

1 State of Arkansas As Engrossed: S2/27/97

2 81st General Assembly

3 Regular Session, 1997

4 By: House Interim Committee on City, County and Local Affairs

5 By: House Interim Committee on Aging and Legislative Affairs

6 By: Senate Interim Committee on Aging and Legislative Affairs

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For An Act To Be Entitled

9 "AN ACT TO ESTABLISH GUIDELINES FOR THE CODIFICATION OF
10 THE ACTS OF THE GENERAL ASSEMBLY; FOR OTHER PURPOSES."

11

12

Subtitle

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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 1-2-301 is amended to read as follows:

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1-2-301. Creation - Members.

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(a) There is created a commission, to be known as the Arkansas Code

22

Revision Commission.

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(b) The commission shall consist of seven (7) voting members and four

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(4) nonvoting observer members:

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(1) The voting members shall be selected and appointed as follows:

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(A) Two (2) members of the Senate appointed by the President Pro

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Tempore of the Senate;

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(B) Two (2) members of the House appointed by the Speaker of the House

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of Representatives; and

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(C) Three (3) members of the Bar of Arkansas appointed by the Supreme

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Court of Arkansas.

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(2) (A) The nonvoting observer members shall be:

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(i) The Dean of the School of Law of the University of Arkansas

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at Fayetteville or, if there is no such dean, the individual occupying the

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position of acting dean;

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(ii) The Dean of the School of Law of the University of Arkansas

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1 at Little Rock or, if there is no such dean, the individual occupying the
2 position of acting dean;

3 (iii) The Attorney General or his designee; and

4 (iv) The Director of the Bureau of Legislative Research or his
5 designee.

6 (B) The nonvoting observer members of the commission shall be privileged
7 to attend all meetings of the commission and shall enjoy the full rights of
8 membership on the commission, including the right to discuss matters pending
9 before the commission and to participate in debate of issues before the
10 commission, but shall not cast a vote on any issue pending before the
11 commission.

12 (C) The members appointed by the Supreme Court of Arkansas shall serve
13 for a term of four (4) years, and the members appointed by the President Pro
14 Tempore of the Senate and the Speaker of the House shall serve for a term of
15 two (2) years.

16 (D) The appointing authorities shall have power to fill any vacancies
17 occurring in the membership appointed by them.

18 (E) The commission shall meet and select a chairman and a secretary.

19 (F) (1) Members of the commission shall not be entitled to compensation
20 for their services but shall be eligible to receive reimbursement for mileage
21 and reimbursement for expenses in accordance with § 25-16-901 et seq.

22 (2) Legislative members shall be entitled to reimbursement for
23 expenses and per diem at the same rate as provided by law for members of the
24 General Assembly attending meetings of interim committees.

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26 SECTION 2. Arkansas Code 1-2-303 is amended to read as follows:

27 1-2-303. Powers and duties.

28 (a)(1) The Arkansas Code Revision Commission shall, from time to time,
29 arrange for the publication of compilations, recompilations, revisions,
30 codifications, or recodifications of, or cumulative or noncumulative
31 supplements to, the statutes of Arkansas.

32 (2) The commission shall arrange for the solicitation and receipt of
33 competitive bids for all these publications on such terms as it deems
34 reasonable.

35 (3) Specifications for the publications shall be drawn under the
36 supervision of and subject to approval by the commission.

1 (4)(A) Contracts shall be awarded to the lowest responsible bidder,
2 taking into consideration, among other things, estimated time of performance,
3 quality of work, probability of timely and adequate performance, and
4 experience of the company regarding the services sought by the commission.

5 (B) If the best interests of the state would be served, any and all
6 bids submitted to the commission regarding any publication project may be
7 rejected, and the commission may negotiate any necessary contract with the
8 party most qualified to perform the services sought by the commission.

9 (5) The price at which publications under this section shall be sold
10 shall, from time to time, be fixed by the Arkansas Code Revision Commission.
11 If the commission enters into a contract with a publisher for any publication,
12 the price at which the publication under the contract shall be sold shall,
13 from time to time, be fixed by agreement between the commission and the
14 publishers.

15 (6) Supplements and replacement volumes published under the supervision
16 of the commission shall be prima facie evidence of the law contained therein.

17 (b) The Arkansas Code Revision Commission, in its discretion and
18 subject to the provisions and requirements of § 19-4-1109, may enter into
19 contracts for professional services to the commission, which contracts may
20 include, but are not limited to, the purposes of:

21 (1) Creation and maintenance of up-to-date continuing computerized data
22 base banks of the statutes of Arkansas by use of magnetic tape or other means
23 of photographic or electronic preservation and reproduction systems with
24 facilities for electronic access and retrieval.

