

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 186 of the Regular Session

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

A Bill

HOUSE BILL 1429

4
5 By: Representative Lovell
6 By: Senator Faris

For An Act To Be Entitled

10 AN ACT TO AMEND PORTIONS OF ARKANSAS LAW
11 PERTAINING TO THE ARKANSAS BUILDING AUTHORITY;
12 AND FOR OTHER PURPOSES.

Subtitle

14 AN ACT TO AMEND PORTIONS OF ARKANSAS LAW
15 PERTAINING TO THE ARKANSAS BUILDING
16 AUTHORITY.

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

21
22 SECTION 1. Arkansas Code § 6-21-109 is amended to read as follows:

23 6-21-109. Rules ~~and regulations~~ governing public works projects.

24 (a) The State Board of Education, after consulting with Arkansas ~~State~~
25 Building ~~Services~~ Authority and any other entities, shall establish rules ~~and~~
26 ~~regulations~~ applicable to public educational entities for all public works
27 projects where the public educational entity uses its own employees or acts
28 as a general contractor.

29 (b)(1) As used in this section, "public educational entities" means
30 Arkansas public school districts, charter schools, educational cooperatives,
31 or any publicly supported entity having supervision over public educational
32 entities.

33 (2) "Public educational entity" does not include institutions of
34 higher education.

35



1 SECTION 2. Arkansas Code § 11-10-324(a), concerning the authorization
 2 of certain lease-purchase agreements, is amended to read as follows:

3 (a) For the express purpose of providing adequate office facilities to
 4 the extent that federal funds are available, the ~~State~~ Arkansas Building
 5 ~~Services~~ Authority Council is authorized to act as the primary lessor and
 6 enter into lease-purchase agreements, provided that the agreements contain an
 7 escape clause whereby each agreement could be cancelled at the close of each
 8 biennium, if necessary, to obtain new facilities with funds derived from
 9 federal sources for the United States Department of Labor employment and
 10 training administration offices at Little Rock, Fort Smith, Harrison, Forrest
 11 City, Jonesboro, Hot Springs, Helena, Fayetteville, Camden, Hope, and
 12 Blytheville.

13
 14 SECTION 3. Arkansas Code § 19-4-906(a)(104), concerning motor vehicle
 15 restrictions and authorizations, is amended to read as follows:

16 (104) ~~State~~ Arkansas Building ~~Services~~ Authority

17
 18 SECTION 4. Arkansas Code § 19-5-1052 is amended to read as follows:
 19 19-5-1052. Justice Building Fund.

20 (a) There is hereby established on the books of the Treasurer of
 21 State, Auditor of State, and Chief Fiscal Officer of the State a fund to be
 22 known as the Justice Building Fund.

23 (b) This fund shall consist of all moneys transferred or deposited
 24 from the State Administration of Justice Fund, there to be used exclusively
 25 by the Arkansas ~~State~~ Arkansas Building ~~Services~~ Authority for the maintenance of the
 26 Justice Building.

27
 28 SECTION 5. Arkansas Code § 19-5-1087(a), concerning the Justice
 29 Building Construction Fund, is amended to read as follows:

30 (a) There is hereby created, in accordance with §§ 19-4-801 - 19-4-
 31 806, inclusive, and § 19-6-101 et seq., a cash fund entitled the "Justice
 32 Building Construction Fund," which shall be maintained in such depository
 33 bank or banks as may, from time to time, be designated by the ~~State~~ Arkansas
 34 Building ~~Services-Department~~ Authority.

35
 36 SECTION 6. Arkansas Code § 19-5-1087(c), concerning the use of the

1 Justice Building Construction Fund, is amended to read as follows:

2 (c) The Justice Building Construction Fund shall be held and the
 3 amounts therein invested by the Arkansas ~~State Building Services Department~~
 4 Authority in accordance with the authority provided in § 22-3-901 et seq. The
 5 ~~Arkansas State Building Services Department~~ Authority may also use the
 6 Justice Building Construction Fund to provide for the repayment of
 7 obligations issued by the Arkansas Development Finance Authority pursuant to
 8 the State Agencies Facilities Acquisition Act of 1991, as amended (§ 22-3-
 9 1401 et seq.), to accomplish the purposes specified in subsection (b) of this
 10 section and to pay the costs and expenses related to the issuance of such
 11 obligations.

12

13 SECTION 7. Arkansas Code § 19-11-902 is amended to read as follows:

14 19-11-902. ~~Regulations~~ Rules.

15 (a) The Office of State Procurement shall be responsible for
 16 developing ~~regulations~~ rules governing implementation of this subchapter.

