

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/1/99 S3/11/99 S3/23/99

A Bill

Act 1173 of 1999
HOUSE BILL 1702

5 By: Representative Bond
6 By: Senator Hill
7
8

For An Act To Be Entitled

9
10 "A BILL TO AMEND ARKANSAS CODE 22-2-106, 108, 111,
11 112, AND 113 PERTAINING TO STATE BUILDING SERVICES
12 ACQUISITIONS AND SUPERVISION."
13

Subtitle

14
15 "A BILL TO AMEND ARKANSAS CODE SECTIONS
16 PERTAINING TO STATE BUILDING SERVICES."
17
18

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

21 SECTION 1. Arkansas Code 22-2-106 is amended to read as follows:

22 "22-2-106. State Building Services Council.

23 (a) There is created a 'State Building Services Council', hereinafter
24 referred to as the 'council'.

25 (b) The council shall have *eleven (11)* members, as follows:

26 (1)(A) Six (6) members shall be appointed by the Governor and
27 confirmed by the Senate, one (1) of whom shall be from each congressional
28 district and two (2) of whom shall be representative of the state at large.

29 (B) One (1) member shall be designated by the Speaker of
30 the House of Representatives, and one (1) member shall be designated by the
31 President Pro Tempore of the Senate, but no member so designated by the
32 Speaker or President Pro Tempore shall be a member of the General Assembly.

33 (C) All appointees or designees shall serve three-year
34 staggered terms, and all appointees or designees may be subject to
35 reappointment or redesignation.

36 (D) The members of the council appointed by the Governor

1 and designated by the Speaker of the House and the President Pro Tempore of
2 the Senate shall be reflective of the economic, geographic, and social
3 characteristics of the state.

4 (2) The Secretary of State or designee, shall be a full voting
5 member of the council.

6 (3) *From among its members, the House of Representatives shall*
7 *select one (1) member who shall be a nonvoting ex officio member of the*
8 *council, and from among its members, the Senate shall select one (1) member*
9 *who shall be a nonvoting ex officio member of the council. Such ex officio*
10 *members shall serve two-year terms.*

11 (c) The Governor shall designate one (1) of the members of the council
12 as 'chairman', except that no ex officio member shall be so designated.

13 (d) Members of the council shall receive no pay for their services, but
14 those members who are not government officials may receive expense
15 reimbursement and stipends in accordance with § 25-16-901 et seq."

16
17 SECTION 2. Arkansas Code 22-2-108 is amended to read as follows:

18 "22-2-108. Powers and duties generally.

19 As may be provided, allowed, or limited by provisions of this chapter,
20 the State Building Services Council is authorized and empowered to establish
21 policies, guidelines, standards, and procedures which shall guide and govern
22 the State Building Services with regard to the following responsibilities,
23 duties, powers, and activities:

24 (1) To investigate and obtain information concerning the various
25 boards, commissions, authorities, agencies, departments, and offices of the
26 state, which are the 'state agencies', in relation to where they are housed;
27 their present and projected needs for space and facilities; the rental being
28 paid and the rental that state agencies could reasonably pay for space and
29 facilities in public and private buildings; and the public building space and
30 facilities that can be feasibly financed from appropriated funds available to
31 the State Building Services;

32 (2) To construct and equip buildings or acquire by gift or
33 purchase existing buildings and the sites upon which they are situated for use
34 as public buildings. However, before the State Building Services may construct
35 and equip buildings or acquire by purchase existing buildings and the site
36 upon which they are situated for use as public buildings, requests for the

1 construction and equipping of such buildings, or the acquisition of such
2 existing buildings, shall have been first submitted to the General Assembly or
3 to the Legislative Council when the General Assembly is not in session, and
4 the General Assembly shall have ~~taken affirmative action approving the same~~
5 reviewed and shall have appropriated the funds therefor or specifically
6 approved the method of funding the construction, equipping, or acquisition
7 thereof. ~~These restrictions, however, shall not apply to the construction or~~
8 ~~equipping of buildings or the acquisition of buildings through the use of~~
9 ~~funds appropriated by the Seventieth General Assembly;~~

