

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative M. Wilson**

A Bill

ACT 403 OF 1993
HOUSE BILL 1566

For An Act To Be Entitled

8 "AN ACT TO MAKE VARIOUS CORRECTIONS TO THE ARKANSAS CODE
9 OF 1987 ANNOTATED; AND FOR OTHER PURPOSES."

Subtitle

12 "AN ACT TO MAKE VARIOUS CORRECTIONS TO THE ARKANSAS CODE
13 OF 1987."

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

17 SECTION 1. To add a subdivision concerning the rate of tax for malt
18 liquor inadvertently omitted from the Arkansas Code, Arkansas Code § 3-7-104
19 is amended to add the following subdivision:

20 "3-7-104(7) A tax at the rate of twenty cents (20¢) on each gallon of
21 malt liquor sold or offered for sale in the State of Arkansas."

23 SECTION 2. To change the word "organization" to "corporation" as
24 originally enacted, Arkansas Code § 3-9-202(10) is amended to read as follows:

25 "3-9-202(10) "Private club" means a nonprofit corporation organized and
26 existing under the laws of this state, no part of the net revenues of which
27 shall inure directly or indirectly to the benefit of any of its members or any
28 other individual, except for the payment of bona fide expenses of the club's
29 operations, conducted for some common recreational, social, patriotic,
30 political, national, benevolent, athletic, or other nonprofit object or
31 purpose other than the consumption of alcoholic beverages. The nonprofit
32 corporation shall have been in existence for a period of not less than one (1)
33 year before application for a permit, as hereinafter prescribed. At the time
34 of application for the permit, the nonprofit corporation must have not less
35 than one hundred (100) members regularly paying annual dues of not less than
36 five dollars (\$5.00) per member, and, at the time of application, must own or

1 lease or have an option to lease a building, property, or space therein for
2 the reasonable comfort and accommodation of its members and their families and
3 guest, and restrict the use of club facilities to such persons;"

4

5 SECTION 3. To remove a now-obsolete reference to a date, the FIRST
6 PARAGRAPH of Arkansas Code § 11-10-716(b)(1) is amended to read as follows:

7 "11-10-716(b)(1) At the end of each month deposits in the clearing
8 account which have been established as interest and penalty payments collected
9 pursuant to §§ 11-10-716 - 11-10-722 shall be paid over to the State Treasurer
10 and credited by him to the Employment Security Special Fund created and
11 established in the State Treasury. All withdrawals therefrom shall be upon
12 voucher warrants issued, or caused to be issued, by the director for any one
13 (1) or more of the following purposes as authorized by legislative
14 appropriation:"

15

16 SECTION 4. § 14-14-1105(b)(3) is repealed to conform the section to the
17 recent amendments to the Arkansas Constitution and laws concerning
18 jurisdiction of illegitimacy cases.

19

20 SECTION 5. To change the word "of" to "or" in the phrase "case of
21 controversy", Arkansas Code § 14-54-208(a) is amended to read as follows:

22 "14-54-208(a) Every agreement or contract entered into pursuant to this
23 subchapter shall have the status of an interstate compact, but in any case or
24 controversy involving performance or interpretation thereof or liability
25 thereunder, the municipalities involved shall be the real parties in interest.
26 The state may maintain an action to recoup or otherwise make itself whole for
27 any damages of liability which it may incur by reason of being joined as a
28 party therein."

29

30 SECTION 6. To change the word "committee" to "commission" to conform to
31 the rest of the section, Arkansas Code § 14-125-405(a) is amended to read as
32 follows:

33 "14-125-405(a) If the commission shall determine that the proposed
34 division or combination is practicable and feasible in its entirety, it shall
35 appoint for each district to result from the proposed division or combination

1 two (2) directors to act with three (3) directors to be elected in accordance
2 with, and subject to, the terms and conditions set forth in §§ 14-125-301 and
3 14-125-302, except that the nominating petitions shall be filed within thirty
4 (30) days of the determination of the commission and notice thereof to the
5 eligible voters, as the governing body of each such district."

6

7 SECTION 7. To insert the phrases "Except as provided in § 23-4-201" and
8 "and rates for" inadvertently omitted during codification, Arkansas Code § 14-
9 200-101(a) (1) is amended to read as follows:

10 "14-200-101(a) (1) Except as provided in § 23-4-201, determine the
11 quality and character of each kind of, and rates for, product or service to be
12 furnished or rendered by any public utility within the city or town and all
13 other terms and conditions upon which the public utility may be permitted to
14 occupy the streets, highways, or other public places within the municipality,
15 and the ordinance or resolution shall be deemed prima facie reasonable;"

16

17 SECTION 8. To remove a reference to the now-obsolete board of public
18 affairs, Arkansas Code § 14-359-115 is amended to read as follows:

19 "14-359-115(a) The commissioners shall, in addition to the other powers
20 enumerated in this chapter, have such other and further powers as are by law
21 given to the city council of any city.

