

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H3/17/03

A Bill

HOUSE BILL 2774

5 By: Representative Ormond
6
7

For An Act To Be Entitled

9 AN ACT TO RESTRUCTURE VARIOUS STATE AGENCIES INTO
10 A DEPARTMENT OF AGRICULTURE; AND FOR OTHER
11 PURPOSES.
12

Subtitle

14 AN ACT TO RESTRUCTURE VARIOUS STATE
15 AGENCIES INTO A DEPARTMENT OF
16 AGRICULTURE.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

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

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

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

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

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

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

35 (4) The Arkansas Delta Development Commission, created under
36 Arkansas Code § 15-4-2602, and its powers, authorities, duties, and functions



1 are transferred by a type 1 transfer to the Department of Agriculture.

2 (5) The State Plant Board, created under Arkansas Code § 2-16-
3 206, and its powers, authorities, duties, and functions are transferred by a
4 type 1 transfer to the Department of Agriculture.

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

9
10 SECTION 2. (a)(1) For the purposes of this act, when any transferred
11 entity is transferred to the Department of Agriculture established under this
12 act by a type 1 transfer, the transferred entity shall be administered under
13 the direction and supervision of the Secretary of the Department of
14 Agriculture, but shall retain exactly the same powers, authorities, duties,
15 and functions prescribed by law as it had prior to the transfer including,
16 but not limited to:

17 (A) Rulemaking, regulation, licensing, and registration;

18 (B) The promulgation of rules, rates, regulations, and
19 standards;

20 (C) The rendering of findings, orders, and adjudications;

21 and

22 (D) The power to issue bonds and other interest bearing
23 obligations.

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

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

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

35
36 SECTION 3. (a)(1) For the purposes of this act, when any transferred

1 entity is transferred to Department of Agriculture established under section
2 1 of this act by a type 2 transfer, the transferred entity shall be
3 administered under the direction and supervision of the Secretary of the
4 Department of Agriculture.

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

8 (A) All rule making, regulation, and licensing;

9 (B) The promulgation of rules, rates, regulations, and
10 standards; and

11 (C) The rendering of findings, orders, and adjudications
12 in which it is transferred.

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

18
19 SECTION 4. (a)(1) Notwithstanding section 2 of this act, following a
20 type 1 transfer, all administrative functions of any transferred entity shall
21 be performed under the direction and supervision of the Secretary of the
22 Department of Agriculture.

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

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

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

34 (C) The executive director of the Arkansas Delta
35 Development Commission shall continue to be appointed under Arkansas Code §
36 15-4-2604.

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

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

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

12 (ii) the restrictions of the State Purchasing Law,
13 the General Accounting and Budgetary Procedures Law, the Revenue
14 Stabilization Law, the Regular Salary Procedures and Restrictions Act, or
15 their successors, and other fiscal control laws of this state, where
16 applicable, and regulations promulgated by the Department of Finance and
17 Administration, as authorized by law, shall be strictly complied with in the
18 disbursement of the funds.

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

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

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

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

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

1 alter the length of that person's current term.

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

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

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

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

16 (A) To sue and be sued;

17 (B) To contract and be contracted with;

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

20 (D) To own or deal in real property

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

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

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

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

35
36 SECTION 5. Notwithstanding any other section of this act to the

1 contrary, moneys collected or to be collected by a transferred entity shall
2 be used by the transferred entity for the purposes for which the moneys are
3 collected.

4

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

7

8

/s/ Ormond

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

- 1
- 2
- 3
- 4
- 5