

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Representative Mahony

HOUSE BILL 1879

"AN ACT TO AMEND ACT 445 OF 1973 AND ACT 607 OF 1975, THE
SAME BEING THE ACTS CREATING THE COUNTY ROAD CONSTRUCTION AND
MAINTENANCE REVOLVING FUND; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 2 of Act 607 of 1975, the same being Arkansas Statute 76-461.2, is hereby amended to read as follows:

"Section 2. (A) COUNTY HIGHWAY REVENUE ESTIMATES. For the fiscal year beginning July 1, 1975, and for each fiscal year thereafter, it shall be the duty of the Chief Fiscal Officer of the State to prepare and file quarterly statements setting forth therein an estimate of the total amount of 'Highway Revenues' and other state revenues made available by Act 445 of 1973, and any and all other laws providing state resources for and to county governments for road construction, improvements and betterments made within the spirit of Act 445 of 1973, for the expressed use of the several counties of the State and apportioned to the several counties during the then fiscal year, with such quarterly statements to be prepared and filed on or before the tenth day of July, October, January, and April of the fiscal year. Each such statement shall be designated and known as the 'Official Estimate of County Highway Revenues Distribution' for the then current fiscal year, and copies thereof shall be filed with the Chief Fiscal Officer of the State, the State Auditor, the State Treasurer, and each of the several County Courts. In addition to the estimate of the total amounts of county road funds by legislated source categories to be collected and apportioned, the said Chief Fiscal Officers shall incorporate in each such Official Estimate a listing of all counties and an estimate of the amount of such County Road Funds by legislated source category to be credited to each county under the then current provisions of the Revenue Stabilization Law.

(1) In preparing each Official Estimate of County Highway Revenues Distribution, the said Chief Fiscal Officer shall begin with a basic amount arrived at in the manner hereinafter prescribed, and to such amount he shall add, or from such amount he shall subtract, his estimate of such net increase or net decrease in County Road Funds as may be affected by various factors, as determined by the Chief Fiscal Officer of the State including but not thereby limited to changes in the laws pertaining to tax rates and exemptions, administration of tax laws, and distribution of revenues. The basic amount of such County Road Funds shall be arrived at as follows.

(2) The July estimate shall be the amount of the next preceding fiscal year's County Road Funds, increased or decreased by that certain percentage thereof arrived at by determining the average of the changes, per centum, in the amount of the total County Road Funds by legislated source category of each of the three preceding fiscal years in relation to its preceding fiscal year.

(3) The October, January, and April estimates shall be the total amount of County Road Funds by legislated source category collected in the preceding months of the then current fiscal year, plus the total amount of County Road Funds by legislated source category collected in all of the other months of the preceding fiscal year, increased or decreased by that certain percentage thereof arrived at by determining the average of the changes, per centum, in the collections during all such other months of each of the three preceding fiscal years in relation to the same other months of its preceding fiscal years.

(B) COUNTY ROAD CONSTRUCTION AND MAINTENANCE REVOLVING FUND. Monies at any time in the County Road Construction and Maintenance Revolving Fund shall be available to the Chief Fiscal Officer of the State only for the purposes of making advance transfers to the several County Highway Funds, State Aid Road Funds, Federal Aid Secondary Road Funds, and any and all other provisions of county road construction assistance which may be enacted by the General Assembly and governed by the Revenue Stabilization Law of Arkansas; and the said Chief Fiscal Officer of the State shall be guided by the following provisions with respect to the making of advance transfers of monies from the County Road Construction and Maintenance Revolving Fund to other State Treasury Funds or fund accounts which, under the provisions of this subsection are eligible to receive such advances:

(1) Advance transfers may be made to each of the several County Highway Funds from time to time during the fiscal year in such amounts as may be requested by the several County Courts and approved by the Chief Fiscal Officer of the State. The purposes of such advance transfers as provided for in this subsection are, but not limited to, to establish a more consistent monthly revenue accruing to each of the several 'County Highway Funds': when combining County Highway Aid with all other sources of County Highway Fund revenues, and to provide advance transfers for the purchase of capital equipment and materials utilized in county road construction and maintenance; provided, however that the aggregate total amount of all such transfers to each of the several respective County Highway Funds during any calendar quarter shall not exceed twenty-five percent (25%) of the estimated total amount of County Highway Aid Funds to be credited to such respective fund for the current fiscal year, based on the then current official Estimate of County Highway Fund Distribution. In the event no advance transfer to the respective County Highway Funds is required by a respective County Court, the County Court shall be permitted to designate the dollar amounts and sequence of payments made to the respective county from the funds apportioned through the provisions of the State Apportionment Fund.

