FSPPC311

DIVISION OF AGRICULTURE
RESEARCH & EXTENSION
University of Arkansas System

PUBLIC POLICY Center

GIVING CITIES AND COUNTIES ADDITIONAL FINANCING POWERS

ISSUE NO. 2

(Referred to the People by the Arkansas General Assembly – 2012)

POPULAR NAME: An amendment concerning municipal and county financing of sales tax anticipated revenue bond projects, unfunded liabilities of closed local police and fire pension plans, and real and tangible personal property.

BALLOT TITLE: An amendment authorizing cities and counties to create districts within the city or county for development and redevelopment projects within the district and to issue bonds payable from the increased amount of city and county sales and use tax collected within the district for financing such projects; authorizing a municipality or county to issue bonds and levy a local sales and use tax for the purpose of retiring unfunded liabilities of closed local police and fire pension plans; and amending Amendment 78 of the Arkansas Constitution to provide that annual principal and interest payments on short-term financing obligations shall be charged against and paid from general revenues for the fiscal year and special revenues authorized to be used for the property financed.

How did this issue make it to the ballot?

Issue No. 2 is a legislatively referred measure that the Arkansas General Assembly voted to put on the state's General Election ballot. The Legislature can refer up to three constitutional amendments for any one ballot. All constitutional amendments require approval by a majority of voters in a statewide election.

What is being proposed?

This proposed constitutional amendment would provide counties and cities with three new powers. Those powers would be:

(1) The ability to create Sales Tax Anticipated Revenue districts for development or redevelopment projects. Counties and cities would be able to issue Sales Tax Anticipated Revenue bonds, or STAR bonds, to finance the projects. The bond debt would be paid from sales and use tax generated in the district.

(2) The ability to issue bonds to retire unfunded liabilities of closed police and fire pension plans, and the ability to ask voters to approve a sales and use tax to pay the bond debt. The tax, which would require a vote of the people, would expire when the bond debt has been paid. This amendment would only apply to

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cities and counties that consolidated their closed pension plans with the Arkansas Local Police and Fire Retirement System.

(3) The ability to use special revenues to pay principal and interest payments on short-term debt obligations. Amendment 78 currently allows only the use of general fund revenues, and road and solid waste revenues on road and solid waste projects. The amendment would also eliminate existing language referring to specific interest rates that were voided by a previous election.

What are bonds?

The use of bonds to finance projects is similar to the use of a mortgage to purchase a house.

A bond is an instrument of debt issued by a state or local government entity. In return for purchasing the bond, the bond holder (investor) will receive interest payments as well as the original investment on a schedule predetermined at the time the bond is issued. To retire or satisfy the debt, the government entity must repay that total amount issued, plus the interest associated with it, over a specified period of time.

There are generally two types of bonds used by cities and counties – revenue and tax-supported bonds. Revenue bonds are backed by specific sources of money, such as utility revenues, and do not require voter approval. Tax-supported bonds include those supported by dedicated sales tax or property taxes and usually require voter approval.

Section 1: STAR Districts

Doesn't the state already authorize tax-financing districts?

Arkansas' Constitution currently authorizes the creation of a Tax Increment Financing district, which uses a district's increased property tax revenue to satisfy bond debt issued in anticipation of tax growth. Voters approved this enabling legislation in the 2000 General Election.

Arkansas' Constitution does not authorize Sales Tax Anticipated Revenue bonds, which were first adopted by Kansas legislators in the 1990s and have since been adopted in other states. In Kansas, STAR bonds were used to build the Kansas Speedway.

What type of projects would be eligible for STAR bonds?

Legislators outlined eligible projects in Senate Joint Resolution 5, which called for adding the proposed amendment to the fall ballot.

The resolution defines an eligible project as: "The acquisition, development, redevelopment, and revitalization of land within the district, for eliminating or preventing the development or spread of slums or blighted, deteriorated, or deteriorating areas, for discouraging the loss of commerce, industry, or employment, for increasing employment, or any combination thereof …"

A state agency that has yet to be determined by the General Assembly would have to approve a STAR bond project before a city or county could issue any bonds for the project, according to Senate Joint Resolution 5.

