

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 1182 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/26/09

A Bill

HOUSE BILL 1986

5 By: Representatives J. Roebuck, *Harrelson*
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For An Act To Be Entitled

9 AN ACT TO ALLOW FOR ALTERNATIVE METHODS FOR
10 PROVIDING TESTIMONY UNDER SUBPOENA FROM A STATE
11 AGENCY; TO PROVIDE A METHOD TO CHALLENGE A
12 SUBPOENA; AND FOR OTHER PURPOSES.
13

Subtitle

14 AN ACT CONCERNING SUBPOENAS ISSUED BY
15 STATE AGENCIES.
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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 § 25-15-104 is amended to read as follows:

22 25-15-104. Subpoena powers.

23 (a)(1) The following boards and commissions shall have the power to
24 issue subpoenas and bring before the board or commission as a witness any
25 person in this state:

26 (A) Auctioneer's Licensing Board, § 17-17-201 et seq.;

27 (B) State Athletic Commission, § 17-22-201 et seq.;

28 (C) State Board of Cosmetology, § 17-26-201 et seq.;

29 (D) Arkansas Board of Examiners in Counseling, § 17-27-201
30 et seq.;

31 (E) State Board of Embalmers and Funeral Directors, § 17-
32 29-201 et seq.;

33 (F) Arkansas State Board of Landscape Architects, § 17-36-
34 201 et seq.;

35 (G) Committee of Plumbing Examiners of the State Board of



1 Health, § 17-38-202;
 2 (H) Arkansas Social Work Licensing Board, § 17-103-201 et
 3 seq.;

4 (I) HVACR Licensing Board, § 17-33-201 et seq.;

5 (J) Liquefied Petroleum Gas Board, § 15-75-201 et seq.;

6 (K) Judicial Discipline and Disability Commission,
 7 Arkansas Constitution, Amendment 66, and § 16-10-401 et seq.;

8 (L) Veterinary Medical Examining Board, § 17-101-201 et
 9 seq.;

10 (M) Arkansas Board of Dispensing Opticians, § 17-89-201 et
 11 seq.; and

12 (N) State Board of Election Commissioners, § 7-4-101 et
 13 seq.

14 (2) These boards and commissions shall by regulation provide for
 15 the issuance of a subpoena upon the request of any party to a proceeding
 16 pending before the board or commission or at the request of the board or
 17 commission.

18 (3) The ~~writ~~ subpoena shall:

19 (A) ~~be~~ Be in the name of the board or commission;

20 (B) ~~shall state~~ State the name of the board or
 21 commission and the name of the proceeding; and

22 (C)(i) ~~shall command~~ Command each person to whom it
 23 is directed to ~~appear and~~ give testimony at the time and place ~~therein~~
 24 specified in the subpoena in one of the following ways:

25 (a) In person;

26 (b) Before a certified court reporter
 27 under oath at the place of the witness' residence or employment;

28 (c) By video-taped deposition at the
 29 place of the witness' residence or employment; or

30 (d) By live video communications from
 31 the witness' residence, place of employment, or a nearby facility capable of
 32 providing video transmission to the state agency that has subpoenaed the
 33 witness.

34 (ii) The manner of providing testimony under the
 35 subpoena shall be conducted by in person testimony unless another manner is
 36 agreed upon by the board or commission and the person who is the subject of

1 the subpoena.

2 (4) The ~~writ~~ subpoena may require the witness to bring with him
3 or her any book, writing, or other thing under his or her control that he or
4 she is bound by law to produce in evidence.

5 (5) Service of the ~~writ~~ subpoena shall be in the manner as now
6 provided by statute or rule for the service of subpoenas in civil cases.

7 (b)(1) A witness who has been served by subpoena in the manner
8 provided by law and who ~~shall have been paid or tendered the legal fees for~~
9 ~~travel and attendance as provided by law shall be obligated to attend~~ appears
10 in person to testify for examination of at the trial or cause pending before
11 the board or commission shall be paid or tendered the legal fees for travel
12 and attendance as provided by law.

13 (2) In the event a witness shall have been served with subpoenas
14 ~~as herein provided~~ under this section and fails to ~~attend the hearing~~ provide
15 testimony in obedience to the subpoena, the board or commission may apply to
16 the circuit court of the county wherein the board or commission is having its
17 meeting for an order causing the arrest of the witness and directing that the
18 witness be brought before the court.

19 (3) The court shall have the power to punish the disobedient
20 witness for contempt as provided by the Arkansas Rules of Civil Procedure.

21 (4) A witness who is served with a subpoena under this section
22 may challenge the validity of the subpoena in the circuit court of the county
23 where the board or commission is having its meeting or the circuit court of
24 Pulaski County.

25 (c) This section is intended to be supplemental and add the power to
26 issue subpoenas to the various chapters of the Code that do not now provide
27 the power to do so. This section shall not repeal any law or part of laws now
28 in existence.

30 /s/ J. Roebuck

32 **APPROVED: 4/7/2009**