10 (3) To provide for the operation and management of the public
11 buildings so constructed or acquired and arrange for the housing of state
12 agencies as space and facilities permit and to rent and lease space and
13 facilities upon such terms and conditions and for such rentals as the State
14 Building Services may determine. Should there be any surplus space in a public
15 building above the requirements of the state agencies that can be feasibly
16 housed therein, then the State Building Services may lease or rent the surplus
17 space to individuals and organizations other than state agencies until it is
18 needed by state agencies;

19 (4) To use the lands acquired by the Arkansas Revenue Department
20 Building Commission which were transferred to the Arkansas State Building
21 Services under Acts 1975, No. 716, § 6, as sites for public buildings and
22 acquire additional sites as provided in § 22-2-109;

23 (5) To wreck and remove, and dispose of or salvage, buildings or
24 other improvements as necessary for the construction and equipping of public
25 buildings or for future use of an unspecified project;

26 (6) To purchase, lease, or rent and *receive* devises, bequests, or
27 donations of and sell or otherwise dispose of any property, real, personal, or
28 mixed, on its own behalf and without approval of any other board, commission,
29 agency, department, or officer, and the council may convert into money any
30 property bequeathed or donated to it or not needed or which cannot be used in
31 the form received;

32 (7) To execute contracts necessary to accomplish the purposes of
33 this chapter. However, no contract shall be entered into for the purchase of
34 any real property unless the State Building Services shall have first
35 submitted for review to the General Assembly or to the Legislative Council
36 when the General Assembly is not in session, a request to purchase the

1 property to the General Assembly, and the General Assembly ~~shall have voted to~~
2 ~~approve the purchase of the property and~~ shall have provided the funds
3 therefor or shall have approved the method of funding the purchase;

4 (8) To apply for, receive, accept, and use any moneys and
5 properties from the United States or any state, or any department or agency
6 thereof; from any public or private corporation of any nature; and from any
7 individual or group;

8 (9) To promulgate and enforce minimum design and construction
9 standards and criteria for all capital improvements undertaken by any state
10 agency. However, the State Building Services shall not engage in the
11 production of architectural plans and specifications, with the exception that
12 the architects and engineers employed by State Building Services may provide
13 and make available technical assistance to State Building Services' sections
14 listed in § 22-2-107 and other agencies regarding capital improvements
15 involving roofing projects, repairs, alterations, or renovations;

16 (10) To establish and enforce minimum standards and criteria for
17 the management, maintenance, and operation of all public buildings and capital
18 improvements;

19 (11) To establish and enforce minimum standards and criteria for
20 the leasing and renting of space for and by state agencies;

21 (12) To provide for the management, maintenance, and operation of
22 those public buildings as may be required by this chapter or otherwise by law
23 to be managed, maintained, or operated by the State Building Services and
24 provide technical advice on management, maintenance, and operation to agencies
25 with existing capital improvements;

26 (13) To provide monthly reports to the Legislative Council and to
27 the Governor, or otherwise as may be requested by the Legislative Council, the
28 Governor, or the General Assembly;

29 (14) To obtain and keep on file copies of architectural and
30 engineering plans and construction documents for all public buildings and
31 capital improvements, including those plans and documents for all existing
32 public buildings and capital improvements for which such plans and documents
33 exist;

34 (15) To assume all duties and responsibilities for minor
35 alterations and repairs of existing public buildings and capital improvements
36 previously vested within the Office of State Purchasing by Acts 1955, No. 313

1 [repealed], as amended by Acts 1959, No. 29 [repealed], as implemented and
2 developed by the Construction Section of the Office of State Purchasing. These
3 duties and responsibilities of the Office of State Purchasing are transferred
4 to the State Building Services. It is the intent of this chapter that the
5 above-mentioned and all other duties and responsibilities of the Construction
6 Section of the Office of State Purchasing, Department of Finance and
7 Administration, shall be transferred to the State Building Services, including
8 approval authority for real property purchases by any agency, board,
9 commission, or department;

10 (16) To promulgate reasonable rules, regulations, and procedures
11 as may be required to carry out its duties, responsibilities, powers, and
12 authorities under this chapter which are consistent with the purposes and
13 intent of this chapter."

