

urers of each of said counties in which the territories of said district as enlarged in this act is located.

**SECTION 6.** The school directors shall annually, as now, or may be provided by law, make an enumeration of the children within school age in the bounds of said district and shall return to the county examiners of each county, the number of children enumerated in that county, and when the common school fund, as annually apportioned to the several districts of the state, the same shall be apportioned to the said district by the proper authorities of each of said counties according to the number of such children so enumerated and returned in each respective county.

**SECTION 7.** That all laws and parts of laws in conflict herewith, are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved April 27, 1901.

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## ACT CXXXII.

**AN ACT** to provide for the completion of the State Capitol Building and for other purposes.

**SECTION**

1. Governor to appoint Board of Commissioners. Their duties defined.
2. Prohibits members of Board from being interested in any contract. Penalty.
3. Board to take oath. Compensation of Board.
4. Secretary of State clerk of Board. To give bond. His duties.
5. Attorney General legal adviser of Board.
6. Old Board to turn over all papers, records, etc., to new Board.
7. Board to certify to Auditor accounts for labor, etc.

**SECTION**

8. Board to dispose of machinery and other property now on hand.
9. Cost of building not to exceed \$1,000,000, and built according to present plans.
10. Geo. R. Mann retained as architect. Conditions. Duties. Compensation, etc.
11. Board to select expert architect to examine plans. Defines duties of Board in awarding contracts, etc.
12. Successful bidder to give bond. Pay for labor and materials.
13. Creates Board of Finance. Board to issue and dispose of bonds. Tax levied to pay bonds.
14. Board may use certain materials. Price and payment of convict labor. How fixed and paid.
15. Board to sell adjoining lands when building completed.
16. Repeals Act of 1899, and this Act takes effect from passage.

*Be it enacted by the General Assembly of the State of Arkansas:*

**SECTION 1.** That for the purpose of completing the new state capitol building for the state of Arkansas at the city of Little Rock in said state, there is hereby created a board to be known as the board of state capitol commissioners. Said board of commissioners shall consist of the governor, who shall be ex-officio chairman of said board, but have no vote except in case of a tie, and four (4) members, to be composed of qualified electors of the state, to be appointed by the governor immediately upon the passage of this act by and with the advice and consent of the senate and house of representatives in joint session. The commissioners so appointed shall hold office until the completion of said building and acceptance thereof by said board in behalf of the state, unless sooner removed for cause by the governor, (who shall certify in such removal the cause thereof to the senate), and the commissioners so appointed shall each

give bond with at least two sureties, or by a surety company, as provided for by law, to the state of Arkansas in the sum of twenty thousand dollars (\$20,000) conditioned for the faithful performance of the duties imposed by law, to be approved by the governor and filed with the secretary of state; said sureties qualifying in double the penal obligation of said bond. Said board shall elect one of their members to act in the absence of the governor as chairman pro tem, and the governor shall have power to fill all vacancies until the next succeeding session of the senate, when any appointment to fill a vacancy shall be made by and with the advice and consent of the senate and house of representatives in joint session. A majority of said board shall constitute a quorum.

SECTION 2. It shall be unlawful for any member of said board to be connected, either directly or indirectly, in any manner whatsoever, with any contract or part thereof, for the erection of said capitol building, or for any work connected therewith, or for furnishing any of the supplies or materials therefor, or to receive any benefit therefrom, or the promise of any benefit therefrom, either by way of commission, rebate, bonus, division of profits or otherwise, and it shall be unlawful for said board to make any contract either directly or indirectly, or to make any purchases, either directly or indirectly, from any person who is connected by consanguinity or affinity with any member of said board; and any one of said board who shall violate the provisions of this act shall be guilty of a felony, and upon conviction thereof shall be subject to a fine not exceeding one thousand dollars (\$1,000) and imprisonment in the penitentiary not exceeding five (5) years and to be removed from said board. It shall be unlawful for said

board to employ any person in the supervision or superintendence of the building of said capitol or in any way connected therewith, who may or shall become in any manner connected directly or indirectly with any contract for the erection of said capitol building, or the furnishing of any materials therefor; and the said board of commissioners are hereby charged with a rigid enforcement of this act.

**SECTION 3.** Each of said commissioners, before entering upon the duties of his office, shall take and subscribe to the following oath, to be endorsed upon his bond and to be administered by any one authorized to administer oaths, to-wit:

“I, A B, do solemnly swear that I am not now, and will not, directly or indirectly, become interested or concerned in any manner with any contractor, sub-contractors, material men or any other person or persons who may be concerned in the erection of the state capitol or any portion thereof, or in the proceeds or profits growing out of the same, or any work or labor done thereon, or materials furnished in the erection of the same; and that I will not employ or contract with any person of kin to me in any manner in relation to said capitol building; and that I will faithfully discharge the duties of commissioner as aforesaid, to the best of my ability; so help me God.”

