



## ISSUE NUMBER 3

(Referred to the people by the Arkansas General Assembly)

# Job creation, job expansion and economic development

**POPULAR NAME:** An amendment to the Arkansas Constitution concerning job creation, job expansion, and economic development.

**BALLOT TITLE:** An amendment to the Arkansas Constitution to encourage job creation, job expansion, and economic development; removing the limitation on the principal amount of general obligation bonds that may be issued under Amendment 82 of the Arkansas Constitution to attract large economic development projects; authorizing a city, county, town, or other municipal corporation to obtain or appropriate money for any corporation, association, institution, or individual to finance economic development projects and to provide economic development services; authorizing the issuance of bonds under Amendment 62 of the Arkansas Constitution for economic development projects; authorizing the taxes that may be pledged to retire bonds issued under Amendment 62 of the Arkansas Constitution for economic development projects; removing the requirement of a public sale for bonds issued under Amendment 62 of the Arkansas Constitution for economic development projects; and authorizing

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## QUICK LOOK: What does your vote mean?

**FOR:** A FOR vote means you are in favor of changing the Arkansas Constitution regarding all six components proposed, including removing the 5% of state general revenue cap on bond issues for large economic development projects; allowing counties and municipalities to obtain or provide money for other entities to support economic development projects or services; clarifying the authority of counties and municipalities to issue bonds for economic development projects; allowing the use of other taxes to pay off bond debt; removing the requirement that economic development bonds may be sold only at public sale; and allowing local governments to form compacts for economic development projects.

**AGAINST:** An AGAINST vote means you are not in favor of changing the Arkansas Constitution regarding one or more of the components proposed, including removing the 5% of state general revenue cap on bond issues for large economic development projects; allowing counties and municipalities to obtain or provide money for other entities to support economic development projects or services; clarifying the authority of counties and municipalities to issue bonds for economic development projects; allowing the use of other taxes to pay off bond debt; removing the requirement that economic development bonds may be sold only at public sale; and allowing local governments to form compacts for economic development projects.

The following statements are examples of what supporters and opponents have made public either in media statements, campaign literature, on websites or in interviews with Public Policy Center staff. The University of Arkansas System Division of Agriculture does not endorse or validate these statements.

## What do supporters say?

- The constitution includes a patchwork of economic development language and definitions, making it difficult or impossible for local communities to take full advantage of valuable job creation tools. The amendment would clean up those inconsistencies, provide additional opportunities for cities to participate in economic development opportunities and enhance the state's ability to attract large employers.
- Arkansas is at a disadvantage. Our constitution leaves us out of line with other states in this part of the country when it comes to giving communities the ability to engage in economic development efforts.
- Removing the cap on the amount of bonds the state could issue would help Arkansas compete for more large projects that could bring hundreds of new jobs to the state.
- It would regularize what many municipalities are already doing and clarify what local governments can do to offer incentives to companies.
- Being able to spend money locally on economic development would help cities and towns attract businesses and add jobs.

## What do opponents say?

- It allows local governments to give away taxpayer money to a private corporation, association, institution or individual.
- There is no limit on how much state revenue may be pledged to private super projects. Theoretically, the state could approve the use of 100 percent of its general revenues or even more than 100 percent. Just one legislature could ruin the state budget and cause the need for tax increases for years to come.
- The proposal's popular name is deceptive and designed to fool uninformed voters.
- Taking money from one business for the benefit of another business is no different than welfare. It's a form of income redistribution.
- This will give you the ability to bankrupt your city. Bad decisions will come back to bite you.
- The amendment will reopen the door to sending local sales tax money from poor people to pay the salaries of chamber of commerce executives who lobby for policies contrary to the interest of poor people.

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compacts for economic development projects among cities of the first and second class, incorporated towns, school districts and counties.

