issuing the bonds; and~~
3 ~~(E) Paying any other costs and expenditures of whatever~~
4 ~~nature incidental to the accomplishment of the betterments, improvements, and~~
5 ~~extensions.~~

6 ~~(2) The terms "betterments", "improvements", and "extensions"~~
7 ~~include surface transportation systems as well as all other real and personal~~
8 ~~property, buildings, structures, or other improvements or facilities as may~~
9 ~~be necessary or advisable for the proper and efficient operation of the~~
10 ~~authority's surface transportation system.~~

11 ~~(g)(1) Bonds issued under the provisions of this section shall be~~
12 ~~payable solely from revenues derived from the authority's surface~~
13 ~~transportation system.~~

14 ~~(2) The bonds shall not in any event constitute an indebtedness~~
15 ~~of nor pledge the faith and credit of the State of Arkansas or the county or~~
16 ~~counties creating the authority within the meaning of any constitutional~~
17 ~~provisions or limitations.~~

18 ~~(3) It shall be plainly stated on the face of each bond that it:~~

19 ~~(A) Is issued under the provisions of this subchapter;~~

20 ~~(B) Does not constitute an indebtedness of the State of~~
21 ~~Arkansas or the county or counties creating the authority within any~~
22 ~~constitutional provisions or limitations; and~~

23 ~~(C) Is not backed by the full faith and credit of the~~
24 ~~State of Arkansas or the county or counties creating the authority.~~

25 ~~(4) The bonds and the interest thereon shall be exempt from all~~
26 ~~state, county, and municipal taxation. This exemption includes income~~
27 ~~taxation and inheritance taxation.~~

28 ~~(h)(1) The bonds may be sold in such manner, either at public or~~
29 ~~private sale, and upon such terms as the board of directors shall determine~~
30 ~~to be reasonable and expedient for effectuating the purposes of the~~
31 ~~authority.~~

32 ~~(2) The bonds may be sold at a price the board of directors may~~
33 ~~accept, including sale at discount.~~

34 ~~(i)(1) The bonds shall be executed by manual or~~
35 ~~faecsimile signature of the chair of the board of directors and the manual or~~
36 ~~faecsimile signature of the secretary of the board of directors or any other~~

1 ~~officer of the authority authorized to do so by resolution of the board of~~
2 ~~directors.~~

3 ~~(2) In case of the officers whose signatures appear on the~~
4 ~~bonds shall cease to be the officers before delivery of the bonds, their~~
5 ~~signatures nevertheless shall be valid and sufficient for all purposes.~~

6 ~~(3) Each bond shall be impressed or imprinted with the seal of~~
7 ~~the public body.~~

8
9 ~~27-70-315. Lien in favor of bondholders.~~

10 ~~(a) The payment of the principal of bonds issued under this subchapter~~
11 ~~and the interest thereon may be secured by a lien on and security interest in~~
12 ~~the authority's surface transportation system or any specified portion of the~~
13 ~~authority's surface transportation system.~~

14 ~~(b) It shall not be necessary to the perfection of the lien and pledge~~
15 ~~for such purposes that the trustee in connection with the bond issue or the~~
16 ~~holders of the bonds take possession of the collateral security.~~

17 ~~(c) Subject to whatever restrictions may be contained in the~~
18 ~~resolution or indenture governing the bonds, any holder of bonds issued under~~
19 ~~the provisions of this subchapter may enforce either at law or in equity the~~
20 ~~mortgage lien and may compel by proper suit the performance of the duties of~~
21 ~~the officers of the issuing authority set forth in this subchapter.~~

22 ~~(d) If there be default in the payment of the principal of or interest~~
23 ~~on any of the bonds, any court having jurisdiction in any proper action may~~
24 ~~appoint a receiver to administer the authority's surface transportation~~
25 ~~system or the specified portion of the authority's surface transportation~~
26 ~~system pledged to the payment of the bonds on behalf of the public body with~~
27 ~~power to charge and collect rates sufficient to provide for the payment of~~
28 ~~the bonds and the interest thereon and for the payment of the operating~~
29 ~~expenses and to apply the income and revenues in conformity with this~~
30 ~~subchapter and the resolution or indenture providing for the issuance of the~~
31 ~~bonds.~~

32
33 ~~27-70-316. Refunding bonds.~~

34 ~~(a) Bonds may be issued for the purpose of refunding any obligations~~
35 ~~issued under this subchapter or otherwise. The refunding bonds may be~~
36 ~~combined with bonds issued under the provisions of § 27-70-314 into a single~~

1 ~~issue.~~

2 ~~(b) When bonds are issued under this section for refunding purposes,~~
3 ~~the bonds may either be sold or delivered in exchange for the outstanding~~
4 ~~obligations. If sold, the proceeds may be either applied to the payment of~~
5 ~~the obligations refunded or deposited in escrow for the retirement thereof~~
6 ~~either at maturity or upon any authorized redemption date.~~

7 ~~(c)(1) All bonds issued under this section shall in all respects be~~
8 ~~authorized, issued, and secured in the manner provided for other bonds issued~~
9 ~~under this subchapter and shall have all the attributes of such bonds.~~

10 ~~(2) The resolution or indenture under which the refunding bonds~~
11 ~~are issued may provide that any of the refunding bonds shall have the same~~
12 ~~priority of lien on the revenues pledged for their payment as was enjoyed by~~
13 ~~the obligations refunded thereby.~~

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15 */s/ Wills, et al*

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17 *APPROVED: 3/20/2007*

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