

Hall of the House of Representatives

84th General Assembly - Regular Session, 2003

Amendment Form

Subtitle of House Bill No. 2774

"AN ACT TO RESTRUCTURE VARIOUS STATE AGENCIES INTO A DEPARTMENT OF AGRICULTURE."

Amendment No. 1 to House Bill No. 2774.

Amend House Bill No. 2774 as originally introduced:

Page 1, delete lines 21 through 29 and substitute the following:

"SECTION 1. (a) There is created a Department of Agriculture.

(b)(1) The executive head of the department shall be the Secretary of the Department of Agriculture.

(2) The secretary shall be appointed by the Governor and shall serve at the pleasure of the Governor.

(c)(1) The Arkansas Livestock and Poultry Commission, created under Arkansas Code § 2-33-101, and its powers, authorities, duties, and functions are transferred by a type 1 transfer to the Department of Agriculture.

(2) The Department of Rural Services, created under Arkansas Code § 15-6-105, and its powers, authorities, duties, and functions are transferred by a type 2 transfer to the Department of Agriculture.

(3) The Arkansas Rural Development Commission, created under Arkansas Code § 15-6-104, and powers, authorities, duties, and functions are transferred by a type 1 transfer to the Department of Agriculture.

(4) The Arkansas Delta Development Commission, created under Arkansas Code § 15-4-2602, and its powers, authorities, duties, and functions are transferred by a type 1 transfer to the Department of Agriculture.

(5) The State Plant Board, created under Arkansas Code § 2-16-206, and its powers, authorities, duties, and functions are transferred by a type 1 transfer to the Department of Agriculture.

(6) The Division of Agriculture Development of the Arkansas Development Finance Authority, created under Arkansas Code § 15-5-802, and its powers, authorities, duties, and functions are transferred by a type 2 transfer to the Department of Agriculture.

SECTION 2. (a)(1) For the purposes of this act, when any transferred entity is transferred to the Department of Agriculture established under this act by a type 1 transfer, the transferred entity shall be administered under the direction and supervision of the Secretary of the Department of Agriculture, but shall retain exactly the same powers, authorities, duties, and functions prescribed by law as it had prior to the transfer including,



but not limited to:

(A) Rulemaking, regulation, licensing, and registration;
(B) The promulgation of rules, rates, regulations, and standards;
(C) The rendering of findings, orders, and adjudications;
and
(D) The power to issue bonds and other interest bearing obligations.

(2) The transferred entity shall exercise the powers, authorities, duties, and functions independently of the Secretary of the Department of Agriculture.

(b) Following a type 1 transfer, the members of any statutory board or commission so transferred, and their successors, shall continue to be selected in the manner and serve for the terms provided by the state law applicable to the board or commission as the law is now enacted or hereafter amended.

(c) In addition to the other duties of the Department of Rural Services, the Department of Rural Services shall be responsible for agriculture promotion, marketing, and technology transfer.

SECTION 3. (a)(1) For the purposes of this act, when any transferred entity is transferred to Department of Agriculture established under section 1 of this act by a type 2 transfer, the transferred entity shall be administered under the direction and supervision of the Secretary of the Department of Agriculture.

(2) There is transferred to the Secretary of the Department of Agriculture the transferred entity's powers, authorities, duties, and functions as prescribed by law including, but not limited to:

(A) All rule making, regulation, and licensing;
(B) The promulgation of rules, rates, regulations, and standards; and
(C) The rendering of findings, orders, and adjudications in which it is transferred.

(b) Following a type 1 transfer, the members of any statutory board or commission so transferred, and their successors, shall continue to be selected in the manner and serve for the terms provided by the state law applicable to the board or commission as the law is now enacted or hereafter amended.

SECTION 4. (a)(1) Notwithstanding section 2 of this act, following a type 1 transfer, all administrative functions of any transferred entity shall be performed under the direction and supervision of the Secretary of the Department of Agriculture.

(2) The administrative functions shall include, but not be limited to, all budgeting, fiscal, purchasing, accounting, human resources, payroll, legal, information systems, maintenance, program support, administrative support, and related administrative functions.