25 (A) However, before the commission shall enter into any contract
26 for computerized data base banks of the statutes of Arkansas, the commission
27 shall confer with and seek the advice of the President Pro Tempore of the
28 Senate, the Speaker of the House of Representatives, the Legislative Council,
29 and the Director of the Bureau of Legislative Research with respect to the
30 needs and requirements for use of computerized data base banks of the statutes
31 of Arkansas:

32 (i) For electronic access and statutory retrieval in connection
33 with a computerized bill drafting and bill processing system;

34 (ii) To meet the needs of the General Assembly and the committees
35 thereof; and

36 (iii) To assist in the preparation of acts signed by the Governor

1 for printing of the official Acts of Arkansas.

2 (B) The commission shall confer periodically with the President
3 Pro Tempore of the Senate, the Speaker of the House of Representatives, the
4 Legislative Council, and the Director of the Bureau of Legislative Research
5 and shall seek their advice with respect to means of upgrading and improving
6 the computerized data base banks to meet the needs and requirements for their
7 respective uses;

8 (2) Providing continuing assistance to the commission in the
9 maintenance of the data bases and the appropriate codification of legislation
10 enacted by the General Assembly;

11 (3) Performing those other services which are determined by the
12 commission, from time to time, to be reasonably required and necessary in
13 order to maintain availability to the State of Arkansas of up-to-date
14 computerized data base indices of the statutes of Arkansas and in furtherance
15 of its duties and authority as otherwise provided by this subchapter and by
16 other provisions of law; and

17 (4) Preparation of a codification of all the statutes of a general and
18 permanent nature in a proposed code of laws, to be presented to the General
19 Assembly of the State of Arkansas for approval and enactment, or, in lieu of a
20 single codification of all of the state's statutes of a general and permanent
21 nature, preparation of recommended codes of a similar subject or nature in
22 proposed titles or chapters of a code for consideration by the General
23 Assembly for enactment, from time to time, with the overall objective of
24 eventually incorporating all of the state's statutes of a general and
25 permanent nature in a unified codification of those laws.

26 (c) The Arkansas Code Revision Commission shall cause the executive
27 director and other staff members of the commission:

28 (1) To make continual studies and conduct reviews of the common law,
29 statutes, and current judicial decisions of the state in order to identify:

30 (A) Obsolete statutes;

31 (B) Overlapping and duplicating laws;

32 (C) Inequitable or inconsistent laws;

33 (D) Deficiencies in existing laws which contribute to
34 indefiniteness of interpretation of the purpose of those laws or the
35 legislative intent thereof;

36 (E) Deficiencies in administrative procedures;

1 (F) Defects in practice and procedure;

2 (G) Deficiencies of due process provisions in the enforcement of
3 the criminal laws of this state;

4 (2) To provide for other and similar studies designed to lead to the
5 preparation of drafts of corrective legislation for presentation, after review
6 and approval by the Legislative Council, to each session of the General
7 Assembly for enactment; and

8 (3) To make studies of the methods, means, and systems used in the
9 various states for the compilation, codification, revision, and publication of
10 the compilations, codifications, or statutes of those states. These studies
11 are to be used by the commission in determining means of improving the
12 codification of the statutes of Arkansas and to prepare recommendations to the
13 General Assembly in regard thereto.

14 (d)(1) In exercising the powers and duties imposed upon it by this
15 subchapter, the commission shall not authorize any change in the substance or
16 meaning of any provision of the Arkansas Code or any Act of the General
17 Assembly. However, the commission is authorized to:

18 (A) Correct the spelling of words;

19 (B) Change the capitalization for the purpose of uniformity;

20 (C) Correct manifest errors in references to laws;

21 (D) Correct manifest errors in internal reference numbers;

22 (E) Substitute the proper Code section number, subchapter number,
23 chapter number, subtitle number, title number, or other number or designation
24 for the terms this Act, the preceding Code section, or any similar words or
25 phrases;

26 (F) Change internal reference numbers to agree with renumbered
27 chapters, subchapters, sections, subsections, subdivisions, or portions
28 thereof;

29 (G) Substitute the correct calendar date for the effective date
30 of this Act and other phrases of similar import;

31 (H) Rearrange definitions in alphabetical order;

32 (I) Insert or delete hyphens in words so as to follow correct
33 grammatical usage;

34 (J) Change numerals or symbols to words or vice versa and add
35 figures or words if they are merely a repetition of written words or vice
36 versa for purposes of uniformity and style; and

1 (K) Change nouns from the singular to the plural or vice versa
2 and change forms of verbs for purposes of style and grammar.