What does the Amendment mean when referring to "increased amount" of city and county sales tax?

Sales tax revenue generated before a STAR district's creation would continue to go to city and county coffers. The sales tax dollars generated by the development or redevelopment in the district would be used to pay the bond debt. This does not involve a new sales tax.

Would a city or county be responsible for paying bond debt if a project does not generate enough sales tax to cover the debt?

No. It is a risk that a bond holder takes as the debt can only be repaid with the dedicated sales tax revenues. A bond issue also typically includes a pre-paid reserve fund that can be used to cover debt payments in case of any shortfall in tax revenue.

Section 2: Unfunded Pension Plans

What is an unfunded liability and why are pension plans in that situation?

An unfunded liability occurs when a pension plan owes its members more money over a span of time than the value of its assets and money in the bank.

Arkansas' closed pension plans have unfunded liabilities because there are fewer active members and no new members paying into the system while inflation and cost-of-living increases have made payments to retirees larger than the amount of money paid in when they were employed. Earnings on investments may also have been lower than projected.

At the same time, local governments are only required to make contributions for active members in the closed plans.

There are 144 closed pension plans still administered locally in Arkansas, according to the Pension Review Board. Cities have limited options to raise funds for pension liabilities. State law currently only allows cities to levy a small amount of property taxes to cover unfunded pension liabilities.

In 1981, the Legislature established a statewide retirement system for police officers and firefighters. Counties and cities closed their local pension plans to new hires. The new retirement system went into effect in 1983.

Can a city or county levy a new sales tax or issue bonds for pension funding without a public vote?

No. Voters must give their approval in an election before any sales tax or bond could be issued for funding closed pension plans. The tax could not be extended for any other purpose. The bond debt, according to Senate Resolution 5, could not exceed the total amount of the unfunded liability.

Section 3: Amending Amendment 78

What will amending Amendment 78 do?

Section 3 of the proposed amendment would remove language referring to interest rate caps, which were eliminated by voters in 2010 but are still in the section's wording. The proposed amendment would also allow counties and cities to use money from sources other than their general fund to pay off the short-term debt obligation. An example would be revenue from a dedicated sales tax.

Short-term debt obligations must be paid off within five years. Cities and counties can use this type of debt, often a bank loan, to acquire, construct, install, or rent real property or tangible personal property having an expected useful life of more than one year. For example, this is how many cities and counties now pay for new fleets of emergency responder vehicles.

The following statements are what supporters or opponents have said either in media statements, campaign literature, on web sites or in interviews conducted by Public Policy Center staff. The University of Arkansas Division of Agriculture does not endorse or validate these statements.

What do supporters say?

- These measures would give local governments additional tools and flexibility to promote economic development, fund older pension plans and finance acquisition of new property.
- STAR districts would not use property taxes to repay debt as TIF districts do, and therefore would not affect school district revenues.
- Arkansas is at a disadvantage in attracting new development because it competes against other states that allow STAR bonds. Kansas officials, who were the first to adopt STAR bonds, have said the bonds are their strongest economic development incentive program.
- Changes to short-term financing language would clarify that cities and counties can use special revenues to satisfy short-term debt obligations, eliminating a concern over the technicality of the existing language.

What do opponents say?

- There has been no organized or publicized opposition to this ballot initiative.
- In other states, critics have said STAR bonds are not always a successful tool, particularly when there is an economic downturn. When the economy is not doing well, there is less sales tax revenue to cover a project's debt.
- In Topeka, Kansas, the supporters of a STAR bond project had to ask the city for financial assistance in repaying debt because the project had not generated as much sales tax as anticipated and needed. In Nevada, established stores moved into STAR districts, redirecting existing sales tax away from local and state governments and to the district's debt.

When does the legislation take effect, if passed?

