

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: *Joint Budget Committee***

# A Bill

**HOUSE BILL 1523**

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND THE ARKANSAS HAZARDOUS WASTE MANAGEMENT  
9 ACT, CODIFIED AT TITLE 8, CHAPTER 7, SUBCHAPTER 2 OF THE  
10 ARKANSAS CODE ANNOTATED TO PERMIT ASSESSMENT OF REASONABLE  
11 ATTORNEY FEES AND OTHER LITIGATION COSTS AGAINST THE STATE  
12 OF ARKANSAS FOR VIOLATIONS OF THE FREEDOM OF INFORMATION  
13 ACT SPECIFICALLY RELATED TO THE RESOURCE CONSERVATION AND  
14 RECOVERY ACT OF 1976 AND OTHER HAZARDOUS WASTE ISSUES; AND  
15 FOR OTHER PURPOSES."

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

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19 SECTION 1. Arkansas Code Annotated §8-7-204 is hereby amended to add  
20 subsection (g) as follows:

21 "(g) For the purposes of this subchapter, the court may assess against  
22 the State of Arkansas reasonable attorney fees and other litigation costs  
23 reasonably incurred in any case under this subchapter in which the complainant  
24 has substantially prevailed in an action against the state for failure to  
25 comply with the Arkansas Freedom of Information Act."

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27 SECTION 2. All provisions of this act of a general and permanent nature  
28 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
29 Revision Commission shall incorporate the same in the Code.

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31 SECTION 3. If any provision of this act or the application thereof to  
32 any person or circumstance is held invalid, such invalidity shall not affect  
33 other provisions or applications of the act which can be given effect without  
34 the invalid provision or application, and to this end the provisions of this  
35 act are declared to be severable.

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 All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. EMERGENCY. It is hereby found and determined by the General Assembly that the Federal Environmental Protection Agency, Region 6, has indicated that the authorization for the hazardous waste management program for the State of Arkansas may be jeopardized for failure to provide court assessment of reasonable attorney fees and other litigation costs reasonably incurred by a substantially prevailing complainant in an action against the state for failure to comply with the Arkansas Freedom of Information Act in cases involving the Resource Conservation and Recovery Act of 1976 or other hazardous waste issues. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

*/s/John E. Miller*