

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4  
5 By: Representative Lea

# A Bill

HOUSE BILL 1826

## For An Act To Be Entitled

8 AN ACT TO REPEAL PROVISIONS OF ARKANSAS LAW  
9 PERTAINING TO SUPPLEMENTAL PERSONAL SERVICES REQUIRED  
10 BY A STATE AGENCY; AND FOR OTHER PURPOSES.

## Subtitle

14 TO REPEAL PROVISIONS OF ARKANSAS LAW  
15 PERTAINING TO SUPPLEMENTAL PERSONAL  
16 SERVICES REQUIRED BY A STATE AGENCY.

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

21 SECTION 1. Arkansas Code Title 21, Chapter 5, Subchapter 3 is  
22 repealed.

23 ~~21-5-301. Legislative intent.~~

24 ~~It is the intent of the General Assembly that the positions authorized~~  
25 ~~and established in § 21-5-307 shall be used sparingly.~~

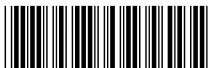
27 ~~21-5-302. Definition.~~

28 ~~As used in this subchapter, "supplemental personal services" is defined~~  
29 ~~as those services required by a state agency or institution which meet the~~  
30 ~~following criteria:~~

31 ~~(1) The agency or institution will exercise direct managerial~~  
32 ~~control over the person or persons performing the services;~~

33 ~~(2) The person or persons performing the services are to be~~  
34 ~~considered employees of the state agency or institution; and~~

35 ~~(3) The services provided may be either professional or~~  
36 ~~nonprofessional in nature.~~



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

~~21-5-303. Compliance with other laws.~~

~~(a) Disbursement of funds as authorized in this subchapter shall be limited to the appropriations for the agency and funds made available by law for the support of the appropriations.~~

~~(b) The restrictions of the Arkansas Procurement Law, § 19-11-201 et seq., the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., the Revenue Stabilization Law, § 19-5-101 et seq., the Regular Salary Procedures and Restrictions Act, § 21-5-101, and other fiscal control laws of this state, where applicable, and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of the funds.~~

~~21-5-304. Director of the Department of Finance and Administration—Duties.~~

~~The Director of the Department of Finance and Administration shall:~~

~~(1) At least quarterly, report to the Legislative Council all requests for supplemental personal services made by the various state agencies and institutions which have been approved; and~~

~~(2) Promulgate rules, regulations, and procedures as necessary to carry out the intent of this subchapter.~~

~~21-5-305. Conditions for use.~~

~~Supplemental personal services should not be requested or utilized except under the following conditions:~~

~~(1) When supplemental personal services are absolutely required to fulfill an agency's legal responsibilities but the services were not anticipated at the time of the passage of the agency's or institution's operating appropriation act;~~

~~(2) The supplemental personal services requested will be of a short term, emergency nature; and~~

~~(3) The services requested cannot be provided by the existing staff of the agency or institution or other agencies or institutions of the departments of government.~~

~~21-5-306. Investigation of necessity—Advice.~~

1           ~~(a) Before a request for supplemental personal services is submitted,~~  
2 ~~the director of the requesting agency or institution shall conduct a complete~~  
3 ~~and thorough investigation of the necessity of the services to be performed~~  
4 ~~and shall, by the act of submitting the request for supplemental personal~~  
5 ~~services, certify his or her belief that the services to be performed are~~  
6 ~~necessary to fulfill the legal responsibilities of his or her agency and that~~  
7 ~~the request complies with the intent of this subchapter.~~

8           ~~(b) Before establishing a supplemental emergency personal services~~  
9 ~~position and the cost thereof, the Chief Fiscal Officer of the State shall~~  
10 ~~seek the advice of the Legislative Council or the Joint Budget Committee.~~

11  
12           ~~21-5-307. Positions authorized—Salaries.~~

13           ~~(a)(1) There is established in this section the maximum number of~~  
14 ~~supplemental emergency personal services positions whose salaries shall be~~  
15 ~~governed by the provisions of the Uniform Classification and Compensation~~  
16 ~~Act, § 21-5-201 et seq., and all laws amendatory thereto, and by the Regular~~  
17 ~~Salaries Procedures and Restrictions Act, § 21-5-101.~~

18           ~~(2) However, where agencies have positions to which specific~~  
19 ~~maximum annual salaries are set out in dollars, the positions transferred~~  
20 ~~pursuant to this subchapter to the agencies shall also be exempt from the~~  
21 ~~provisions of the Uniform Classification and Compensation Act, § 21-5-201 et~~  
22 ~~seq., but shall not be exempt from the Regular Salaries Procedures and~~  
23 ~~Restrictions Act, § 21-5-101.~~

24           ~~(3) Further, no position established in this section may receive~~  
25 ~~a salary rate in excess of the highest rate authorized in the requesting~~  
26 ~~agency's or institution's biennial appropriation act.~~