- Section 1, which deals with STAR bonds, requires additional state legislation from the General Assembly before it would take effect. Additional state laws would be needed to enact rules, project oversight and administrative details. Those laws would be introduced in the next Legislative session.
- Section 2, which involves closed police and fire pension plans, would not be effective until the General Assembly passes additional state laws during their next regular session.
- Section 3, which involves Amendment 78, would be effective immediately because it does not require any additional changes to state law.

What does a "FOR" vote mean?

A **FOR** vote means you are in favor of authorizing the use of Sales Tax Anticipated Revenue bonds and the creation of STAR districts. You are in favor of giving cities and counties the ability to issue bonds to cover unfunded liabilities of closed police and fire pension plans, and asking citizens to pass a sales tax to pay that bond debt. You are in favor of amending Amendment 78 to allow the use of special revenues to pay short-term debt obligations.

What does an "AGAINST" vote mean?

An **AGAINST** vote means you are not in favor of authorizing the use of Sales Tax Anticipated Revenue bonds and the creation of STAR districts. You are not in favor of giving cities and counties the ability to issue bonds to cover unfunded liabilities of closed police and fire pension plans, and asking citizens to pass a sales tax to pay that bond debt. You are not in favor of amending Amendment 78 to allow the use of special revenues to pay short-term debt obligations.

Where can I find more information?

A complete version of the legislative bill can be found at *www.sos.arkansas.gov/elections/Pages/initiativeReferendums.aspx*.

For additional information please visit the University of Arkansas Division of Agriculture's Public Policy Center web site at *ppc.uaex.edu* or contact your county Cooperative Extension Service office.

Voter registration information and election information can be obtained through the Arkansas Secretary of State's office by calling 501-682-1010 or visiting *www.sos.arkansas.gov*.

Exercise your voting privilege.

We live in a democratic society where voting is a privilege of citizenship. Democracy works best when informed citizens exercise their voting privilege. Please vote Nov. 6, 2012.

The deadline to register to vote in the General Election is Oct. 8, 2012.

Early voting begins Oct. 22, 2012.

Absentee ballots are available from the county clerks' offices beginning Sept. 21, 2012.

The following statements are how the Popular Name and Ballot Title will appear on the November general election ballot for Issue No. 2:

(Popular Name)

AN AMENDMENT CONCERNING MUNICIPAL AND COUNTY FINANCING OF SALES TAX ANTICIPATED REVENUE BOND PROJECTS, UNFUNDED LIABILITIES OF CLOSED LOCAL POLICE AND FIRE PENSION PLANS, AND REAL AND TANGIBLE PERSONAL PROPERTY.

(Ballot Title)

AN AMENDMENT AUTHORIZING CITIES AND COUNTIES TO CREATE DISTRICTS WITHIN THE CITY OR COUNTY FOR DEVELOPMENT AND REDEVELOPMENT PROJECTS WITHIN THE DISTRICT AND TO ISSUE BONDS PAYABLE FROM THE INCREASED AMOUNT OF CITY AND COUNTY SALES AND USE TAX COLLECTED WITHIN THE DISTRICT FOR FINANCING SUCH PROJECTS; AUTHORIZING A MUNICIPALITY OR COUNTY TO ISSUE BONDS AND LEVY A LOCAL SALES AND USE TAX FOR THE PURPOSE OF RETIRING UNFUNDED LIABILITIES OF CLOSED LOCAL POLICE AND FIRE PENSION PLANS; AND AMENDING AMENDMENT 78 OF THE ARKANSAS CONSTITUTION TO PROVIDE THAT ANNUAL PRINCIPAL AND INTEREST PAYMENTS ON SHORT-TERM FINANCING OBLIGATIONS SHALL BE CHARGED AGAINST AND PAID FROM GENERAL REVENUES FOR THE FISCAL YEAR AND SPECIAL REVENUES AUTHORIZED TO BE USED FOR THE PROPERTY FINANCED.

◯ **For** Issue No. 2

◯ **Against** Issue No. 2

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