22 (b) They shall be governed by all existing statutes pertaining to the
23 duties of city councils."

24

25 SECTION 9. To add a subsection inadvertently omitted during
26 codification, Arkansas Code § 15-43-239 is amended by adding the following
27 subsection (e):

28 "15-43-239(e) If the operator of a boat dock or fishing landing shall
29 recommend the employment of a guide by a fisherman, such recommendation shall
30 not cause the relationship of employer and employee to arise between the boat
31 dock or fishing landing operator and the guide."

32

33 SECTION 10. The following Code sections, subsections, and subdivisions
34 are amended to correct references to various funds and fund accounts:

35 "19-5-926. There is established on the books of the State Treasurer,

1 State Auditor, and the Chief Fiscal Officer of the State a trust fund to be
2 known as the Health Care Access Investment Trust Fund. This fund shall consist
3 of the federal Medicaid rebate for federal fiscal year 1984 and such other
4 moneys as may be received by the state from gifts, grants, donations, from
5 public or private sources, or as may be provided therefor by the General
6 Assembly, there to be used for the purpose of this fund, to be invested by the
7 State Board of Finance in such a manner that the principal and interest
8 payments resulting from the investment thereof may be transferred to the
9 Health Care Access Fund of the Department of Human Services as may be provided
10 by law, as needed, and in such amounts as determined by the Arkansas Health
11 Care Access Council, to be used for the support of the Health Care Access
12 Program."

13

14 "19-5-1003(a) There is established on the books of the State Treasurer,
15 State Auditor, and the Chief Fiscal Officer of the State a fund to be known as
16 the Health Care Access Fund.

17 (b) This fund shall consist of moneys transferred from principal and
18 interest moneys in the Health Care Access Investment Trust Fund, upon
19 authorization of the Arkansas Health Care Access Council. Into this fund shall
20 be deposited such other funds as may be received from gifts, grants,
21 donations, or from public or private sources, or as may be provided by the
22 General Assembly, to be used to support the Health Care Access Program, as may
23 be provided by law."

24

25 "20-77-204(c) (1) There is established on the books of the State
26 Treasurer, the State Auditor, and the Chief Fiscal Officer of the State the
27 Health Care Access Fund into which moneys will be transferred from time to
28 time, from principal and interest moneys in the Health Care Access Investment
29 Trust Fund, upon authorization of the Arkansas Health Care Access Council, and
30 into which shall be deposited such other funds as may be received from gifts,
31 grants, donations, or from public or private sources, or as may be provided by
32 the General Assembly."

33

34 SECTION 11. To correct a reference to an additional fee in a statute
35 which statute has been amended to eliminate the fee, Arkansas Code § 20-7-

1 123(a) (1) (E) is amended to read as follows:

2 "20-7-123(a) (1) (E) A fee of one dollar (\$1.00) collected by the clerks
3 of the county courts upon the application of any person for marriage, which
4 fee is in addition to any other fees ;"

5

6 SECTION 12. To clarify the meaning of the term "medical/legal
7 examination" by inserting a reference to the applicable definition section,
8 the following subsections and subdivisions of the Arkansas Code are amended to
9 read as follows:

10 "20-9-303(a) (1) (B) (i) The victim shall be examined and treated as a
11 regular emergency room patient; any injuries requiring medical attention will
12 be treated in the standard manner; a medical/legal examination, as defined in
13 § 12-12-401, shall be conducted, and specimens shall be collected for
14 evidence."

15

16 "20-9-303(a) (2) (B) (i) A medical/legal examination, as defined in § 12-
17 12-401, shall be performed, and specimens shall be collected for evidence."

18

19 "20-9-303(b) Reimbursement for the medical/legal examinations, as
20 defined in § 12-12-401, shall be available to the medical facilities."

21

22 SECTION 13. To update the references to the University of Arkansas
23 College of Medicine and to update the reference to the Uniform Anatomical Gift
24 Act, the following sections and subsections of the Arkansas Code are amended
25 to read as follows:

26 "20-17-705(a) No unclaimed dead human body shall be surrendered to the
27 University of Arkansas for Medical Sciences under this subchapter if there is
28 proof that the deceased has, during his last illness, expressed his desire to
29 be buried or otherwise interred.

30 (b) Any adult may by will or otherwise donate his body to the
31 University of Arkansas for Medical Sciences under the Uniform Anatomical Gift
32 Act, § 20-17-601 et seq."

33

34 "20-17-706(a) If the University of Arkansas for Medical Sciences
35 determines that there is a need for the body, that the body is suitable for

1 anatomical science or study, and that the body has not been embalmed, then the
2 university shall, at its expense, immediately arrange for proper embalment of
3 the body by a licensed embalmer, either with the person having possession,
4 charge, or control thereof if such person is a licensed embalmer or licensed
5 funeral director or with any other licensed embalmer or licensed funeral
6 director.