(b)(1)(A) Except as otherwise provided in this subdivision (b)(1), the Secretary of the Department of Agriculture, with the advice and consent of the Governor, shall appoint the directors and deputy directors of the respective bureaus, offices, or other divisions under the Department of Agriculture, and they shall serve at the pleasure of the secretary.

(B) The director of the Department of Rural Services shall continue to be appointed under Arkansas Code § 15-6-105.

(C) The executive director of the Arkansas Delta Development Commission shall continue to be appointed under Arkansas Code § 15-4-2604.

(2)(A) Notwithstanding section 2 of this act, following a type 1 transfer, all other personnel, positions, titles, appropriations, funds, assets, materials, data, and information of the transferred entity shall be transferred to the Department of Agriculture to be used as directed by the secretary for the effective operations of the Department of Agriculture.

(B) Notwithstanding anything to the contrary, following a type 1 transfer:

(i) Any disbursement of funds authorized by an appropriation act shall be limited to the appropriation for each transferred entity and funds made available by law for the support of the appropriations; and

(ii) the restrictions of the State Purchasing Law, the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary Procedures and Restrictions Act, or their successors, 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 the disbursement of the funds.

(3)(A) Following a type 1 transfer, all personnel of the transferred entity shall be employed and serve at the pleasure of the Secretary of the Department of Agriculture.

(B) Notwithstanding, no provision of this act shall be deemed to abolish or diminish the employment rights that may exist under current state law, as now enacted or hereafter amended, of personnel transferred pursuant to the provisions of this act.

(4) Following a type 1 transfer, the transferred entity shall not employ any personnel other than those deemed by the Secretary of the Department of Agriculture to be necessary for the effective operations of the Department of Agriculture.

(c)(1) Nothing in this act shall be deemed to alter the manner of selection or the length of the term of service for any position where state law provides that the Governor shall appoint or select the person occupying the position.

(2) For any person occupying a position on the effective date of this act as a result of a Governor's appointment, nothing in this act shall be deemed to alter that person's continued service in that position or to alter the length of that person's current term.

(d) Any employee who is now a member of any retirement system shall not lose any retirement benefits accrued in the system by virtue of a transfer as provided by this act.

(e) While it is recognized that certain transfers may result in savings through the combination of offices, facilities, and duties or through a reduction in the duplication of functions, points of service currently provided by state government may not be reduced by the Secretary of the Department of Agriculture without review by the Arkansas Legislative Council or Joint Budget Committee and the Office of the Governor.

(f) This act shall not operate to repeal, amend, modify or affect:

(1) The powers heretofore or hereafter established by law applicable to agencies or instrumentalities of the state accorded the separate status of public bodies corporate and politic with the power including, without limitation:

(A) To sue and be sued;

(B) To contract and be contracted with;

(C) To issue bonds or other evidences of indebtedness secured by the revenues as shall be provided by law;

(D) To own or deal in real property

(E) To make loans, and to hold, sell, and transfer promissory notes and mortgages; and

(F) To conduct business in the manner provided by applicable law prior to the adoption of this act;

(2) The creation, maintenance, preservation, and use of cash funds heretofore or hereafter created and held apart from the State Treasury applicable or available to any department, agency or instrumentality, or the power now or hereafter granted by law to pledge the cash funds for the payment of bonds, leases, guaranties, or other evidences of indebtedness of the department, agency, or instrumentality; or

(3) The outstanding obligations of the departments, agencies, or instrumentalities, which obligations shall continue to be enforceable in accordance with the terms thereof, and the legality and enforceability of all the outstanding obligations is affirmed.

SECTION 5. Notwithstanding any other section of this act to the contrary, moneys collected or to be collected by a transferred entity shall be used by the transferred entity for the purposes for which the moneys are collected.

SECTION 6. This act only applies to the transferred entities under section 1 of this act and shall not apply to promotion boards.”

The Amendment was read _____

By: Representative Ormond

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Chief Clerk