Within ten days after qualifications as commissioners, said board shall meet at the seat of government for the completion of their organization. Each commissioner appointed under the provisions of this act shall receive a compensation of five dollars (\$5) per day for each and every day he is actually engaged in the duties of his office, together with mileage at five cents per mile,

actually paid out while engaged in the performance of his official duties.

SECTION 4. The secretary of state shall be the secretary of said board. He shall qualify by giving bond, to be approved by a judge of a court of record, in the sum of ten thousand dollars (\$10,000), conditioned for the faithful performance of his duties in office, which shall be filed in the office of the secretary of state. He shall keep a true and complete record of all the proceedings of the board in a well-bound book, to be procured for that purpose. He shall make and keep a record of all contracts and obligations made and entered into by the board or made and entered into to the board. He shall attest all certificates ordered by the board. He shall keep a set of books showing all expenditures on account of said board and each member thereof, all expenditures on account of the capitol building, which shall show at all times the financial condition of said board and of the funds on hand for and applicable to the purpose of this act, and all matters relating thereto. He shall, on the first day of each month, prepare and deliver to the governor of the state of Arkansas a full statement in detail of all expenditures for the preceding month, showing also the amount remaining on hand and unexpended. He shall, on the first day of January of each year, prepare a financial report for the preceding year, containing an itemized and classified statement of all expenditures and a list of all vouchers issued, showing to whom and for what purpose they were issued, which report shall be filed in the office of the auditor of state and published on the first day of January of each year in two newspapers selected by the board, and a copy of all of said reports shall be transmitted by the board to the general assembly at each regular session. All contracts

made with said board and all bonds required by said board, as to legal form and sufficiency, shall be passed upon by the attorney general of the state of Arkansas, who shall append his written opinion thereto, after which said contracts and bonds shall be regularly acted upon by the board in session, and if adopted and approved by the majority of said board shall be recorded in a book kept for that purpose, and a copy of each contract shall be made out and certified by the secretary and endorsed "Approved," with the date of approval, and delivered to the other party to the contract. Until such delivery no contract shall be valid or binding on either party. No party required by said board to give bond shall receive any money from the public treasury or warrant or certificate therefor until said bond shall have been recorded as herein required. All such bonds and contracts, upon being recorded, shall be filed in the office of the secretary of state, by whom they shall be preserved. All other vouchers, statements, files and papers relating to the erection of said building shall be kept and preserved by said secretary. In addition to the above specified duties said secretary shall perform all such other duties as may be required of him by said board.

SECTION 5. The attorney general of the state of Arkansas shall be the legal adviser of said board. His opinion shall always be in writing, and the same shall be entered of record by the secretary of the board in the office of said board.

SECTION 6. That immediately upon the qualification of the members of said board of state capitol commissioners and the organization of said board the board of state capitol commissioners organized and existing under the act of the general assembly, approved April 17th, 1899, shall turn over and deliver up to said board

all the books, papers, contracts, options, plans, profiles, drawings and every other thing now in the possession of said board, it being the intent of this act to make the board herein provided for the successor of the board provided for by said act of April 17th, 1899.

**SECTION 7.** The said board of state capitol commissioners shall certify to the auditor of state from time to time such sum or sums of money as may be due to such persons as may have claims against the state under the terms of this act, and the person or persons in whose favor such certificate is issued shall be entitled to a warrant upon the treasury for the amount therein named, and the state auditor shall draw his warrant for the same.

**SECTION 8.** That said board of capitol commissioners are hereby authorized to make such disposition as they may deem to the best interest of the state with reference to any and all options of quarries in the event they do not contract to furnish stone and marble, or stone or marble in the rough on the ground; and they are further authorized to sell all tools and machinery now on hand, required under the act of April 17th, 1899, and of no further need to said commission, on the best terms available, and deposit same with the treasurer to the credit of the "State Capitol Fund."

**SECTION 9.** That the state capitol building shall be completed on the plans according to the specifications and detailed drawings already accepted and adopted, and now owned and in the possession of the state of Arkansas, and in no event shall said board be authorized under this act to contract for the completion of said building at a sum in excess of one million dollars; but said plans and specifications shall be subject to revision by said board, if in their judgment, after due considera-

tion, the same are incomplete, do not work out or that it is impossible to complete said building within the limit as to cost above described.

