

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

A Bill

HOUSE BILL 1437

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE §§ 6-21-301, 6-21-304, 6-
9 21-305, AND 19-11-222 TO GRANT EXCLUSIVE JURISDICTION FOR
10 THE PURCHASE OF ALL SCHOOL BUSES FOR STATE AGENCIES AND
11 SCHOOL DISTRICTS TO THE DIRECTOR OF STATE PURCHASING; AND
12 FOR OTHER PURPOSES."

Subtitle

14 "TO GRANT EXCLUSIVE JURISDICTION FOR THE PURCHASE OF
15 SCHOOL BUSES TO THE DIRECTOR OF STATE PURCHASING."
16

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

19
20 SECTION 1. Arkansas Code § 6-21-301 is hereby amended to read as
21 follows:

22 "6-21-301. Definitions. As used in this subchapter, unless the context
23 otherwise requires:

24 (1) Purchasing official means the board of directors of any school
25 district or a lawfully designated agent of the school district with authority
26 to contract or make purchases on behalf of the school district;

27 (2) Commodities means all supplies, goods, material, equipment,
28 machinery, facilities, personal property, and services, other than personal
29 and professional services, purchased for or on behalf of the school district,
30 and does not include school buses;

31 (3) Purchase price means the full sale or bid price of any commodity
32 without any allowance for trade-in;

33 (4) Purchase means and includes not only the outright purchase of a
34 commodity but also the acquisition of commodities under rental-purchase
35 agreements, lease-purchase agreements, or any other type of agreements whereby

1 the school district has an option to buy the commodity and to apply the rental
2 payments on the purchase price thereof;

3 (5) Open market purchases means those purchases of commodities by any
4 purchasing official in which competitive bidding is not required."

5

6 SECTION 2. Arkansas Code § 6-21-304 is hereby amended to read as
7 follows:

8 "6-21-304. Manner of making purchases.

9 (a) All purchases of commodities by any school district, except those
10 specifically exempted by §6-21-305, shall be made as follows:

11 (1) In each instance in which the estimated purchase price shall
12 equal or exceed five thousand dollars (\$5,000), the commodity shall be
13 procured by soliciting bids, provided that the purchasing official may reject
14 all bids and may purchase the commodity by negotiating a contract. If the
15 purchasing official, after rejecting all bids, determines that the purchase
16 should be made by negotiation, then each responsible bidder who submitted a
17 bid shall be notified of the determination and shall be given a reasonable
18 opportunity to negotiate;

19 (2) Open market purchases may be made where the purchase price is
20 less than five thousand dollars (\$5,000);

21 (3) No purchasing official shall parcel or split any item or
22 items with the intent or purpose to enable the purchase to be made under a
23 less restrictive procedure.

24 (b) *The State Purchasing Director shall have exclusive jurisdiction for*
25 *the purchase of Type A, B, C, and D school buses. The State Department of*
26 *Education shall have responsibility for drawing up the specifications for all*
27 *school buses to be bid through the State Purchasing Director. An advisory*
28 *committee made up of ten (10) school administrators, representing all sizes of*
29 *schools and all areas of the state, shall assist the State Department of*
30 *Education in drawing up specifications for school buses.*

31 (c) For the purposes of this section:

32 (1) a Type A school bus is a conversion or body constructed
33 upon a van-type compact truck or a front-section vehicle with a gross weight
34 rating of ten thousand (10,000) pounds or less and designed for carrying more
35 than ten (10) persons;

1 (2) a _Type B school bus_ is a conversion or body constructed and
2 installed upon a van or front-section vehicle chassis or stripped chassis with
3 a vehicle weight rating of more than ten thousand (10,000) pounds and designed
4 for carrying more than ten (10) persons. Part of the engine is beneath and/or
5 behind the windshield and beside the driver_s seat. The entrance door is
6 behind the front wheels;

7 (3) a _Type C school bus_ is a body installed upon a flat back
8 cowl chassis with a gross vehicle weight rating of more than ten thousand
9 (10,000) pounds and designed for carrying more than ten (10) persons. All of
10 the engine is in front of the windshield. The entrance door is behind the
11 front wheels; and

12 (4) a _Type D school bus_ is a body installed upon a chassis with
13 the engine mounted in the front, midship, or rear with a gross vehicle weight
14 rating of more than ten thousand (10,000) pounds and designed for carrying
15 more than ten (10) persons. The engine may be behind the windshield and
16 beside the driver_s seat, at the rear of the bus, behind the rear wheels, or
17 midship between the front and rear axles. The entrance door is ahead of the
18 front wheels."

19

20 SECTION 3. Arkansas Code § 6-21-305 is hereby amended to read as
21 follows:

22 "6-21-305. Exemptions from bidding requirements.

23 (a) The following commodities may be purchased without soliciting bids:

24 (1) Commodities in instances of an unforeseen and unavoidable
25 emergency; provided, no emergency purchase shall be approved by the
26 superintendent unless a statement in writing shall be attached to the purchase
27 order describing the emergency necessitating the purchase of the commodity
28 without competitive bidding;

29 (2) Commodities available only from the federal government;

30 (3) Utility services, the rates for which are subject to
31 regulation by a state agency or a federal regulatory agency;

32 (4) With the exception of used school buses, used equipment and
33 machinery;

34 (5) Commodities available only from a single source.

35 (b) However, the purchasing official must determine in writing that it

1 is not practicable to use other than the required or designated commodity or
2 service, and a copy of this statement shall be attached to the purchase order.

3 (c) *The State Purchasing Director shall have exclusive jurisdiction*
4 *over the purchase of new and used school buses. The Office of State*
5 *Purchasing shall take bids from all school bus body and chassis manufacturers*
6 *doing business in Arkansas."*

7

8 SECTION 4. *Arkansas Code §19-11-222 is hereby amended to read as*
9 *follows:*

10 "19-11-222. *Exclusive jurisdiction over procurement. The State*
11 *Purchasing Director shall have exclusive jurisdiction over the procurement of*
12 *the following commodities and services:*

13 (1) *Items subject to the Arkansas Constitution, Amendment 54;*

14 (2) *Wholesale gasoline, oil, antifreeze, and related products;*

15 (3) *Tires;*

16 (4) *Tubes;*

17 (5) *Passenger motor vehicles and trucks, except highway construction*
18 *and highway maintenance equipment or any specialized type of equipment used in*
19 *highway construction except as otherwise provided in this subchapter;*

20 (6) *Paper products;*

21 (7) *New and used school buses for state agencies and school districts."*

22

23 SECTION 5. *All provisions of this act of a general and permanent nature*
24 *are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code*
25 *Revision Commission shall incorporate the same in the Code.*

26

27 SECTION 6. *If any provision of this act or the application thereof to*
28 *any person or circumstance is held invalid, such invalidity shall not affect*
29 *other provisions or applications of the act which can be given effect without*
30 *the invalid provision or application, and to this end the provisions of this*
31 *act are declared to be severable.*

32

33 SECTION 7. *All laws and parts of laws in conflict with this act are*
34 *hereby repealed.*

35

/s/E. Thicksten

As Engrossed: 2/22/93 2/24/93 4/1/93

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