17 (b) As used in this subchapter:

18 (1) "Arkansas Rehabilitation Services" means the Arkansas
 19 Rehabilitation Services of the Department of Workforce Education;

20 (2) "Commodities" means all property, including, but not limited
 21 to, equipment, printing, stationery, supplies, and insurance, but excluding
 22 real property, leases on real property, or a permanent interest in real
 23 property;

24 (3) "Disabled individuals" means those persons who have a
 25 medically or psychiatrically determined physical, mental, or developmental
 26 disability constituting a substantial vocational handicap;

27 (4) "Fiscal year" means July 1 of one (1) year through June 30
 28 of the next year;

29 (5) "Ordering office" means any state department, independent
 30 establishment, board, commission, bureau, service, or division of state
 31 government and any wholly owned state corporation;

32 (6) "Products", for purposes of this subchapter, means
 33 commodities or services wherein the price of the commodities includes at
 34 least twenty percent (20%) value added when the work center is awarded a
 35 contract using the ten percent (10%) preference, and in the case of services,
 36 that they are performed by the disabled;

1 (7)(A) "Services" means the furnishing of labor, time, or effort
 2 by a contractor, not involving the delivery of a specific end product other
 3 than reports which are merely incidental to the required performance.

4 (B) "Services" shall not include employment agreements,
 5 collective bargaining agreements, or architectural or engineering contracts
 6 requiring approval of Arkansas ~~State Building Services~~ Authority;

7 (8) "Sheltered workshop" means a work center which has:

8 (A) Certification from the United States Department of
 9 Labor as a sheltered workshop; and

10 (B) Been licensed by the Division of Developmental
 11 Disabilities Services of the Department of Health and Human Services or
 12 certification from Arkansas Rehabilitation Services; and

13 (9)(A) "Work center" means any facility certified by the
 14 Arkansas Rehabilitation Services where any manufacture or handiwork is
 15 carried on and which is operated for the primary purpose of providing
 16 evaluation, training, and gainful employment to disabled individuals of
 17 Arkansas:

18 (i) As an interim step in the rehabilitation process
 19 for those who cannot be readily absorbed in the competitive labor market; or

20 (ii) During such time as employment opportunities
 21 for them in the competitive labor market do not exist.

22 (B) "Work center" includes a sheltered work center.

23 (c) All state agencies as defined in § 19-11-203 are required to
 24 purchase their requirements of needed available and suitable products and
 25 purchase suitable services from nonprofit work centers for disabled
 26 individuals, unless such commodities and services are authorized by prior
 27 legislation for production in another state agency, department, or
 28 institution.

29 (d)(1) The Office of State Procurement shall issue to all agency
 30 purchasing agents a schedule of work center-made commodities and services and
 31 the conditions under which they are to be procured from the workshops.

32 (2) The schedule shall include the item or service description.

33 (e) Arkansas Rehabilitation Services shall undertake the inspection on
 34 a continuing basis of the workshops certified by Arkansas Rehabilitation
 35 Services to determine that they operate in accordance with the requirements
 36 of the statute and the regulations of this section.

1 (f)(1)(A) In order to qualify for participation in the program as a
2 work center, an organization shall submit an application to the Office of
3 State Procurement.

4 (B) If required for all vendors, there should be included
5 a list of the commodities and services offered for sale to the state.

6 (2) Work centers shall:

7 (A) Furnish commodities and services in strict accordance
8 with the allocation and government order;

9 (B) Maintain records of wages paid, hours of employment,
10 and sales;

11 (C) Make available pertinent books and records of the
12 agency for inspection at any reasonable time to representatives of the
13 Arkansas Rehabilitation Services; and

14 (D)(i) Submit to the Arkansas Rehabilitation Services by
15 September 1 an annual report for the preceding fiscal year.

16 (ii) This report shall include data on disabled
17 workers, wages and wage supplements, hours of employment, sales, whether the
18 workshop requires a facilities sheltered workshop certificate from the United
19 States Department of Labor and special minimum rates authorized where such
20 certificate is held and such other relevant information as may be required.

21 (g) When a commodity or service is identified in the schedule of work
22 center-made commodities and services as being available through the Office of
23 State Procurement, it shall be obtained in accordance with the requisitioning
24 procedures of the supplying agency.