7 (b) If the body has been embalmed prior to the claim of the University
8 of Arkansas for Medical Sciences, as is customary, or the body is embalmed by
9 its direction according to the provisions of this subchapter, the University
10 of Arkansas for Medical Sciences shall pay twenty-five dollars (\$25.00) as a
11 reimbursement of embalming expenses and shall assume costs for transportation
12 of the body where shipment is at its direction.

13 (c) Should the body be embalmed prior to legal claim, any person or
14 organization asserting legal claim to the body within forty-eight (48) hours
15 after death as provided in this subchapter shall assume responsibility for at
16 least twenty-five dollars (\$25.00) of the cost thereof, together with
17 reasonable costs for transportation of the body which may have been incurred.

18 (d) In the event that the deceased had provided for the use of his body
19 for medical science under the Uniform Anatomical Gift Act, § 20-17-601 et
20 seq., and provided funds in his estate for burial, the University of Arkansas
21 for Medical Sciences shall be free of all claims for the expenses as
22 ordinarily provided under subsections (a)-(c) of this section."

23

24 SECTION 14. To replace a reference to a repealed act with a reference
25 to the law which has replaced the repealed legislation, Arkansas Code §
26 20-17-905(c) and (e)(1) are amended to read as follows:

27 "20-17-905(c) Upon the hearing, if the court finds that the cemetery is
28 abandoned as defined in subsection (e) of this section, it shall authorize the
29 removal of the dead to another cemetery for which a permanent maintenance fund
30 has been established as provided for in § 20-17-1013."

31

32 "20-17-905(e)(1) For which no permanent maintenance fund as provided in
33 § 20-17-1013 has been established;"

34

35 SECTION 15. To change the references to "retirement board" to "board of

1 trustees", Arkansas Code § 24-2-201(12) (B) is amended to read as follows:

2 "24-2-201(12) (B) Notes or obligations securing loans to Arkansas
3 businesses made by banks and savings and loan associations pursuant to the
4 Federal Small Business Act, only to the extent that both principal and
5 interest are guaranteed by the United States Government. The applicant bank or
6 savings and loan association shall be required to enter into an indemnity
7 agreement, which meets the approval of the board of trustees, to pay off the
8 investments, together with interest and any unpaid costs and expenses in
9 connection therewith, in the event the United States Government refuses to
10 honor its guarantee. The board of trustees may enter into conventional
11 agreements for the servicing of the loans and the administration of receipts
12 therefrom. Any servicing agreement may contain such reasonable and customary
13 provisions as the board of trustees may deem advisable and as may be agreed
14 upon."

15

16 SECTION 16. To insert the term "employee" to clarify the term
17 "civilian", Arkansas Code § 24-3-102(5) is amended to read as follows:

18 "24-3-102(5) "Public safety member" means a member whose covered
19 employment is for personal services as a police officer or fire fighter.
20 "Police officer" means any regular or permanent employee, whose primary duty
21 is law enforcement, of a municipal police department, a county sheriff's
22 office, or the Arkansas State Police, including probationary police officers,
23 and shall also include wildlife officers of the Arkansas State Game and Fish
24 Commission. The term "police officer" shall not include any civilian employee
25 of a police department or any person temporarily employed as a police officer
26 during an emergency. "Fire fighter" means any regular or permanent employee of
27 a fire department whose primary duty is fire fighting, including probationary
28 fire fighters, but the term "fire fighter" shall not include any civilian
29 employee of a fire department or any person temporarily employed as a fire
30 fighter during an emergency;"

31

32 SECTION 17. To add the term "capacity" after the term "advisory" to
33 make sense of the phrase "in either an advisory only", the FIRST PARAGRAPH of
34 Arkansas Code § 24-3-410(a) is amended to read as follows:

35 "24-3-410(a) The board of trustees of the Arkansas Public Employees'

1 Retirement System, Teacher Retirement System, Arkansas Highway Employees'
2 Retirement System, and the State Police Retirement System may employ
3 professional investment counsel in either an advisory capacity only or as a
4 money manager with authority to execute transactions. If the board of a system
5 chooses the latter method of asset management, the funds of the system shall
6 be invested and reinvested in accordance with the following procedure:"

7

8 SECTION 18. To conform Arkansas Code § 24-7-305(d) (3) to Arkansas Code
9 § 24-3-104, Arkansas Code § 24-7-305(d) (3) is amended to read as follows:

10 "24-7-305(d) (3) In addition to the distribution of the report provided
11 by this subsection, it shall also be distributed to the Legislative Council
12 and the Governor as provided by § 24-3-104."

