

EXHIBIT G1

PROPOSAL TO RECODIFY ARKANSAS CODE OF 1987, TITLE 19 – PUBLIC FINANCE

SCOPE OF RECODIFICATION GENERALLY

The scope of a recodification of all or a significant part of a title, may include several tasks:

1. Restructuring the law into a logical, usable, and researchable organization by:
 - (a) Renumbering and renaming, as appropriate, subtitles, chapters, subchapters, sections and subsections;
 - (b) Grouping related laws and parts of the law, including creating new subtitles, chapters, subchapters, sections, and subsections, as appropriate;
 - (c) Consolidating related laws and parts of laws;
 - (d) Incorporating appropriate laws found elsewhere in the Arkansas Code or incorrectly uncodified; and
 - (e) Transferring and renumbering laws more appropriately codified elsewhere in the Arkansas Code. This could include transferring current chapters or sections to other titles that are more appropriate based on subject matter;
2. Updating and modernizing the terms and language to reflect current drafting conventions, style and word usage.
3. Resolving non-substantive ambiguities in the language of the law, such as inconsistencies resulting from the duplication of funds in different titles or chapters that result in amendments being made to one section but not the other.
4. Reconciling non-substantive conflicts in the law, such as providing for consistency through a title or chapter when responsibilities are shifted from one agency to another but some references remain unchanged.
5. Bridging substantive gaps in areas of the law where there is no law or the law is insufficient.
6. Eliminating or rewriting and updating, if necessary, archaic, anachronistic, unnecessary, or unconstitutional provisions of the law.
7. Examining and codifying relevant decisions of the Arkansas Supreme Court, the Arkansas Court of Appeals, and the federal courts, as appropriate, interpreting the laws in question.
8. Making any other substantive changes considered necessary or desirable.

The Arkansas Code Revision Commission will determine the scope of the recodification. Depending on the desired scope of the recodification project, one or more of the above tasks may be eliminated in whole or in part. There are three possible levels of recodification:

- The first level would include the tasks listed in items 1 and 2 above. This level would be essentially structural and would entail no substantive change in the law and would possibly not require further legislative action as these actions could fall within the commission's powers and duties under Arkansas Code § 1-2-303.
- The second level would include items 1, 2, 3, and 4. This second level would be of a more technical nature. While it also would entail no substantive change in the law, the work must be done with a higher level of knowledge and skill to make reasonably sure that no substantive change is inadvertently incorporated into the law. Although this level might require some legislative enactment, it would be more in the nature of our technical corrections bills giving the opportunity for legislative input.
- The third level would include items 1 through 8. This level may include the full range of substantive changes and obviously would require legislative involvement, support, and action. Any substantive changes would be initiated at the request of the commission or a working group, as those changes are outside the role of the commission's staff. Staff's recommendations and suggestions would be limited to items 1 through 4.

The only example of recodification in Arkansas is Title 17, Professions, Occupations, and Businesses. Completed in 1995, it was a minimal recodification effort which consisted of some reorganization (item 1, above) and updating and modernizing of the terms and language (item 2, above). It was essentially a structural recodification. Because of constraints on time and resources at the time and the relatively simple level of work done, codification notes (see below) were not prepared during the recodification of Title 17.

RECODIFICATION OF TITLE 19

The scope of the recodification will dictate, at least in part, the methodology used for recodifying Title 19. Considering the number of amendments and additions to Title 19 since its initial codification in 1987 as well as the changes in the structure, size, complexity, and functions of government and public finance over the last thirty years, Title 19 is arguably in need of a complete recodification. The title is not seriously affected by court decisions.

It is possible to do the recodification work in stages, incrementally, that would allow the decisions as to the nature, depth, and timing of the recodification not be made immediately or up front. Initially, a new organizational structure based on present Title 19 along with an initial identification of provisions and problems that may require minimal or extensive recodification work would be prepared. Upon acceptance of an initial organizational structure, the laws may then be redrafted according to the approved form and level of recodification. At this stage substantive issues and problems may be brought to the attention of the staff by commissioners, agency personnel, and outside interested parties, discussed, researched, and decided.

CODIFICATION NOTES

An important part of any recodification process is the drafting and production of explanatory notes. The explanatory notes are published along with the draft legislation that is produced through the recodification process. The notes explain what things were done and can explain why they were done. They provide a legislative history of the recodified law and are an

invaluable source of information for legislators and others in examining the proposed codification. A note should:

1. Identify the source of the recodified law (i.e., previous law, court decision, decision by the Code Revision Commission or the Code Revisor or a working group) and, if a previous law is the source, the previous location of the law;
2. Identify archaic, anachronistic, and unnecessary or unconstitutional provisions of previous law which have been deleted; and
3. Identify and articulate the reason or basis for substantive changes.