3 (2) Except as provided in subdivision (d)(1) of this section, the
4 wording, punctuation, and format of sections of acts shall appear in the Code
5 exactly as enacted by the General Assembly.

6 (3) No law may be removed from the Arkansas Code unless specifically
7 repealed by the General Assembly.

8 (4) Every section of each act which is required to be codified shall be
9 codified as a complete section of the Arkansas Code.

10 (5) Sections of acts shall not be combined into the same Code section
11 unless they are identical or they specifically amend the same Code section.

12 (6) No section of an act shall be codified in more than one place in
13 the Arkansas Code. If a section is applicable to more than one title,
14 chapter, subchapter, or section of the Arkansas Code, it shall be codified in
15 one section only with notes indicating its applicability to other portions of
16 the Code.

17 (7) The Code Revision Commission shall notify the Legislative Council
18 as soon as possible after the discovery of problems with the acts or the Code
19 and recommend corrections.

20 (8) The Code Revision Commission shall insert a codifiers note under
21 appropriate Code sections to alert the reader to conflicting Code provisions
22 and other problems identified by the Commission.

23 (9) The Code Revision Commission shall report to the Legislative
24 Council as soon as possible after the adjournment of each session of the
25 General Assembly regarding the acts and parts of acts of that session which
26 were not codified. The Commission is not required to report uncodified
27 appropriation sections and other sections specifically referring to an
28 appropriation.

29 (10) If the acts of the General Assembly are in markup format, language
30 overstricken shall not be codified and underlined language shall not be
31 underlined in the Code.

32 (11) This subsection shall not apply to the publication known as the
33 Acts of Arkansas. The Acts of Arkansas shall be published containing the acts
34 of the General Assembly exactly as enacted by the General Assembly. No
35 correction, change, renumbering, substitution, redesignation, or rearrangement
36 shall be made to the text of the acts published in the Acts of Arkansas.

1 (e) Every uncodified section of every act of the General Assembly other
2 than appropriations sections, emergency clauses, general repealers,
3 severability clauses, codification clauses, and boilerplate sections in
4 appropriation bills shall be published as a separate volume or volumes by the
5 commission.

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7 SECTION 3. Arkansas Code 1-2-307 is repealed.

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9 SECTION 4. Arkansas Code 25-15-204(d) is amended to read as follows:

10 (d)(1) Every agency, including those exempted under [§] 25-15-202, shall
11 file with the Secretary of State, the Arkansas State Library, and the Bureau
12 of Legislative Research a copy of each rule and regulation adopted by it and a
13 statement of financial impact for the rule or regulation.

14 (2) The Secretary of State shall keep a register of the rules open to
15 public inspection, and it shall be a permanent register.

16 (3) Each agency shall provide its regulations to the Bureau of
17 Legislative Research in an electronic format acceptable to the Bureau. The
18 Bureau shall place the agency regulations in the General Assemblys internet
19 web site.

20 (4) (A) The scope of the financial impact statement shall be determined
21 by the agency, but shall include, at a minimum, the estimated cost of
22 complying with the rule and the estimated cost for the agency to implement the
23 rule.

24 (B) If the agency has reason to believe that the development of a
25 financial impact statement will be so speculative as to be cost prohibitive,
26 the agency shall submit a statement and explanation to that effect.

27 (C) If the purpose of a state agency rule or regulation is to implement
28 a federal rule or regulation, the financial impact statement shall be limited
29 to any incremental additional cost of the state rule or regulation as opposed
30 to the federal rule or regulation.

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32 SECTION 5. All provisions of this act of a general and permanent nature
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
34 Revision Commission shall incorporate the same in the Code.

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36 SECTION 6. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect
2 other provisions or applications of the act which can be given effect without
3 the invalid provision or application, and to this end the provisions of this
4 act are declared to be severable.

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

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9 SECTION 8. EMERGENCY. It is hereby found and determined by the *General*
10 *Assembly that there are presently inadequate statutory guidelines for the*
11 *codifications of the acts of the General Assembly; that this act establishes*
12 *necessary guidelines; and that this act should go into effect immediately in*
13 *order that the guidelines will be in effect for the codification of the acts*
14 *of this regular session. Therefore, an emergency is declared to exist and*
15 *this act being immediately necessary for the preservation of the public peace,*
16 *health and safety shall become effective on the date of its approval by the*
17 *Governor. If the bill is neither approved nor vetoed by the Governor, it*
18 *shall become effective on the expiration of the period of time during which*
19 *the Governor may veto the bill. If the bill is vetoed by the Governor and the*
20 *veto is overridden, it shall become effective on the date the last house*
21 *overrides the veto.*

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/s/Jones et al

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