(a) The full amount of all advance transfers made during any fiscal year under the provisions of subsection (B) (1) of this Act shall be repaid during the same fiscal year by transferring monies in equal payments to the 'County Road Construction and Maintenance Revolving Fund' from monies designated as County Highway Aid Funds for each respective county receiving advance transfers. Provided, that should any condition of circumstance arise where in the unencumbered cash balance in each respective county highway aid fund account maintained by the State Treasurer at the end of the fiscal year be insufficient to repay the full amount of the balance owing the Road Revolving Fund, then the entire unencumbered cash balance in each respective county highway fund account shall be transferred to the Road Revolving Fund, and the balance of any amounts then owing the Revolving Fund by a respective county shall be repaid from the first monies thereafter credited to that county as County Highway Aid Funds from the State Apportionment Fund, and there shall be no exception to this mandate. For purposes of this subsection, the term 'unencumbered cash balance' shall mean the respective fund account balance of each of the several counties as reflected by the State Treasurer's records, less

the amount of all warrants legally chargeable to such accounts which are, at the time, outstanding and unpaid.

(b) The inter-fund transfers authorized to be made under subsection (B)(1) hereof, shall be made by the State Treasurer upon certification of the Chief Fiscal Officer of the State at the request of each of the several County Courts.

(2) Advance transfers may be made from time to time during the fiscal year to each of the several county special purpose road accounts maintained by the State Treasurer. 'Special Purposes Road Accounts' as used in this subsection shall include any and all county road construction provisions enacted by the General Assembly requiring a specified level of local, county, cost matching; and shall include: 'State Aid Road Funds', 'Federal Aid Secondary Road Funds' and any and all other provisions of county special purpose road construction assistance which may be enacted by the General Assembly. Such advance transfers may be made from time to time in such amounts as may be respectively requested by each of the several County Courts. Such advance transfer requests shall be duly recorded as a County Court Order in each of the respective counties and shall be filed in a manner and form prescribed by the Chief Fiscal Officer of the State; and such requests shall be accompanied by a certified copy of all initiated contractual documentation or grant-in-aid award documentation required by the provisions of the applicable special purpose road construction assistance enacted by the General Assembly for which the advance transfer is requested. Such contractual documentation or grant-in-aid award documentation shall specify the total dollar amount of the contract or award, the effective date of the contractual document, and the estimated date of termination or completion of all work specified in the contract or award, provided, however, that the aggregate total amount of all such advance transfers to each of the respective special purpose road construction accounts during any fiscal year shall not exceed fifty percent (50%) of the estimated total amount of County Highway Aid Funds to be credited to each respective county for the current fiscal year, based on the then current annual Official Estimate of County Highway Revenue Distribution.

(a) The full amount of all advance transfers authorized under the provisions of this subsection, (B)(2), shall be repaid to the Road Revolving Fund in equal monthly installments from 'Highway Revenue' monies designated as County Aid Funds from the State Apportionment Fund for each of the respective

counties receiving advance transfers. Such repayment period may transcend one (1) or more fiscal years or one (1) or more calendar years; provided, however, that the full amount of all advance transfers authorized under this subsection, (B) (2), shall be repaid during the term of office of each of the respective County Judges requesting such advance transfers as the County Court of each of the several counties; and all such transfers shall be repaid during the then current appropriation biennium of the General Assembly. There shall be no exception to this mandate.

(b) The inter-fund transfers authorized to be made under this subsection, (B) (2), shall be made by the State Treasurer upon certification of the Chief Fiscal Officer of the State at the request of each of the several County Courts.

(c) Advance transfers from the 'County Road Construction and Maintenance Revolving Fund' pursuant to the provisions of subsections (B) (1) and (B) (2) shall be governed by the following provisions:

(1) Advance transfers pursuant to subsection 2 (B) (1) may be made to each of the several counties as may be requested by the several County Courts and approved by the Chief Fiscal Officer of the State. Advance transfer requests shall be duly recorded as a County Court Order in each of the respective counties requesting advance transfers and shall be filed in a manner and form prescribed by the Chief Fiscal Officer. Advance transfer requests may be filed only during the thirty (30) day period next succeeding the date of delivery of the tax books to the County Collector, the beginning of a State Fiscal Year, and the third Monday in November of each year. Said Court Order shall include a certification by the County Court that the 'Official Revenue Estimate' as provided for herein has been duly filed and recorded.