27           ~~(b) The following maximum number of emergency personal services~~  
28 ~~positions are established for the three (3) departments of government:~~

- 29           ~~(1) Executive Department . . . . . 200~~
- 30           ~~(2) Legislative Department . . . . . 50~~
- 31           ~~(3) Judicial Department . . . . . 50.~~

32  
33           ~~21-5-308. Transfer of positions.~~

34           ~~The positions established in § 21-5-307 may be transferred to the~~  
35 ~~various agencies and institutions of the departments of state government,~~  
36 ~~under the following procedures:~~

1                   ~~(1) Executive Department.~~

2                   ~~(A) Any Executive Department agency requesting~~  
3 ~~supplemental personal services positions shall make the reasons,~~  
4 ~~justifications, duties to be performed, duration of service needed, and the~~  
5 ~~total anticipated costs associated with the request known to the Governor and~~  
6 ~~the Chief Fiscal Officer of the State.~~

7                   ~~(B) The Chief Fiscal Officer of the State shall conduct an~~  
8 ~~investigation of the requests to determine if the proposed use of~~  
9 ~~supplemental personal services complies with the definitions established in~~  
10 ~~this subchapter and shall recommend to the Governor, in writing, his or her~~  
11 ~~reasons for recommending approval or disapproval of the agency's or~~  
12 ~~institution's requests after which the Governor shall make his or her~~  
13 ~~determination to grant or deny the request in whole or in part;~~

14                   ~~(2) Legislative Department.~~

15                   ~~(A) Any legislative agency requesting supplemental~~  
16 ~~personal services shall make the reasons, justification, duties to be~~  
17 ~~performed, duration of service needed, and the total anticipated costs~~  
18 ~~associated with the request known to the cochairs of the Legislative Council~~  
19 ~~and the Chief Fiscal Officer of the State.~~

20                   ~~(B) The chairs of the Legislative Council and Legislative~~  
21 ~~Joint Auditing Committee, jointly, shall conduct an investigation of the~~  
22 ~~request to determine if the proposed use of supplemental personal services~~  
23 ~~complies with the definitions established in this subchapter and shall~~  
24 ~~recommend in writing their reasons for recommending approval or disapproval~~  
25 ~~of the request to the Legislative Council for its advice, after which the~~  
26 ~~Chief Fiscal Officer of the State shall establish the necessary accounts;~~

27                   ~~(3) Judicial Department.~~

28                   ~~(A) Any judicial agency requesting supplemental personal~~  
29 ~~services shall make the reasons, justification, duties to be performed,~~  
30 ~~duration of service needed, and the total anticipated costs associated with~~  
31 ~~the request known to the Chief Justice of the Supreme Court and the Chief~~  
32 ~~Fiscal Officer of the State.~~

33                   ~~(B) The Chief Justice of the Supreme Court shall conduct~~  
34 ~~an investigation of the request to determine if the proposed use of~~  
35 ~~supplemental personal services complies with the definitions established in~~  
36 ~~this subchapter and shall grant or deny the request in whole or in part and~~

1 ~~submit his or her recommendations to the Legislative Council for its advice~~  
 2 ~~after which the Chief Fiscal Officer of the State shall establish the~~  
 3 ~~necessary accounts.~~

4  
 5 ~~21-5-309. Transfer of items of appropriations.~~

6 ~~(a) The Chief Fiscal Officer of the State is authorized to transfer~~  
 7 ~~within each operating appropriation of the requesting agency the required and~~  
 8 ~~appropriate amounts of appropriations from maintenance and general operation,~~  
 9 ~~or professional services line items, to the supplemental emergency personal~~  
 10 ~~services, social security and retirement matching, and state employees'~~  
 11 ~~insurance line items for the purpose of providing sufficient amounts in the~~  
 12 ~~appropriate classifications of appropriations, in order to pay the salaries~~  
 13 ~~and associated salary matching costs of the supplemental emergency personal~~  
 14 ~~services positions transferred under the procedures of this subchapter.~~

15 ~~(b) However, nothing in this subchapter shall be construed to allow~~  
 16 ~~the Chief Fiscal Officer of the State to create additional appropriations or~~  
 17 ~~transfer any funds from a fund or fund account to another fund or fund~~  
 18 ~~account under the provisions of this subchapter.~~

19  
 20 ~~21-5-310. Expiration of positions — Request to continue.~~

21 ~~(a) The positions authorized and the appropriations transferred under~~  
 22 ~~the authority of this subchapter shall expire at the end of the fiscal year~~  
 23 ~~in which they are established.~~

24 ~~(b) Each agency or institution shall include in its budget request~~  
 25 ~~presented to the Legislative Council any request to continue any emergency~~  
 26 ~~personal services authorized by this subchapter.~~

27  
 28  
 29 **APPROVED: 04/04/2011**