

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: S3/16/99

A Bill

SENATE BILL 945

5 By: Senator B. Walker
6
7

For An Act To Be Entitled

9 "AN ACT CONCERNING STATE EMPLOYEE JOB PROTECTION; AND
10 FOR OTHER PURPOSES. "

Subtitle

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12
13 "AN ACT CONCERNING STATE EMPLOYEE JOB
14 PROTECTION. "

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. This act may be sited as the 'State Employee Job Protection
20 Act.'
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22 SECTION 2. When agencies consider transferring public duties to the
23 private sector, it should be done in a uniform fashion by all agencies,
24 substantial overall cost savings shall be demonstrated, the quality of the
25 services to be provided shall not be lowered, and comparable wages and
26 benefits shall be offered to current agency employees.
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28 SECTION 3. As used in this act:

29 (1) 'State agency' means all departments, offices, boards, commissions,
30 and institutions of the state, including the state-supported institutions of
31 higher education; and

32 (2) 'Agency employee' means a full time or part time employee occupying
33 an established position whose retention has been approved at the completion of
34 the probationary period of any full time or part time employee who has worked
35 in a position for more than six (6) months.
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1 SECTION 4. No agency shall make any privatization contract and no such
2 contract shall be valid unless the agency, in consultation with the Department
3 of Finance and Administration, first complies with each of the following
4 requirement:

5 (1) The agency shall prepare a specific written statement of the
6 services proposed to be the subject of the privatization contract, including
7 the specific quantity and standard of quality of the subject services. The
8 agency shall solicit competitive sealed bids for the privatization contracts
9 based upon this statement. The day designated by the agency upon which it
10 will accept these sealed bids shall be the same for any and all parties. This
11 statement shall be a public record, shall be filed in the agency and in
12 Department of Finance and Administration. The term of any privatization
13 contract shall not exceed five (5) years. No amendment to a privatization
14 contract shall be valid if it has the purpose of effect of avoiding any
15 requirement in this section.

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17 SECTION 5. For each position in which a bidder will employ any person
18 pursuant to the privatization contract and for which the duties are
19 substantially similar to the duties performed by an agency employee or
20 employees, the statement required by Section 4 shall include a statement of
21 the minimum wage rate to be paid for said position, which rate shall be at the
22 pay level for the grade and level at which the comparable regular agency
23 employee is paid. Every bid for a privatization contract and every
24 privatization contract shall include provisions specifically establishing the
25 wage rate for each such position, which shall not be less than said minimum
26 wage rate as defined above. Every such bid and contract shall also include
27 provisions for the contractor to pay not less than a percentage, comparable to
28 the percentage paid by the state for state employees, of the cost of health
29 insurance plans for every employee employed for not less than twenty (20)
30 hours per week pursuant to such a contract. Such health insurance plans shall
31 provide coverage to the employee and the employee's spouse and dependent
32 children. Each contractor shall submit quarterly payroll records to the
33 agency listing the name, address, social security number, hours worked and the
34 hourly wage paid for each employee in the previous quarter. The Attorney
35 General may bring a civil action for equitable relief in the superior court to
36 enforce the paragraph or to prevent or remedy the dismissal, demotion, or

1 other action prejudicing any employee as a result of a report of a violation
2 of this paragraph.

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4 SECTION 6. The agency shall prepare a comprehensive written estimate of
5 the costs of regular agency employees providing the subject services in the
6 most efficient manner. The estimate shall include all direct and indirect
7 costs of agency regular employees providing the subject services, including,
8 but not limited to, pension, insurance and other employee benefit costs.

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10 SECTION 7. State employees whose jobs are affected by a privatization
11 contract shall have the right of first refusal for similar jobs with public
12 contractors.

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14 SECTION 8. After soliciting and receiving bids, the agency shall
15 publicly designate the bidder to which it proposed to award the contract. The
16 agency shall prepare a comprehensive written analysis of the contract cost
17 based upon the designated bid, specifically including the cost of transition
18 from public to private operation, of additional unemployment and retirement
19 benefits, if any, and of monitoring and otherwise administering contract
20 performance. Prior to the approval of such agreement, the committee chair
21 shall ask if anyone in the public disputes the cost estimates. If there is a
22 dispute, the committee shall hear public testimony and make a decision based
23 on the evidence presented. If the designated bidder proposed to perform any
24 or all the contract outside the boundaries of the state, said contract cost
25 shall be increased by the amount of income tax revenue, if any, which will be
26 lost to the state by the corresponding elimination of agency employees, as
27 determined by Office of Personal Management to the extent that it is able to
28 do so.

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30 SECTION 9. The head of the agency and the Director of the Department of
31 Finance and Administration will certify in writing to the state auditor that:

32 (1) He has complied with all provisions of this section and all other
33 applicable laws;

34 (2) The quality of the services to be provided by the designated bidder
35 is likely to satisfy the quality requirement of the statement prepared
36 pursuant to Section 4 and to equal or exceed the quality of service which

1 could be provided by agency employees pursuant to Section 6;

2 (3) The contract cost pursuant to Section 8 will be at least ten
3 percent (10%) less than the cost estimate pursuant to Section 4, taking into
4 account all comparable types of costs;

5 (4) The designated bidder and its supervisory employees, while in the
6 employee of said designated bidder have no adjudicated record of substantial
7 or repeated willful noncompliance with any relevant federal or state
8 regulatory statutes including, but not limited to, statutes concerning labor
9 relations, occupational safety and health, nondiscrimination and affirmative
10 action, environmental protection and conflicts of interest; and

11 (5) The proposed privatization contract is in the public interest, in
12 that it meets the applicable quality and fiscal standards set forth herein.

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14 SECTION 10. All provisions of this act of a general and permanent
15 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
16 Code Revision Commission shall incorporate the same in the Code.

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18 SECTION 11. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.

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24 SECTION 12. All laws and parts of laws in conflict with this act are
25 hereby repealed.

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27 /s/ B. Walker
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