## What is being proposed?

This amendment asks voters to approve multiple changes to the Arkansas Constitution with the stated intent to encourage job creation, job expansion and economic development. It proposes modifications to Article 12 and Amendments 62 and 82. If approved by voters, this amendment would:

1. Remove the limitation on the amount of general obligation bonds the state may issue to pay for economic development projects. Amendment 82 currently provides that bonds cannot exceed 5 percent of state general revenues.
2. Allow a county, city, town or other municipal corporation to obtain or provide money for other entities to support economic development projects or services.
3. Clarify the authority of counties and municipalities to issue bonds for economic development projects instead of industrial development purposes, which the constitution currently authorizes but does not define.
4. Allow state legislators to authorize the use of other taxes (beyond special taxes) to pay off municipal and county bond debt.
5. Remove requirement that municipal and county bonds may be sold only at public sale.
6. Allow cities, towns, school districts and counties to form compacts for economic development projects.

## How did this issue get on the ballot?

Arkansas legislators voted to put Senate Joint Resolution 16, or Issue 3, on the 2016 general election ballot. If approved by a majority of the House and Senate, the state legislature has the right to include up to three constitutional amendments on the general election ballot. Constitutional amendments require the approval of a majority of voters in a statewide election.

## Who were the main sponsors of this amendment?

Sen. Jon Woods and Rep. Lance Eads of Springdale

The following sections describe each of the six proposed changes included in this amendment in the order they appear within the ballot title.

## Section 1: Remove the limitation on the amount of general obligation bonds the state may issue for economic development projects.

### What would this section do?

Amendment 82 of the Arkansas Constitution allows the state to issue general obligation bonds to pay for infrastructure or other needs to attract large economic development projects. Voters approved Amendment 82 in 2004.

This proposal would eliminate the section of Amendment 82 that says state-issued bonds cannot exceed 5 percent of state general revenue collected during the most recent fiscal year. The proposal would also update the definition of “infrastructure” and “economic development projects” in Amendment 82 to be consistent with the language proposed in Section 2 below.

### What is a general obligation bond?

In this context, a bond is a certificate of debt issued by the state. A bond is a form of government debt where the government agrees to pay back borrowed money over time at an agreed interest rate.

Bonds are typically used to pay for large capital projects, such as a road or building. Capital projects are usually expensive and difficult to fund on a pay-as-you go basis. Typically, the benefits obtained from the investment are expected to continue for the life of the bond issue or beyond.



In return for purchasing a bond, the bond holder (investor) will receive interest payments as well as the original amount of money invested on a schedule predetermined at the time the bond is sold. A “general obligation bond” is legally backed by the State of Arkansas. This means that costs associated with the bonds (administrative fees, interest payments and principle repayment) will be paid using any revenue source available to the state.

### What does the current 5% cap represent in dollar terms?

The state’s fiscal year just ended, and the Department of Finance and Administration reported net general revenue funds of \$5.19 billion for the state. Using \$5.19 billion as an example, a maximum bond issue of 5 percent would be \$259.5 million.

When paying off bond debt, the state repays the total amount issued, plus the interest payments associated with it, over a specified period of time. Assuming an interest rate of 4 percent, payments on a \$260 million bond issue would average \$18.4 million annually if repaid over a 20-year period.

### How has the state used its authority to issue bonds?

Since 2004, when voters granted the state the authority to issue bonds, Arkansas legislators have twice approved using bonds to attract a large economic development project. (Voters approved other modifications to the law in 2010).

The first time was in 2014 for the Big River Steel project in Osceola. A total of \$125 million in bonds were issued to provide \$70 million in infrastructure improvements, a \$50 million loan and \$5 million for costs associated with issuing the bonds. In 2015, legislators approved supporting a Lockheed Martin manufacturing facility in East Camden. However, that facility did not end up locating in Arkansas and the \$124.4 million in bonds were never issued.



### **Who decides whether the state can issue these bonds?**

The state legislature can approve general obligation bonds for large economic development projects during a general or special legislative session. Once approved, the Arkansas Development Finance Authority issues the bonds.

