1 **State of Arkansas**

2 **80th General Assembly**

3 **Regular Session, 1995**

4 **By: Representative Dietz**

A Bill

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For An Act To Be Entitled

8   "AN ACT AMENDING TITLE 19, CHAPTER 11, SUBCHAPTER 2 OF THE

9   ARKANSAS CODE ANNOTATED TO ALLOW MULTI-YEAR CONTRACTS AND

10   LEASE/PURCHASE AGREEMENTS FOR COMMODITIES AND SERVICES TO

11   BE USED BY THE OFFICE OF STATE PURCHASING; AND FOR OTHER

12   PURPOSES."

13

Subtitle

15   "TO ALLOW MULTI-YEAR CONTRACTS AND

16   LEASE/PURCHASE AGREEMENTS FOR

17   COMMODITIES AND SERVICES TO BE USED BY

18   THE OFFICE OF STATE PURCHASING."

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

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22   SECTION 1. Arkansas Code 19-11-238 is hereby amended to read as

23 follows:

24   "19-11-238. Multi-year contracts.

25   (a) Specified Period. Unless otherwise provided by law, a contract for

26 commodities or services may be entered into for periods of not more than *seven*

27 *(7)* years if funds for the first fiscal year of the contemplated contract are

28 available at the time of contracting. Payment and performance obligations for

29 succeeding fiscal years shall be subject to the availability and appropriation

30 of funds therefor.

31   (b) Determination Prior to Use. Prior to the utilization of a multi-year

32 contract, it shall be determined in writing that:

33   (1) Estimated requirements cover the period of the contract and are

34 reasonably firm and continuing; and

35   (2) Such a contract will serve the best interests of the state by

36 encouraging effective competition or otherwise promoting economies in state

1 procurement, and

2   (3) In the event of termination for any reason, the contract provides for

3 cessation of services and/or surrender by the state of the commodities and

4 repayment to the state of any accrued equity.

5   (c) Termination Due to Unavailability of Funds in Succeeding Years.

6 Original terms of such multi-year contracts shall terminate on the last day of

7 the current biennium and any renewals by the state based upon continuing

8 appropriation shall not exceed the next succeeding biennium. When funds are

9 not appropriated or otherwise made available to support continuation of

10 performance in a subsequent year of a multi-year contract, the contract for

11 such subsequent year shall be terminated and the contractor may be reimbursed

12 for the reasonable value of any nonrecurring costs incurred but not amortized

13 in the price of the commodities or services delivered under the contract. The

14 cost of termination may be paid from:

15   (1) Appropriations currently available for performance of the contract;

16   (2) Appropriations currently available for procurement of similar

17 commodities or services and not otherwise obligated; or

18   (3) Appropriations made specifically for the payment of such termination

19 costs."

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21   SECTION 2. All provisions of this act of a general and permanent nature

22 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

23 Revision Commission shall incorporate the same in the Code.

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25   SECTION 3. If any provision of this act or the application thereof to

26 any person or circumstance is held invalid, such invalidity shall not affect

27 other provisions or applications of the act which can be given effect without

28 the invalid provision or application, and to this end the provisions of this

29 act are declared to be severable.

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31   SECTION 4. All laws and parts of laws in conflict with this act are

32 hereby repealed.

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34   SECTION 5. EMERGENCY. It is hereby found and determined by the General

35 Assembly that the state is hampered in the execution of its duties by the

1 inability to use lease/purchase agreements to procure essential commodities

2 and services. Therefore, an emergency is hereby declared to exist, and this

3 act being immediately necessary for the preservation of the public peace,

4 health, and safety shall be in full force and effect from and after its

5 passage and approval.

6   */s/Rep. Dietz*

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8   APPROVED: 4-5-95

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