

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: S3/21/03

A Bill

Act 1095 of 2003
SENATE BILL 767

5 By: Senator Gullett
6 By: Representative D. Evans
7

For An Act To Be Entitled

10 AN ACT TO AUTHORIZE STATE AGENCIES TO CONTRACT TO
11 PURCHASE TECHNOLOGY SYSTEMS BASED ON AN INCREASE
12 IN THE AGENCY'S REVENUES GENERATED THROUGH THE
13 USE OF THE TECHNOLOGY SYSTEMS; AND FOR OTHER
14 PURPOSES.

Subtitle

16 AN ACT TO AUTHORIZE CONTRACTS FOR THE
17 PURCHASE OF TECHNOLOGY SYSTEMS BASED ON
18 THE INCREASE IN THE AGENCY'S REVENUES
19 PRODUCED BY THE TECHNOLOGY SYSTEMS.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. (a) An agency procurement official or procurement agent is
26 authorized to enter into contracts to acquire technology systems for
27 performing the revenue generating functions and duties of the agency,
28 including, but not limited to, registration, processing, and collection
29 functions.

30 (b) Any contract entered into under this act between an agency
31 procurement official or procurement agent and a vendor of technology systems
32 shall provide for:

33 (1) Payment of the technology systems on the basis of a
34 percentage of the increase in the amount of specific taxes or fees collected,
35 including interest and penalties thereon, for a fixed time period, which
36 increase exceeds revenues projected prior to the project and is attributable



1 to the implementation and use of the technology system; or

2 (2) Payment of the technology system on a fixed fee contract
3 basis, the fee to be paid from the increase in the amount of specific taxes
4 or fees collected, including interest and penalties thereon, which increase
5 exceeds revenues projected prior to the project and is attributable to the
6 implementation and use of the technology system.

7 (c)(1) All contracts authorized by this act shall be entered into
8 pursuant to the requirements of the Arkansas Procurement Law, § 19-11-201 et
9 seq., and amendments thereto.

10 (2) Prior to execution of the contract, the following process
11 shall be followed:

12 (A) The requesting agency shall request approval of the
13 Chief Fiscal Officer of the State to prepare a request for proposal for a
14 project authorized under this act;

15 (B) The request shall include the general nature of the
16 project, the anticipated revenues that will be enhanced, and the forecasted
17 revenues for the current biennium;

18 (C) Upon approval of the Chief Fiscal Officer of the
19 State, the requesting agency shall prepare a request to the Department of
20 Finance and Administration for approval to prepare a request for proposal for
21 a technology project authorized under this act;

22 (D) The request must include the revenue source or sources
23 that will be increased as a result of the project and the projected revenues
24 for the life of the anticipated life of the project;

25 (E) The requesting agency shall prepare a request for
26 proposal, with advice and consultation from the Office of the Executive Chief
27 Information Officer and the Department of Finance and Administration, for the
28 purchase of technology systems on the basis of a portion of the increase in
29 the agency's revenues produced by the technology system; and

30 (F)(i) The request for proposal may provide that the
31 agency and the vendor may negotiate an amount or baseline upon which the
32 increase in taxes or fees is measured.

33 (ii) Any contract other than a fixed fee contract
34 shall include a factor in the baseline calculation to account for an increase
35 in taxes or fees due solely to economic factors and not to the use of the
36 technology.

1 (3) The agency procurement official or procurement agent and the
2 vendor shall negotiate the contract, with the oversight of the Office of
3 Executive Chief Information Officer and the Department of Finance and
4 Administration to assist in negotiating an advantageous contract.

5 (4)(A) The agency director shall submit the proposed contract
6 and a request for new appropriation to the Governor, or his or her designee.

7 (B) The accompanying information will include the
8 methodology used to calculate the baseline amount proposed by the agency and
9 other justifications and information that detail the program and the expected
10 benefits of the agreement.

11 (C) The Governor, or his or her designee, shall study the
12 request and determine whether the appropriation requested and the terms of
13 the proposed contract are in strict compliance with this act.

14 (D)(i) The Governor may approve or modify the request for
15 new appropriation and the proposed contract.

16 (ii) Any modification of the proposed contract shall
17 be submitted to the vendor for approval.