14
15 SECTION 3. Arkansas Code 22-2-109 is amended to read as follows:

16 "22-2-109. Acquisition of additional sites.

17 (a)(1) Additional sites may be acquired from state agencies, either
18 with or without compensation, by making necessary arrangements with any state
19 agency for any lands owned by that state agency or owned by the State of
20 Arkansas under the control or jurisdiction of that state agency.

21 (2) In the alternative, a site may be obtained by the State
22 Building Services by gift, purchase, or, *within Pulaski County, Arkansas*, by
23 condemnation under the power of eminent domain.

24 (b) In the event the sites cannot be purchased by negotiation, the
25 State Building Services is authorized to institute condemnation proceedings
26 under the power of eminent domain for the acquisition of sites. Condemnation
27 proceedings under the power of eminent domain *may be exercised within Pulaski*
28 *County, Arkansas*, in the manner now provided in §§ 18-15-1202 - 18-15-1207, or
29 pursuant to any other applicable statutory provisions for the exercise of the
30 power of eminent domain in the State of Arkansas or by any state agency.
31 *However, in the event the State Building Services shall acquire, under the*
32 *power of eminent domain, a building which is a general purpose office building*
33 *located within the Capitol Zoning District, as zoned by § 22-3-302(a), the*
34 *following provisos shall be applicable:*

35 (1) *In addition to all other elements constituting just*
36 *compensation for the taking of property which are usually and regularly*

1 considered in condemnation actions, an owner-tenant may be entitled to a
2 reasonable moving expense for the moving of that tenant to a location within
3 Pulaski County, Arkansas. The reasonable moving expense shall be fixed by the
4 court and at its discretion;

5 (2) Upon a final award in such a condemnation proceeding, the
6 court in which the action is being undertaken may grant the condemnee in an
7 owner-occupied structure the right to remain in occupation of such structure
8 without payment of rent by the owner-occupier for a reasonable period of time
9 to be determined in the discretion of the court, but such period of time shall
10 not exceed three (3) years. However, if the monetary award is demanded by the
11 condemnee and paid pursuant to the award, the court shall fix a reasonable
12 rental for that part of the property occupied by the condemnee subsequent to
13 the final award. All other tenants occupying all or any part of the condemned
14 premises, by lease or otherwise, shall pay rentals to the condemnor from the
15 date of the final award or payment and so long as such tenants occupy the
16 premises or any part thereof. Title to all lands acquired under this chapter
17 shall be taken in the name of the State of Arkansas;

18 (3) Should the owner of the building being acquired under the
19 power of eminent domain also own unimproved property adjacent to or near the
20 building and should there be a connected or unity of use between the condemned
21 building and the unimproved property, including a parking lot adjacent to or
22 near an office building, the State Building Services shall be obliged to also
23 take by purchase or under the power of eminent domain such unimproved
24 property."

25
26 SECTION 4. Arkansas Code 22-2-111 is amended to read as follows:

27 "22-2-111. Schedule of supervision - Type One - Undesignated funds.

