

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H3/12/97

A Bill

ACT 961 OF 1997
HOUSE BILL 1931

4
5 By: Representative Johnson
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7

For An Act To Be Entitled

8
9 "AN ACT TO STREAMLINE THE PROCESS FOR THE USE OF PRIVATE
10 FUNDS IN PUBLIC CONSTRUCTION PROJECTS; AND FOR OTHER
11 PURPOSES."

Subtitle

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13
14 "TO STREAMLINE THE PROCESS FOR THE USE
15 OF PRIVATE FUNDS IN PUBLIC CONSTRUCTION
16 PROJECTS."

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Title 19, chapter 4, subchapter 14 of the Arkansas Code is
21 amended by inserting an additional section at the end thereof to read as
22 follows:

23 "19-4-1413 Projects Constructed with Private Funds.

24 (a) In the event funds from private sources are provided to a public
25 institution of higher education for projects, which exceed five million
26 dollars (\$5,000,000) regulated in this subchapter sufficient to finance at
27 least eighty percent (80%) of the estimated cost of the proposed project,
28 excluding the cost of land, the provisions of this subchapter and of all other
29 provisions of the Arkansas Code Annotated governing construction of public
30 facilities, including, but not limited to, the provisions of Arkansas Code
31 Annotated 22-9-101-22-9-103 and 22-9-201-22-9-212 shall not be applicable to
32 such projects, subject to the following:

33 (1) The governing board of the public institution of higher
34 education shall have adopted a resolution and procedure setting forth the
35 method by which the architect, engineer, construction manager, contractor, and
36 major subcontractors are to be selected for the project. The procedure shall

1 include by appropriate public notice and solicitation the opportunity for
2 qualified, licensed professionals to submit proposals and shall assure the
3 design and completion of the project in an expeditious manner while adhering
4 to high standards of design and construction quality. Such procedures shall
5 require a payment and performance bond in an amount determined by the
6 governing board and shall provide for the manner in which the construction
7 shall be managed and supervised. In selecting a contractor and other
8 professionals for the projects, the governing board shall consider the
9 experience of the person or firm in constructing similar projects, the record
10 of the person or firm in timely completion of such projects and other similar
11 matters to assure that the person or firm will complete the project within the
12 time and to the specifications set by the governing board.

13 (2) Before the public institution of higher education shall enter
14 into a contract with an architect, engineer, construction manager, or
15 contractor for the design, construction or financing of any project financed
16 from private funds as provided herein, it shall submit to the Chief Fiscal
17 Officer of the State and the Legislative Council, in writing, a summary
18 statement setting forth a general description of the proposed project, its
19 estimated overall cost, and the method proposed to finance the cost, including
20 a description of the sources and amount of private funds. The Chief Fiscal
21 Officer of the State may forward a copy of this statement to Arkansas State
22 Building Services and the Governor for information.

23 (3) To enable a public institution of higher education to qualify
24 under this subsection, the private funds shall be paid to the institution or
25 to a fund or foundation for the benefit of the institution and such funds may
26 be represented in whole or in part by a written pledge or commitment from a
27 donor, provided that the institution shall assure itself of the financial
28 stability of such donor to fulfill the pledge or commitment.

29 (b) Notwithstanding anything in this subsection to the contrary, the
30 provisions of Arkansas Code Annotated §§ 22-9-301 through 22-9-315, 22-9-401
31 through 22-9-404, 22-9-501 through 22-9-505, 22-9-601 through 22-9-604, and
32 22-9-701 through 22-9-702 shall remain in full force and effect and not be
33 affected hereby."

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35 SECTION 2. All provisions of this act of a general and permanent nature
36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

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

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9 SECTION 4. All laws and parts of laws in conflict with this act are
10 hereby repealed.

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12 SECTION 5. EMERGENCY. It is found and determined by the General
13 Assembly of the State of Arkansas that present laws relating to construction
14 of projects by public institutions of higher education may, where substantial
15 private funding of such projects is provided, create unnecessary delay in the
16 review and implementation of such projects to the potential detriment of the
17 public institution of higher education resulting in increased cost of the
18 project and discouragement of donors of private funds to support such
19 projects. Therefore, an emergency is declared to exist and this act being
20 immediately necessary for the preservation of the public peace, health and
21 safety shall become effective on the date of its approval by the Governor. If
22 the bill is neither approved nor vetoed by the Governor, it shall become
23 effective on the expiration of the period of time during which the Governor
24 may veto the bill. If the bill is vetoed by the Governor and the veto is
25 overridden, it shall become effective on the date the last house overrides the
26 veto.

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29 /s/Rep. Johnson

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31 APPROVED:3-31-97

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