The staff prepares the explanatory notes as part of the drafting process. The explanatory notes, as well as the recodified text of the law, are presented to and reviewed by Code Revision Commission. The notes also are presented to the General Assembly for its review during the consideration and adoption of the bill enacting the recodified law.

PHASE ONE IN THE RECODIFICATION PROCESS

Preliminary Reorganization of Title 19

The first step in any recodification project is to create a tentative or preliminary structure of the law. This preliminary structure can be used to determine the scope of the recodification and provide a framework upon which to begin recodification. The basic superstructure of the Arkansas Code of titles, subtitles, chapters, and subchapters should be used during this process. There will be opportunities to reorganize and better disperse the law later in the process.

Next, each section of present Title 19 will be read, reviewed, and analyzed, on a section-by-section basis. The present Arkansas Code and all uncodified provisions since 1987 will be examined for other provisions that should be or could be recodified in Title 19.

As the material is researched and read, each section will be located into coherent chapters and subchapters. Although present Title 19 is not divided into subtitles, it may be time to look at that as a further organizational structure.

The use of chapters and subchapters to internally divide coherent titles of law improves the readability of the law, makes it easier to search and locate laws relating to the same subject matter, improves the interpretation and application of the laws by encouraging the recognition and reading of statutes *in pari materia*, and facilitates the addition of new laws in the future. Recognizing the preliminary nature of the proposed structure and that there are a number of ways that Title 19 could be reorganized, the following items must be addressed:

1. Is the proposed subject matter arranged rationally and logically?
2. Are the provisions within each subtitle, if used, and chapter and subchapter logically collected and organized?
3. Is there a better reorganization than initially conceived for the subtitles, if any, and chapters and subchapters?

The preliminary reorganization is not set in stone, so to speak, and it is assumed that further organizational changes will be made during the recodification process. For example, it is possible that some current provisions of Title 19 will be repealed and some will be combined, split, or otherwise reorganized.

*** Generally these steps should take an attorney approximately twelve to eighteen months to complete. However, the Arkansas Code Revision Commission previously approved a recodification of Title 19 and our staff has worked towards that goal over the years. In light of that work, a preliminary reorganization could be completed in approximately three months. It is vitally important that this work be done diligently and carefully. This is the foundation of everything that is to come after.**

PHASE TWO IN THE RECODIFICATION PROCESS

Establishment of Title 19 Working Group

As the first step of this phase, it would be necessary for the Arkansas Code Revision Commission to decide the scope of the recodification. Once that decision is made, I would recommend the development of a working group to instruct staff on the content of the recodified Title 19. Based upon the current content of Title 19, the working group could include the following:

- One (1) or more ACRC Commissioners
- A representative of the Governor's Office
- A representative of the Auditor of State's Office
- A representative of the Treasurer of State's Office
- A representative of the Department of Finance and Administration
- A representative of the Arkansas State Claims Commission
- A representative of the Arkansas Ethics Commission
- A representative of Arkansas Legislative Audit

This is not an all-inclusive list by any means. It is quite possible that representatives of other affected agencies such as the Arkansas Tobacco Settlement Commission, institutions of higher education, and others might be helpful in meeting with a working group. Legislative membership on the working group could be of assistance. The commission may also want to consider whether the involvement of outside organizations such as the Arkansas Bar Association would be helpful.

Any such working group would be staffed by appropriate Bureau of Legislative Research staff, including a Statutory Review attorney and editor, a bill drafting attorney, a Rules Review attorney, and a Fiscal Analyst.

Working Group Review of Title 19 Draft and Discussions

The next step is for the working group to review the organizational draft of Title 19, particularly those parts that each entity the members of the working group represent in which they have an interest. Staff would receive their comments and suggestions. These comments would ultimately result in drafts of various parts of the title. The working group would then meet periodically to discuss and come to consensus on the drafts.

Preparation and Approval of Final Title 19 Draft

The staff would be responsible for staffing the working group, setting up meetings, preparing drafts of proposed language and passing drafts among the members. When a consensus is reached the staff would do a complete rewrite of Title 19 for submission to the working group for its final approval. After any other changes, the final draft would be prepared by the staff and presented to the Arkansas Code Revision Commission for its final approval. If the commission approved the final draft and determined that the scope of the recodification exceeded its statutory powers, the final draft would be prepared as legislation to be considered at the next regular session of the General Assembly.

***These steps could take as much as twelve to eighteen months, perhaps longer, depending upon the input of the representatives of the various interested entities and the time taken to get the approvals from various officials.**