25 (h) An ordering office may purchase from a nonworkshop source
26 commodities or services listed in the schedule of work center-made
27 commodities and services in any of the following circumstances:

28 (1) Necessity requires delivery within the specified period, and
29 the work center cannot give assurance of positive availability;

30 (2) When commodities listed on the schedule of work center-made
31 commodities can be purchased from a nonwork center source by the agency for a
32 price more than ten percent (10%) lower than work center-made commodities
33 included in the schedule;

34 (3) Services offered by any work center shall be procured by any
35 agency in accordance with this section at a price not more than ten percent
36 (10%) above the lowest price submitted from a nonwork center source.

1 (i) Work center-made product commodities will be delivered in
2 accordance with the terms of the purchase order.

3 (j) When a workshop fails to comply with the terms of a government
4 order, the ordering office shall make reasonable efforts to negotiate an
5 adjustment before taking action to cancel the order.

6 (k) Any alleged violation of these regulations shall be investigated
7 by the Office of State Procurement, which shall notify the work center
8 concerned and afford it an opportunity to submit a statement of facts and
9 evidence.

10
11 SECTION 8. Arkansas Code § 22-2-107 is amended to read as follows:
12 22-2-107. Creation of sections.

13 (a) There are created within the Arkansas Building Authority the
14 following sections which shall have the duties and responsibilities
15 designated by the Director of the Arkansas Building Authority with the
16 approval of the Arkansas Building Authority Council and which may include, in
17 relation to other provisions of this chapter, the duties and responsibilities
18 respectively designated in this section:

19 (1) Construction Section. The Construction Section shall:

20 (A) Supervise the bidding and awarding of contracts for
21 new construction and renovations for or by state agencies' capital
22 improvements;

23 (B) Establish and maintain complete construction files on
24 all jobs, including plans and specifications for alterations, renovations,
25 and repairs of all capital improvements;

26 (C) Approve all proposed contracts, change orders, and
27 final payments requests;

28 (D) Ensure that on-site observation of all construction
29 projects, alterations, and repairs is accomplished on a regular basis and
30 maintain records of those observations;

31 (E) Obtain and maintain construction inspection and
32 observation reports from architects or engineers or their consultants from
33 state agencies and institutions for all capital improvement construction
34 projects;

35 (F)(i) Conduct visits with the design professional to
36 determine the responsibility and performance required by the contract

1 documents.

2 (ii) On-site observations by design professionals
 3 shall concur with the contractor's payment request and shall be submitted in
 4 written form with the pay request.

5 (iii) The inspection and observation reports shall
 6 be as adopted by the council.

7 (iv) State agencies shall engage the services of
 8 licensed architects or engineers for all projects covered by the Arkansas
 9 Architectural Act, § 17-15-101 et seq., and the Arkansas Engineering Act, §
 10 17-30-101 et seq.;

11 (G) Ensure that the construction of all projects complies
 12 with the contract documents; and

13 (H)(i) Establish and manage a list of contractors desiring
 14 written notice of invitations to bid and establish by ~~regulation~~ rule a fee,
 15 not to exceed twenty-five dollars (\$25.00) annually, for receiving a written
 16 notice of an invitation to bid.

17 (ii) Subscription fees collected pursuant to this
 18 section shall be deposited in the Arkansas Building Authority Fund;

19 (2) Building Operations Section. The Building Operations Section
 20 shall:

21 (A) Operate, maintain, and manage public buildings as
 22 required by the provisions of this chapter or otherwise by law;

23 (B) Provide for maintenance and operation, including
 24 janitorial services for any buildings, structures, or grounds which are
 25 owned, leased, or managed by the authority as may be required by the
 26 provisions of this chapter; and

27 (C) Develop and, upon adoption by the council, enforce
 28 procedures, standards, and criteria designed to standardize the level of
 29 maintenance on all public buildings and other capital improvements;

30 (3) Design Review Section. The Design Review Section shall:

31 (A) Establish procedures approved by the council for the
 32 selection of engineering, environmental, architectural, and building design
 33 consultants' services by state agencies and by the authority. The procedures
 34 shall ensure an equitable opportunity for all persons and firms;

35 (B) Encourage, within the rules and regulations of the
 36 state, the timely and expedient commitment and expenditure of appropriations

1 for capital improvements;

2 (C) Establish standard fee schedules approved by the
3 council for design professional consultant services for capital improvements;

4 (D) Develop and upon adoption by the council establish
5 minimum design standards and criteria, which shall be made available to all
6 design professionals in the state;

7 (E) Utilize, require, or undertake studies concerning the
8 needs for and costs of proposed capital improvements;

9 (F) Review and approve, consistent with the provisions of
10 this chapter, contracts for design professional consultant services,
11 preliminary plans, cost estimates, building programs, feasibility studies,
12 and construction bid documents for capital improvements and mediate
13 architectural and engineering design and construction-related problems;

14 (G) Assist in analyzing architectural and engineering
15 design and construction problems at state-owned facilities; and

16 (H) Ensure that state agencies shall engage the services
17 of licensed architects and licensed engineers for ~~all appropriate~~ capital
18 improvement projects ~~contracted~~ which are not exempted by the requirements
19 of:

20 (i) The Arkansas Architectural Act, § 17-15-101 et
21 seq.;

22 (ii) Section 17-30-101 et seq.; and

23 (iii) Section 22-9-101 et seq.

