

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Senator Yates**

# A Bill

**ACT 645 OF 1993**  
**SENATE BILL 488**

## For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 22-9-204 PERTAINING TO  
PUBLIC WORKS CONTRACTS; TO REPEAL ARKANSAS CODE 22-9-102  
AND 19-11-401 THROUGH 405; AND FOR OTHER PURPOSES."

## Subtitle

"TO AMEND ARKANSAS CODE 22-9-204 PERTAINING TO PUBLIC  
WORKS CONTRACTS; TO REPEAL ARKANSAS CODE 22-9-102 AND 19-  
11-401 THROUGH 405."

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

SECTION 1. Arkansas Code 22-9-204 is amended to read as follows:

"22-9-204. Improvements exceeding \$50,000 - Subcontractors - Penalty.

(a) In each instance where the total bid amount submitted by the licensed prime contractor exceeds fifty thousand dollars (\$50,000), all prime contractors, as a condition to perform construction work for and in the State of Arkansas, shall use no other subcontractors except those licensed by the Contractors Licensing Board and qualified in:

- (1) Mechanical, indicative of heating, air conditioning, and ventilating;
- (2) Plumbing;
- (3) Electrical, indicative of wiring and illuminating fixtures; and
- (4) Roofing and sheet metal work, indicative of roofing application.

(b) In the event the prime contractor is qualified and licensed by the Contractors Licensing Board, he may use his own forces to perform those tasks listed in this section as subcontractors in one (1) or more of the trades listed.

(c) (1) When the prime contractor makes a definite decision regarding the subcontractors he intends to use, he shall:

- (A) Place the names of each subcontractor in a blank space provided on

1 the form of proposal of his bid.

2 (2) In that event that one (1) or more of the subcontractors named by  
3 the prime contractor in his successful bid thereafter refuses to perform his  
4 contract or offered contract, the prime contractor may substitute another  
5 subcontractor, licensed by the Contractors Licensing Board, after having  
6 obtained prior approval from the architect or engineer, the owner, and the  
7 Construction Section of Arkansas State Building Services.

8 (d) The prime contractor shall submit written evidence that the  
9 substituted contractor is costing the same amount of money or less and, if  
10 costing less, that the savings will be deducted from the total contract of the  
11 prime contractor and rebated to the owner.

12 (e) It shall be mandatory that the mechanical, plumbing, electrical,  
13 roofing, and sheet metal subcontractors named on the form of proposal by the  
14 prime contractor awarded a contract under the provisions of this subchapter be  
15 given contracts by the prime contractor in keeping with their proposals to  
16 perform the items for which they were named.

17 (f)(1) It shall be a violation of this section for any prime contractor  
18 to submit a bid listing unlicensed contractors or to use unlicensed  
19 contractors on a public works project.

20 (2) It shall be a violation of this section for any subcontractor who is  
21 not licensed by the Contractors Licensing Board to contract to perform work on  
22 a public works project.

23 (3) Any contractor or subcontractor who, after notice and hearing, is  
24 found to have violated this section shall pay to Arkansas State Building  
25 Services a civil penalty of not less than two hundred fifty dollars (\$250) and  
26 not more than five hundred dollars (\$500) and may be suspended from bidding  
27 future public works contracts for a term of not less than six (6) months nor  
28 more than twelve (12) months.

29 (4) All hearings and appeals therefrom under this section shall be  
30 pursuant to the provisions of the Arkansas Administrative Procedure Act,  
31 §25-15-201 et seq.; Arkansas State Building Services shall have the power to  
32 file suit in the Circuit Court of Pulaski County to obtain a judgment for the  
33 amount of any penalty not paid within thirty (30) days of service on the  
34 contractor of the order assessing said penalty.

35 (5) Penalties collected pursuant to this section shall be deposited in

1 the State Building Services Maintenance Fund."

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SECTION 2. (a) Arkansas Code 22-9-102 is hereby repealed.  
(b) Arkansas Code 19-11-401 through 405 are hereby repealed.

SECTION 3. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. 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 5. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: 3/23/93

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