### **Section 2: Allow a county, city, town or other municipal corporation to obtain or provide money for other entities to support economic development projects or services.**

#### **What would this section do?**

It would amend Article 12 of the Arkansas Constitution to allow a county or municipality to obtain or provide money for a private corporation, association, institution or individual to finance economic development projects or provide economic development services.

This section is in response to a recent taxpayer lawsuit in Pulaski County that challenged payments by cities to local economic development organizations and chambers of commerce. Many Arkansas cities have been making annual payments to chambers of commerce since the 1990s. A Pulaski County judge agreed that the long-time payments, which helped pay employee salaries, violated Article 12 of the state constitution's prohibition against providing money to private corporations. The proposed amendment would remove the constitutional prohibition against using county or municipal funds to support private corporations and create an exception for economic development projects or services.

### **What qualifies as an economic development project or service?**

The proposal defines “economic development projects” as “land, buildings, furnishings, equipment, facilities, infrastructure and improvements” for development, retention and expansion of certain facilities. These include:

- Manufacturing, production and industrial facilities
- Research, technology and development facilities
- Recycling facilities
- Distribution centers
- Call centers
- Warehouse facilities
- Job training facilities
- Regional or national corporate headquarters

The proposed amendment defines “economic development services” as “planning, marketing and strategic advice and counsel” for job recruitment, development, retention and expansion. Services also include supervision, operation and contract negotiations for industrial parks or similar properties.

The proposed amendment also defines “infrastructure” related to economic development projects and services to include:

- Land acquisition
- Site preparation
- Road and highway improvements
- Rail spur, railroad and railport construction
- Water services
- Wastewater treatment
- Employee training and equipment to support it
- Environmental mitigation or reclamation

The proposal also gives the legislature the authority to change these definitions with a three-fourths vote.

### **Section 3: Clarify the authority of counties and municipalities to issue bonds for economic development projects instead of industrial development purposes, which the constitution currently authorizes, but does not define.**

#### **What would this section do?**

It would modify parts of Amendment 62, approved by voters in 1984, to allow a county or municipality to issue bonds to pay for economic development projects, which are defined the same as listed in Section 2. It does not propose changes to sections of Amendment 62 governing local capital improvement bonds.

#### **What types of projects does Amendment 62 currently cover?**

Amendment 62 currently gives cities and counties the authority to pay for “facilities for the securing and developing of industry.” The term “industry” is not defined.

#### **Could cities and counties issue bonds without voter approval?**

Counties and cities would still be required to hold an election and get voter approval before issuing bonds. They would still have the authority to levy a special property tax of up to 5 mills to pay for the bonds. A mill equals one thousandth of a dollar (.001).

However, as described below in Section 4, state legislators could authorize the use of other tax revenues to pay off economic development bonds. Amendment 62 does not limit the dollar amount of bond debt that local governments can issue.

### **Section 4: Allow state legislators to authorize the use of other taxes (beyond special taxes) to pay off municipal and county bonds.**

#### **What would this section do?**

This proposal would modify Amendment 62 to allow counties and cities to use other taxes to pay off bond debt issued for economic development projects. It would also

strike language in Amendment 62 that allows the use of special tax revenues collected in excess of the amount needed to pay off bonds to be used for additional bond issues if approved by voters.

#### **How are costs associated with these bonds currently paid?**

Cities and counties must currently use special taxes approved for the specific purpose of paying off these bonds.

#### **How does the amendment define “other taxes?”**

The phrase “other taxes” is not defined in the proposed amendment or the Arkansas Constitution.

Amendment 62 mentions “other taxes” in another section that deals with local capital improvement bonds. In that section, tax revenue to pay off bond debt can be from real or personal property taxes or other taxes. Amendment 18 also authorizes cities of a certain size to use special property taxes and other taxes provided by law to aid industry under certain conditions.

