

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

# A Bill

**ACT 896 OF 1993**  
**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."

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

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  
36 the school district has an option to buy the commodity and to apply the rental

1 payments on the purchase price thereof;

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

4

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

7 "6-21-304. Manner of making purchases.

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

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

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

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

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

30 (c) For the purposes of this section:

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

35 (2) a Type B school bus is a conversion or body constructed and

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

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

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

18

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

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

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

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

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

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

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

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

34 (b) However, the purchasing official must determine in writing that it  
35 is not practicable to use other than the required or designated commodity or

1 service, and a copy of this statement shall be attached to the purchase order.

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

6

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

9       *"19-11-222. Exclusive jurisdiction over procurement. The State*  
10 *Purchasing Director shall have exclusive jurisdiction over the procurement of*  
11 *the following commodities and services:*

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

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

14       (3) *Tires;*

15       (4) *Tubes;*

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

19       (6) *Paper products;*

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

21

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

25

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

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

34

*/s/E. Thicksten*

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

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APPROVED: 4/6/93

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