SECTION 10. That if upon examination by the architect mentioned in paragraph first, sec. 11 of this act, he shall report that the main drawings, plans and specifications furnished by Architect Geo. R. Mann are complete and perfect, and that the building can be erected in accordance therewith at a cost not to exceed one million dollars, on the foundation now partly done, then the said Geo. R. Mann shall be retained as the architect, and shall in person superintend the construction of said building, and do and perform each and every duty that properly and usually devolves upon an architect and superintendent and necessary to be done to properly construct said building, but if said architect mentioned in section 11, paragraph first, reports that said drawings, plans and specifications, or either of them are incomplete, or that said building cannot be constructed in accordance therewith upon the said foundation at a cost not to exceed one million dollars, then the said architect, Geo. R. Mann, shall remodel the said drawings, plans and specifications so that a building can be constructed in accordance therewith at a cost not to exceed one million dollars, and thereafter perform all duties as an architect, as are named above in this section. That as a full compensation for his services, as such architect and superintendent, the said Mann shall receive four per cent upon the cost of said building, but in no event shall his compensation exceed four per cent upon one million dollars for all his services, as architect and superintendent, performed for the state heretofere and hereafter in and about said building. And the sum



heretofore paid said Geo. R. Mann by the state shall be deducted from said compensation of four per cent, and balance shall be paid him as work progresses, but at no time shall the payments be made in advance of the work done. That said Geo. R. Mann shall enter into bond to the state of Arkansas in the sum of fifty thousand dollars, conditioned that he will faithfully perform the duties of such architect and superintendent, which bond shall be signed by two or more sureties, or a surety company, and approved by the governor, which said bond shall be entered on the records of the board and filed with the secretary of state. In case the said Geo. R. Mann shall decline to accept of the provisions of this act, or if for any other cause he shall decline, fail or refuse to comply with the provisions hereof, then and in that event said board of capitol commissioners shall employ a competent person to act as superintendent or architect at such compensation as to them may seem proper and right; if in the judgment of said board a superintendent in addition to the architect is required, they shall have the right to employ such superintendent for such time as he may be needed and at such compensation as may be reasonable and right. *Provided*, the compensation shall in no case exceed that allowed the said Geo. R. Mann. The board shall use the plans and specifications and detailed drawings, and all other papers furnished the state by Geo. R. Mann as architect, and which are now the property of the state of Arkansas, with such changes and modifications as may be necessary.

**SECTION 11.** In carrying out the provisions of this act the said board of state capitol commissioners shall proceed in the following manner:

**First:** The board shall, immediately after the passage of this act, secure from the supervising architect of

the treasury department of the United States government, the name of one or more architects, whose skill, experience and general competency as experts in the examination and estimate of plans for the construction of buildings such as the proposed state capitol building, the said supervising architect shall endorse and approve, and from the name or names of architects so furnished to him as aforesaid, the said board shall elect one, to whom shall be submitted the plans adopted by the board of state capitol commissioners with directions to him to make a thorough and detailed examination thereof, with the view of determining the adaptability of the building constructed in accordance therewith to the wants and purposes of the state of Arkansas in the erection of the proposed state capitol; he shall point out in his report of his examination, which he is hereby required to reduce to writing and file with the board, the defective features on said plans, if any such be found therein, and to suggest changes that will remove same; and to suggest the alterations in the main features of such plans as may be necessary, in his opinion, to make the proposed state capitol thoroughly suited to the purposes had in view for its erection. He shall also make and file with his said report, and as a part thereof, a detailed estimate of the probable cost of the said building when constructed under the said plans when the same shall be fully completed and ready for occupancy. The compensation of the said architect so selected, as the same may be agreed upon by and between the board and the said architect, shall be paid out of the appropriation to erect said capitol and as part of the cost and expense thereof; *Provided, however,* that no person shall be selected who has sought engagement or employment, or made propositions to furnish plans and specifications for said capitol building.

As soon as said report is filed with the governor he shall convene the state board of capitol commissioners and lay the same before them for their consideration. *Provided*, that if in the judgment of said board the compensation demanded by such expert is unreasonable, they shall have the right to employ some other competent expert of known ability and integrity to perform said services.

Second—The contract for the completion of said building shall be let to the lowest and best bidder by the state board of capitol commissioners upon notice by advertisement for thirty (30) days in such newspapers as the board may deem proper, advertising for sealed bids for the completion of said building, reserving to the board the right to reject any and all bids. All bids to be on the same basis and for the same work.

Third—When letting said contracts said board shall require from bidders three bids, as follows :

(a). The first bid shall be for the completion of said building, the contractor to furnish all materials of every kind and description that enter into the same.

(b). A second bid shall be made reserving to the state the right to furnish on the ground in the rough all stone and marble required in the construction of said building, the bidder to furnish all other materials and labor necessary to complete the building.

(c) A third bid shall be made on the theory that the state shall have the right to furnish all stone, granite and marble required in the completion of said building on the ground in the rough, and further that the state shall have the right to require the contractor to hire from the penitentiary board of the state two hundred convicts to work on said building, ordinary labor at the rate of not less than seventy-five cents per day, and skilled labor at the rate per day paid other

skilled labor who perform like services, less twenty-five per cent, same to be deducted from contract price of building, the state to maintain and guard said convicts, the contractor to furnish every other thing required in the completion of said building.