18 (5)(A) Upon approval of the shared benefit agreement and new
19 appropriation request, the Governor shall seek the advice and recommendation
20 of the Legislative Council.

21 (B) Upon review of the Legislative Council, the Governor
22 shall forward a copy of his approvals to the agency director and the Chief
23 Fiscal Officer of the State.

24 (d) After receipt of the Governor's approvals, the Chief Fiscal
25 Officer of the State shall direct the Auditor of State and Treasurer of State
26 to establish upon their books of record the necessary appropriation accounts
27 in accordance with the provisions as set out in this section from the Shared
28 Benefit Holding Appropriation.

29 (e) The requesting agency may utilize these appropriations to
30 implement the approved contract.

31 (f) Nothing in this section shall prohibit an agency that enters into
32 a contract according to this section from acquiring any goods or services
33 through appropriations for any function or program of that agency not
34 specifically included in any contract entered into according to this section.

35 (g) The Chief Fiscal Officer of the State may promulgate such rules,
36 regulations, procedures and guidelines as he may deem necessary and proper in

1 order to carry out the provisions of this act.

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3 SECTION 2. (a) There is created on the books of the Treasurer of
4 State, Auditor of State, and Chief Fiscal Officer of the State a special
5 revenue fund to be known as the "Shared Benefit Payment Fund."

6 (b)(1) All moneys collected under this act shall be deposited into the
7 State Treasury to the credit of the fund as special revenues.

8 (2) The fund shall also consist of any other revenues as may be
9 authorized by law.

10 (c) The fund shall be used by the state agencies to pay vendors for
11 contracts entered into under this act.

12 (d) The fund shall consist of the amount of taxes or fees collected
13 for the relevant time period less the baseline amount stated in each
14 technology purchase contract entered into pursuant to section 1 of this act,
15 which difference is attributable to the implementation and use of the
16 technology systems as provided in the contract and approved under the
17 provisions of section 1, subsection (c) of this act.

18 (e) As soon as practical after the close of each month during the
19 biennial period beginning July 1, 2003 and thereafter, each agency purchasing
20 official who has a technology purchase contract shall determine the
21 difference between the amount of taxes or fees collected and the contract
22 baseline amount and report these findings to the Chief Fiscal Officer of the
23 State.

24 (f) The Chief Fiscal Officer of the State shall certify to the
25 Treasurer of State the following:

26 (1) The amounts determined in subsection (e) of this section for
27 transfer to the fund; and

28 (2) That portion of the amount determined in subsection (e) of
29 this section which is currently required to be paid to each technology
30 contract vendor.

31 (g) The Treasurer of State shall make the transfer of the amount
32 determined in subsection (f)(1) of this section, after making the deduction
33 required from the net special revenues as set out in § 19-5-203(b)(2)(A).

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35 SECTION 3. EMERGENCY CLAUSE. It is found and determined
36 by the General Assembly of the State of Arkansas that there is an urgent need

1 for funding for the purchase of technology to increase efficiency and more
2 effectively administer the areas of government that are charged with the
3 responsibility for administering and collecting revenue for the state; that
4 legislation is needed for enabling state agencies to more quickly utilize
5 private sector information technologies that pay for themselves directly from
6 a portion of additional state revenues; that there are vendors who will agree
7 to contract with the state to deliver such technology in consideration for
8 the payment of the technology from a portion of the increase in revenue that
9 would result from the use of the more efficient technology solution; that
10 such contracts would not obligate the state to funding and payment of the
11 technology prior to its purchase; that the contracts would provide for
12 payment to vendors only in the event that revenues increased as a result of
13 the implementation and use of the technology solution; and that this act is
14 immediately necessary because there is an urgent need for this technology.
15 Therefore, an emergency is declared to exist and this act being immediately
16 necessary for the preservation of the public peace, health, and safety shall
17 become effective on:

18 (1) The date of its approval by the Governor;

19 (2) If the bill is neither approved nor vetoed by the Governor,
20 the expiration of the period of time during which the Governor may veto the
21 bill; or

22 (3) If the bill is vetoed by the Governor and the veto is
23 overridden, the date the last house overrides the veto.

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25 */s/ Gullett*
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28 **APPROVED: 4/4/2003**
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