For the calendar year beginning January, 1976, and for each calendar year thereafter, it shall be the duty of the County Court of each of the several counties requesting advance transfers under the provisions of subsection 2 (B) (1) to prepare and file annual statements setting forth therein an estimate of the total amount of 'County Highway Revenues' and 'General Fund Revenues' anticipated to accrue to each respective Fund during the then current calendar year or any part thereof. Such statements shall be designated and known as the 'Official Estimates of County General and County Highway Fund Accrual', and a copy thereof shall be recorded with the County Clerk. In addition to the estimates of the total revenue amounts anticipated to accrue to each respec-

tive Fund, the said County Court shall incorporate in each such 'Official Estimate' a listing of all revenue sources and the dollar amounts anticipated to accrue from each source by month of the calendar year. The said listing of revenue sources shall include but not be limited to, ad valorem tax revenues, collector's commissions, treasurer's commissions, assessor's fund, fees, court fines and cost, state aid, and Federal Revenue Sharing, and such monthly estimates shall be based on an analysis of the three annual calendar year periods next preceding the current calendar year period.

(2) Advance transfers from the 'County Road Construction and Maintenance Revolving Fund' pursuant to the provision of subsection 2 (B)(2) shall be governed by the following provision: Advance transfers may be made from time to time and in such amounts as may be respectively requested by each of the several County Courts. Such advance transfer requests shall be duly recorded as a County Court Order in each of the respective counties and shall be filed in a manner and form prescribed by the Chief Fiscal Officer of the State."

SECTION 2. Section 13 of Act 445 of 1973, as amended, the same being Arkansas Statute 76-459, is hereby amended to read as follows:

"Section 13. There is hereby created in the State Treasury a fund to be known as the 'State Aid Road Fund' to which the State Treasurer shall transfer one hundred percent (100%) of the revenues credited to the State Highway Special Construction Account each month until an aggregate total of thirteen million dollars (\$13,000,000) each fiscal year is so transferred, there to be used for construction, reconstruction, and improvements of the state-aid road system. All revenues deposited in the State Aid Road Fund shall be apportioned to each county as prescribed in Section 7 of this Act for the distribution of mileage on the state-aid road system among the various counties. The apportioned funds shall remain for a period of two (2) years from the date they are apportioned. Any unused funds shall be returned to the State-Aid Road Fund for redistribution in accordance with the above formula. For a county to receive these funds, they must be matched in the ratio of eighty percent (80%) State-Aid Road Funds to not less than twenty percent (20%) county matching funds, and the county must comply with all provisions of this Act."

SECTION 3. Section 14 of Act 445 of 1973, as amended, the same being

Arkansas Statutes 76-460, is hereby amended to read as follows:

"Section 14. Funds deposited in the state-aid road fund shall be used exclusively for the construction, reconstruction, and improvement of roads on the state-aid road system except as otherwise provided herein. Construction, reconstruction, and improvement shall mean any proposal submitted by a County Court which meets the definition of 'betterment' as opposed to 'maintenance'. Betterment shall mean any construction or reconstruction on a state-aid designated road which results in an improvement which exceeds or equals any previous improvement whether or not such previous improvement was financed in part or in whole through the provisions of this Act. Provided, not more than twenty-five percent (25%) of a county's allotment from the State Aid Road Fund shall be used for the purposes of resealing. Maintenance shall mean any act of work which maintains the improvement in serviceable condition. Provided further, that no funds shall be spent hereunder on any project which shall not culminate directly in a paved, hard-surfaced road. None such funds shall be used for maintenance of state-aid roads.

(a) Each year, fifty percent (50%) of all federal aid secondary aid funds allocated to this State shall be set aside by the State Highway Commission for use on county secondary road projects on the federal aid secondary roads that are included in the state-aid road system. Provided that county funds are to be matched in accordance with the applicable federal law relative thereto and further, that no federal aid secondary funds shall be used to match any revenue sharing funds appropriated hereunder.

Federal aid secondary road funds that are not committed for use on county secondary federal aid road projects during any current two-year period shall revert to, and may be used for, the State Highway Department on state secondary highways.

(b) All rights-of-way required on state-aid road projects shall be acquired by the county, and any cost of rights-of-way shall not be considered a part of the cost of any project contemplated by this Act. The costs of reconstructing fencing, and the construction of property access passages shall not be considered as rights-of-way costs but shall be considered as a component of project cost.

(c) All state-aid road fund expenditures hereunder shall be made after publication of notice to bidders of the date for final reception of bids and the address at which specifications can be acquired, and after a public

opening of the bids thereon, all contracts shall be awarded to the lowest and best bidder."

SECTION 4. REPEALING CLAUSE. All laws and parts of laws in conflict with this Act are herewith repealed.

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

SECTION 6. EMERGENCY. It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1037 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

