

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.
Act 471 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 2585

5 By: Representative Hardwick
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For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF ARKANSAS LAW
10 PERTAINING TO STATE CAPITAL IMPROVEMENT PROJECTS;
11 AND FOR OTHER PURPOSES.
12

Subtitle

13 AN ACT TO AMEND PROVISIONS OF ARKANSAS
14 LAW PERTAINING TO STATE CAPITAL
15 IMPROVEMENT PROJECTS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 22-9-101 is amended to read as follows:

22 22-9-101. Observation by registered professionals required.

23 (a) Neither the state nor any township, county, municipality, village,
24 or other political subdivision of the state shall engage in the ~~construction~~
25 capital improvement of any public works involving engineering or architecture
26 for which the plans, specifications, and estimates have not been made by and
27 the ~~construction~~ capital improvement executed under the observation of a
28 registered professional engineer or architect, in their respective areas of
29 expertise, who are licensed to practice under the laws of Arkansas.

30 (b) Nothing in this section shall be held to apply to any public works
31 wherein the contemplated ~~construction~~ capital improvement expenditure:

32 (1) For an engineering project does not exceed twenty-five
33 thousand dollars (\$25,000); or

34 (2) For an architectural project does not exceed one hundred
35 thousand dollars (\$100,000).



1 (c) This section shall not apply to any school district, county,
2 municipality, or township project which is planned and executed according to
3 plans and specifications furnished by authorized state agencies.

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5 SECTION 2. Arkansas Code § 22-9-201(c), concerning the applicability
6 of certain provisions of law, is amended to read as follows:

7 (c)(1)(A) The notice and bid security provisions of §§ 19-4-1401, 19-
8 4-1405, and 22-9-203 pertaining to the project amount and the time frames of
9 the advertisement shall not apply to contracts for the performance of any
10 work or the making of any capital improvements due to emergency contracting
11 procedures.

12 (B) Nothing shall prohibit the contracting authority from
13 requiring a bid security if the contracting authority determines to require a
14 bid security.

15 (2)(A) The percentage requirements of § 22-9-203(e) shall not
16 apply to contracts for the performance of any work or the making of any
17 capital improvements due to emergency contracting procedures.

18 (B) If negotiations are unsuccessful and the contracting
19 authority determines further negotiations with the lowest responsible bidder
20 are not in the contracting authority's best interests, nothing shall prohibit
21 the contracting authority from terminating negotiations and negotiating the
22 award of the contract to the next lowest responsible bidder.

23 (3) "Emergency contracting procedures" means the acquisition of
24 services and materials for capital improvements which are in accordance with
25 the Arkansas Building Authority minimum standards and criteria.

26 (4) Emergency contracting procedures may include sole sourcing
27 or competitive quote bids.

28 (5) The Director of the Arkansas Building Authority or a
29 designee may make or authorize others to make emergency contracting
30 procedures as defined in subdivision (c)(3) of this section and in accordance
31 with the authority minimum standards and criteria.

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33 SECTION 3. Arkansas Code § 22-9-604 is amended to read as follows:
34 22-9-604. Procedure.

35 (a)(1) In case of a construction contract entered into between a
36 public agency and a contractor who is required to furnish a performance bond,

1 the contractor shall be entitled to payment of ninety percent (90%) of the
2 earned progress payments when due, with the public agency retaining ten
3 percent (10%) to assure faithful performance of the contract.

4 (2) Upon certification by the project architect or engineer that
5 the construction contract is fifty percent (50%) complete, no further
6 retainage will be withheld from the monthly estimates.

7 (3) If the construction contract allows for phased work in which
8 completion may occur on a partial occupancy, any retention proceeds withheld
9 and retained under this section shall be partially released within thirty
10 (30) days under the same conditions under this section in direct proportion
11 to the value of the part of the capital improvement completed.

12 (b) All sums withheld by the public agency shall be ~~held in escrow and~~
13 ~~shall be~~ paid to the contractor within thirty (30) days after the ~~contract~~
14 "construction contract" has been ~~substantially~~ completed.

15 (c) In the event the construction contract requires the contractor to
16 purchase and furnish materials or equipment that will be stored on the job
17 site or in a bonded warehouse by the contractor and used in the job as
18 required by the construction contract, no retainage will be withheld on that
19 amount of the submitted progress payment pertaining to the cost of these
20 stored materials or equipment.

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22 APPROVED: 3/23/2007
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