13

14 SECTION 19. Arkansas Code § 25-16-206 is repealed. Title 25, chapter
15 10, subchapter 1 is amended to add the following new section which constitutes
16 the language codified at § 25-16-206:

17 "25-10-126(a) There is created in the Department of Human Services a
18 Division of Volunteerism.

19 (b) Administrative assistance to coordinate the activities of the
20 division shall be given by a Deputy Director for Volunteerism who will devote
21 full time to the duties of the office and assume the responsibility for
22 carrying out the duties prescribed by this section. The deputy director shall
23 employ any employees who are necessary to carry out the goals of the office,
24 subject to appropriation by the General Assembly.

25 (c) The duties and responsibilities of the Division of Volunteerism are
26 as follows:

27 (1) To assess and recognize the needs of communities throughout Arkansas
28 and to recruit, train, and coordinate volunteers and volunteer organizations
29 in meeting those needs;

30 (2) To assist in specific projects involving volunteers to meet community
31 needs;

32 (3) To provide greater public awareness and recognition of volunteer
33 efforts.

34 (d) The program and staff of the Division of Volunteerism will be
35 assisted by an advisory council. It will be the responsibility of this

1 council to assist the staff in setting goals, establishing priority
2 activities, performing an advocacy role, and assisting in funding and resource
3 development and publicity and recognition and awards programs. Council
4 members shall be appointed by the Governor from existing state, local, and
5 private agencies which operate volunteer programs and shall serve at the
6 pleasure of the Governor."

7

8 SECTION 20. To update the name of the fund account referred to,
9 Arkansas Code § 25-10-207 is amended to read as follows:

10 "25-10-207. Any sums provided by the General Assembly of the State of
11 Arkansas for the purposes of this subchapter shall be kept by the State
12 Treasurer in a fund to be designated as State Services for the Blind Fund
13 Account of the Department of Human Services Fund and shall be used to carry
14 out the particular purposes assigned to it in this chapter."

15

16 SECTION 21. To change the word "of" to "or" in the phrase "case of
17 controversy", Arkansas Code § 26-18-303(b)(4) is amended to read as follows:

18 "26-18-303(b)(4) Disclosure compelled by any Arkansas circuit or
19 chancery court or the Arkansas Supreme Court or any United States federal
20 court of information involved in any case or controversy before that court;"

21

22 SECTION 22. To add the phrase "and that a refund" to make sense of the
23 subdivision, Arkansas Code "§ 26-36-308(b)(2) is amended to read as follows:

24 "26-36-308(b)(2) Upon determination by the division that a debtor
25 specified by a claimant agency qualifies for such a refund and that a refund
26 is pending, the division shall specify its sum and indicate the debtor's
27 address as listed on the tax return."

28

29 SECTION 23. To insert the word "county" to conform the language of the
30 subdivision to that used throughout the Arkansas Code, Arkansas Code §
31 26-37-106(a)(1) is amended to read as follows:

32 "26-37-106(a)(1) The county collectors of this state shall cause a list
33 of the delinquent lands in their respective counties, as corrected by them, to
34 be entered in a permanent record appropriately labeled."

35

1 SECTION 24. To add the phrase "and testing" to the definition in
2 Arkansas Code § 26-52-902(b) to be consistent with the term as used in the
3 subchapter, Arkansas Code § 26-52-902(b) is amended to read as follows:

4 "26-52-902(b) "Production , processing, and testing equipment", as used
5 in subdivision (a) (2) (C) of this section, includes machinery and equipment
6 essential for the receiving, storing, processing, and testing of raw materials
7 and the production, storage, testing, and shipping of finished products,
8 including facilities for the production of steam, electricity, chemicals, and
9 other materials that are essential to the manufacturing process, but which are
10 consumed in the manufacturing process and do not become essential components
11 of the finished product."
12

13 SECTION 25. To change the phrase "this subtitle" to "§ 27-50-302" in
14 Arkansas Code § 27-50-301 to correct an incorrect reference, Arkansas Code §
15 27-50-301 is amended to read as follows:

16 "27-50-301. Any moving traffic law violation not enumerated in § 27-50-
17 302 shall be known as a violation as defined in Arkansas Criminal Code, §§ 5-
18 1-105 and 5-1-108, and shall be punishable as provided under § 5-4-201."
19

20 SECTION 26. The enactment and adoption of this act shall not repeal,
21 expressly or impliedly, the acts passed at the regular session of the 79th
22 General Assembly. All such acts shall have full effect and, so far as those
23 acts intentionally vary from or conflict with any provision contained in this
24 act, those acts shall have the effect of subsequent acts and as amending or
25 repealing the appropriate parts of the Arkansas Code of 1987.
26

27 SECTION 27. All provisions of this act of a general and permanent
28 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
29 Code Revision Commission shall incorporate the same in the Code.
30

31 SECTION 28. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 act are declared to be severable.

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SECTION 29. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: 03-09-93