#### **What happens if tax revenues exceed the amount needed to pay off the bonds?**

Any surplus tax collections would be transferred to the county or city’s general revenues. This proposed change would eliminate the authority of cities and counties to use excess tax revenues to pay for other bond issues.

### **Section 5: Remove requirement that municipal and county bonds may be sold only at public sale.**

#### **What would this section do?**

This proposal would remove a requirement from Amendment 62 that cities and counties sell bonds at a public sale. This means that bonds could be sold publicly or privately. The process for selling the bonds would be at the discretion of the government entity.

A public sale involves publishing the upcoming sale in a newspaper that serves the community along with the details of when and how bids will be accepted. Private bond sales do not require publishing notice of the sale, and bonds are typically offered to a small number of investors.

#### **What are the current procedures for selling bonds under Amendment 62?**

Industry development bonds must currently be sold at a public sale.

## Section 6: Allow cities, towns, school districts and counties to form compacts for economic development projects

### What would this section do?

This proposal would modify Amendment 62 to expand the authority of cities, towns, school districts and counties to enter into a compact for economic development projects as defined in previous sections, rather just for industry development.

### What is a compact?

A compact is an agreement to join together in a combined effort and share the costs and revenues

associated with that effort. The governing quorum court, city council or school board of each entity that wants to enter into the compact must adopt the agreement and call for a special election for voters to approve the compacts. Amendment 62 governs this process.

### If passed, when would the legislation take effect?

If approved, the legislation would go into effect 30 days after the election. This amendment could be altered or repealed only by another citizen initiative.

### Where can I find more information?

The complete wording of this amendment can be found at [www.arkleg.state.ar.us/assembly/2015/2015R/Bills/SJR16.pdf](http://www.arkleg.state.ar.us/assembly/2015/2015R/Bills/SJR16.pdf).

The following is the proposed constitutional amendment name and title as they will appear on the state's November General Election ballot.

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Issue No. 3

(Popular Name)

An Amendment to the Arkansas Constitution Concerning Job Creation, Job Expansion, and Economic Development.

(Ballot Title)

AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO ENCOURAGE JOB CREATION, JOB EXPANSION, AND ECONOMIC DEVELOPMENT; REMOVING THE LIMITATION ON THE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS THAT MAY BE ISSUED UNDER AMENDMENT 82 OF THE ARKANSAS CONSTITUTION TO ATTRACT LARGE ECONOMIC DEVELOPMENT PROJECTS; AUTHORIZING A CITY, COUNTY, TOWN, OR OTHER MUNICIPAL CORPORATION TO OBTAIN OR APPROPRIATE MONEY FOR ANY CORPORATION, ASSOCIATION, INSTITUTION, OR INDIVIDUAL TO FINANCE ECONOMIC DEVELOPMENT PROJECTS AND TO *PROVIDE* ECONOMIC DEVELOPMENT SERVICES; AUTHORIZING THE ISSUANCE OF BONDS UNDER AMENDMENT 62 OF THE ARKANSAS CONSTITUTION FOR ECONOMIC DEVELOPMENT PROJECTS; AUTHORIZING THE TAXES THAT MAY BE PLEDGED TO RETIRE BONDS ISSUED UNDER AMENDMENT 62 OF THE ARKANSAS CONSTITUTION FOR ECONOMIC DEVELOPMENT PROJECTS; REMOVING THE REQUIREMENT OF A PUBLIC SALE FOR BONDS ISSUED UNDER AMENDMENT 62 OF THE ARKANSAS CONSTITUTION FOR ECONOMIC DEVELOPMENT PROJECTS; AND AUTHORIZING COMPACTS FOR ECONOMIC DEVELOPMENT PROJECTS AMONG CITIES OF THE FIRST AND SECOND CLASS, INCORPORATED TOWNS, SCHOOL DISTRICTS, AND COUNTIES.

FOR

AGAINST