

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

A Bill

SENATE BILL

For An Act To Be Entitled

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

Subtitle

12 "TO AMEND ARKANSAS CODE 22-9-204 PERTAINING TO PUBLIC
13 WORKS CONTRACTS; TO REPEAL ARKANSAS CODE 22-9-102 AND 19-
14 11-401 THROUGH 405."

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

20 "22-9-204. Improvements exceeding \$50,000 - Subcontractors - Penalty.

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

26 (1) Mechanical, indicative of heating, air conditioning, and ventilating;

27 (2) Plumbing;

28 (3) Electrical, indicative of wiring and illuminating fixtures; and

29 (4) Roofing and sheet metal work, indicative of roofing application.

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

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

1 (A) Place the names of each subcontractor in a blank space provided on
2 the form of proposal of his bid.

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

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

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

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

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

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

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

1 (5) Penalties collected pursuant to this section shall be deposited in
2 the State Building Services Maintenance Fund."

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4 SECTION 2. (a) Arkansas Code 22-9-102 is hereby repealed.

5 (b) Arkansas Code 19-11-401 through 405 are hereby repealed.

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

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11 SECTION 4. If any provision of this act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 act are declared to be severable.

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

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