SECTION 12. The successful bidder shall be required to enter into a bond to the state of Arkansas, to be approved by said board of capitol commissioners, in the sum of five hundred thousand dollars, conditioned for the faithful performance of his contract within the time herein named, and conditioned further that he will pay off and discharge all debts contracted for labor and materials used in and about said building. In no event shall said board of state capitol commissioners ever pay to said contractor more than ninety per centum of the amount earned under estimates made from time to time; nor shall they ever undertake to bind the state for anything whatever on account of said contract; it being the intention of this act that the state shall never be liable in any manner except for the amount stipulated in the contract herein provided for. In no event shall the board undertake or agree in the contract herein provided for to pay in any one year a greater sum than can be realized in such year under the provisions of this act.

SECTION 13. That for the purpose of raising funds to carry out the provisions of this act, the sum of one million dollars, or so much thereof as may be necessary, be and the same is hereby appropriated for the purpose of completing the new state capitol building, and in order to raise said sum a tax of one-half of one mill on each dollar of taxable property in this state is hereby levied; said tax of one-half of one mill to be levied and collected for the year 1901, and annually thereafter as all other taxes are now levied and collected, until the said capitol

building is completed; and in addition to the money to be raised by this levy, the net proceeds of all lands, except school lands, sold by the commissioner of state lands, and the fees of the commissioner of state lands for the two years, ending March 31st, 1903, shall be used and applied towards the appropriation above made; and there shall also be applied towards the appropriation above made, the sum of eighty thousand dollars (\$80,000), being the surplus of the "general sinking fund," being now collected under section 13 of an act entitled "An act to fund the debt of Arkansas and for other purposes," approved May 8, 1899, over and above the amount which is required to pay the interest due for the present year on the three per cent bonds of the state, now outstanding, and over and above the amount required to redeem the outstanding six per cent bonds of the state.

SECTION 14. Said board shall also be authorized to use and contract for using marble as well as granite, brick, iron, steel, and such other material in the construction of said state capitol building as may be necessary to make the best, most durable and finished structure.

SECTION 15. The expense of maintaining, feeding, clothing and guarding the convicts who may be worked on said building, shall be paid by the board of state capitol commissioners out of the appropriation hereinbefore made, but nothing shall be paid in addition thereto for the labor of said convicts, and the penitentiary board shall furnish on the requisition of the state capitol commission such number, grade and character of convicts as may at the time of said demand be confined in the state penitentiary.

SECTION 16. When said state capitol shall have been completed so far that the walls are up and the roof is on and completed, the capitol commissioners shall

then, and not before, lay off the state lands situated adjacent to the capitol block and exclusive of the same, into lots and blocks, and advertise and sell the same at public sale to the highest bidder for cash, after advertising said sale for sixty (60) days, the proceeds thereof to be covered over to the state treasurer of the state of Arkansas, and shall be used and applied toward the appropriation above made. And when the said state capitol buildings shall have been completed and ready for occupancy, said capitol commissioners shall take possession of the present old state capitol grounds and building and shall lay the same off into lots, to the best advantage, and after advertising for sixty (60) days the time, place and terms of sale shall sell the same to the highest bidder for cash, and said board are empowered and directed to make such disposition of the old capitol building, either at public or private sale as in their judgment seems best, and the proceeds of said sale or sales shall be turned over to the state treasurer, and the same shall be applied as a part of the appropriation herebefore made; *Provided*, That at any public sale said commissioners shall have the right to reject any and all bids, if in their judgment the amount bid is not the full value of the property offered for sale; and they may adjourn any sale from day to day, or may adjourn any sale and readvertise the same for the term of sixty (60) days. And whenever any of said real property has been sold, the governor of the state of Arkansas is directed to make deed for same attested by the secretary of state, the same as is now provided by law for making deeds by the state; *Provided further*, that before any sale is advertised said board of capitol commissioners shall appoint three land owners, residents of the state of Arkansas, to appraise such lands or lots as the board may determine to offer for sale, who before en-

tering upon their duties, shall take an oath to view and faithfully value such lands or lots at their true market value, and their report shall be by them duly verified and filed with the secretary of said board of capitol commissioners; and thereupon said board shall proceed to advertise such lands or lots for sixty (60) days in five (5) weekly newspapers published in the state of Arkansas, and having a bona fide circulation therein of not less than three thousand subscribers; *And provided further*, that no sale shall be made for less than three-fourths of the appraised value of such tract or lot as shown by the report of the appraisement heretofore provided for.

SECTION 17. That the act entitled "An act to provide for the erection of a new state capitol," approved April 17th, 1899, and all laws and parts of laws in conflict herewith be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved April 29, 1901.