24 (I) The director shall employ within the Design Review
25 Section of the authority a State Architect and a State Engineer who shall
26 have sufficient private practice experience within his or her respective
27 field as well as be registered and licensed within the state;

28 (4) Real Estate Services Section. The Real Estate Services
29 Section shall:

30 (A) Develop and enforce minimum leasing, sale, and
31 purchase of property standards and criteria for consideration and adoption by
32 the council;

33 (B) Design standard lease forms to be approved by the
34 council for use by state agencies as provided in this chapter;

35 (C) Assist state agencies and the council in determining
36 and evaluating rental space needs and the allocation of space for state

1 agencies;

2 (D) Conduct surveys to determine available rental space
 3 which meets minimum leasing standards and criteria and which may be available
 4 for use by state agencies;

5 (E) Otherwise carry out and administer those duties and
 6 responsibilities delegated to the section by the director and assist state
 7 agencies and the council to ensure that rental space acquired and utilized by
 8 state agencies is acquired and utilized in a manner consistent with the
 9 intent of this chapter so that no state agency shall lease space which is not
 10 absolutely essential to the efficient performance of its duties and
 11 responsibilities; and

12 (F) Carry out and administer those duties and
 13 responsibilities involving the purchase or sale of property by state agencies
 14 which are under the jurisdiction of the authority so as to ensure that the
 15 property is sold or purchased in a manner consistent with Arkansas laws and
 16 regulations.

17 (b) The director may transfer the various duties and functions among
 18 the various sections of the authority and effect any other organizational or
 19 administrative changes that may be necessary to bring about the efficient and
 20 effective implementation of this chapter.

21

22 SECTION 9. Arkansas Code § 22-2-119 is repealed.

23 ~~22-2-119. Fiscal management—Fund created.~~

24 ~~(a) There is created and established on the books of the Treasurer of~~
 25 ~~State and Auditor of State a fund to be known as the Arkansas Building~~
 26 ~~Authority Fund, which shall consist of all moneys received in connection with~~
 27 ~~the leasing, management, and operation of building facilities and lands~~
 28 ~~belonging to or managed by the Arkansas Building Authority. Such moneys~~
 29 ~~received by the authority are declared to be nonrevenue receipts.~~

30 ~~(b) The Arkansas Building Authority Council shall have the authority~~
 31 ~~to deposit in the State Treasury all money received in connection with the~~
 32 ~~leasing, management, and operation of building facilities and lands belonging~~
 33 ~~to or managed by the authority.~~

34 ~~(c) All moneys received by the authority from the leasing or renting~~
 35 ~~of space or facilities in public buildings acquired or constructed under this~~
 36 ~~chapter or from any other source shall be deposited in the State Treasury to~~

~~the credit of the authority in such funds or accounts as may have been established by the Treasurer of State pursuant to subsection (a) of this section and shall be used by the authority for the maintenance, operation, and improvement of lands, buildings, and facilities belonging to or under the control of the authority and for such other purposes as may be provided by appropriation of the General Assembly.~~

SECTION 10. Arkansas Code § 22-3-1403(5), concerning the definition of "construct", is amended to read as follows:

(5) "Construct" means to acquire, construct, reconstruct, remodel, install, and equip any lands, buildings, structures, improvements, or other property, real, personal, or mixed, useful in connection therewith and to make other necessary expenditures in connection therewith by such methods and in such manner as Arkansas ~~State Building Services Authority~~ shall determine to be necessary or desirable to accomplish the powers, purposes, and authority set forth in this subchapter.

SECTION 11. Arkansas Code § 25-16-903(55), concerning stipends for service on certain boards, is amended to read as follows:

(55) ~~State~~ Arkansas Building Services Authority Council;

SECTION 12. Arkansas Code § 25-30-205 is amended to read as follows:
25-30-205. Office facilities.

The Arkansas ~~State Building Services Authority~~ shall ensure that all offices of the Arkansas Rehabilitation Services of the Department of Workforce Education are exemplary models of accessibility and conform to the Americans with Disabilities Act accessibility guidelines.

APPROVED: 3/1/2007