28 From the funds appropriated by the General Assembly to the State
29 Building Services not designated to be spent for a particular public building
30 or capital improvement for a particular state agency, the State Building
31 Services shall, ~~within Pulaski County, Arkansas:~~

32 (1) Use the lands acquired by the Arkansas Revenue Department
33 Building Commission which are transferred to the State Building Services under
34 Acts 1975, No. 716, § 6, as sites for public buildings, and obtain additional
35 sites as provided in this chapter. The additional sites may be obtained,
36 either with or without compensation, by making necessary arrangements with any

1 state agency for any lands owned by the state agency or by the State of
 2 Arkansas under the control or jurisdiction of that state agency. In the
 3 alternative, a site may be obtained by the State Building Services by gift,
 4 purchase, or condemnation under the power of eminent domain at any suitable
 5 location. In the event the needed sites cannot be purchased by negotiation,
 6 the State Building Services is authorized to institute condemnation
 7 proceedings, *in Pulaski County, Arkansas*, under the power of eminent domain
 8 for the acquisition of sites. Condemnation proceedings under the power of
 9 eminent domain may be exercised, *within Pulaski County, Arkansas*, in the
 10 manner now provided by §§ 18-15-1202 - 18-15-1207, or pursuant to any
 11 applicable statutory provisions for the exercise of the power of eminent
 12 domain by the State of Arkansas or by any state agency. Title to all lands
 13 acquired under this chapter shall be taken in the name of the State of
 14 Arkansas;

15 (2) Construct, repair, renovate, alter, and equip buildings and
 16 capital improvements or acquire, by gift or purchase, existing buildings or
 17 capital improvements and the sites upon which they are situated for use as
 18 public buildings;

19 (3) Operate, manage, maintain, and otherwise provide for the
 20 operation of the public buildings or capital improvements so constructed or
 21 acquired and arrange for the housing of state agencies as space and facilities
 22 permit upon such terms and conditions and for such rentals as the State
 23 Building Services may determine. Should there be any surplus space in a public
 24 building above the requirements of state agencies that can be feasibly housed
 25 therein, the State Building Services may lease or rent such surplus space to
 26 individuals and organizations other than state agencies until it is needed by
 27 state agencies; and

28 (4) ~~Wreck and remove~~ Demolish, remove, and dispose of or salvage
 29 any buildings or other capital improvements as necessary for the construction
 30 and equipping of public buildings or capital improvements."

31

32 SECTION 5. Arkansas Code 22-2-112 is amended to read as follows:

33 "22-2-112. Schedule of supervision - Type Two - Designated funds.

34 From the funds appropriated by the General Assembly to the State Building
 35 Services for the construction or purchase of a particular building or capital
 36 improvement ~~within Pulaski County, Arkansas~~, which ~~are~~ is specifically

1 designated to be purchased or constructed or improved for a particular state
 2 agency ~~within Pulaski County, Arkansas,~~ the State Building Services shall
 3 carry out the powers, authorities, and responsibilities in respect to that
 4 construction or purchase as designated in § 22-2-111, ~~except that the~~
 5 ~~particular agency for whose use the construction or improvement is designated~~
 6 ~~may reserve the responsibility for selecting persons to perform architectural~~
 7 ~~and engineering and construction services. However, the.~~ The State Building
 8 Services shall review and approve architectural and engineering design plans
 9 and construction plans to ensure compliance with minimum design and
 10 construction standards and criteria promulgated by the council pursuant to
 11 this chapter. The State Building Services shall negotiate all contracts for
 12 architectural and engineering and construction services and revisions and
 13 modifications to such contracts."

14
 15 SECTION 6. All provisions of this act of a general and permanent nature
 16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 17 Revision Commission shall incorporate the same in the Code.

18
 19 SECTION 7. If any provision of this act or the application thereof to
 20 any person or circumstance is held invalid, such invalidity shall not affect
 21 other provisions or applications of the act which can be given effect without
 22 the invalid provision or application, and to this end the provisions of this
 23 act are declared to be severable.

24
 25 SECTION 8. All laws and parts of laws in conflict with this act are
 26 hereby repealed.

27 */s/ Bond*

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 30 APPROVED: 4/7/1999