

ARKANSAS SENATE
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of House Bill No. 1795

"AN ACT TO PROHIBIT A STATE EMPLOYEE FROM RETAINING WITNESS OR
MILEAGE FEES WHEN SUBPOENAED AS A WITNESS FOR A MATTER WITHIN THE
SCOPE OF THE EMPLOYEE'S EMPLOYMENT."

Amendment No. 1 to House Bill No. 1795.

Amend House Bill No. 1795 as engrossed, (version: 02-23-2005 09:51):

Page 3, delete lines 21 through 36 and substitute:

" SECTION 3. Arkansas Code § 21-4-213 is amended to read as follows:
21-4-213. Court and jury leave.

(a) Any A state employee serving as a juror or subpoenaed as a witness to give a deposition in a court or hearing not involving personal litigation or service as a paid expert witness outside the scope of state employment in state or federal court shall be entitled to full compensation in addition to any fees paid for such services, and such services or necessary appearances in any court shall not be counted as annual leave.

(b) If a state employee is subpoenaed as a witness to give a deposition or testimony in state or federal court, at a hearing, or before any body with power to issue a subpoena, the state employee is:

(1) Entitled to his or her salary if the employee is a witness in a matter:

(A) Within the employee's scope of state employment; or

(B)(i) Outside the employee's scope of state employment;

and

(ii) The employee is not serving as a paid expert witness or is not a party to the matter; and

(2) Required to take annual leave to attend the deposition, hearing, or appear in court only if the matter is outside of the employee's scope of state employment and the employee is serving as a paid expert witness or is a party to the matter.

(c)(1) If a law enforcement officer is subpoenaed to appear at a time when the officer is not scheduled for regular duty:

(A) This section shall not apply; and

(B) A law enforcement officer shall be entitled to retain witness and mileage fees tendered to the officer.

(2) As used in this section, "law enforcement officer" means any



public servant vested by law with a duty to maintain public order or to make arrests for offenses."

AND

Page 4, delete lines 1 through 16.

AND

Page 4, insert a blank line at line 17.

AND

Immediately following Section 4, add the following new section:

"SECTION 5. Arkansas Code Title 16, Chapter 43, Subchapter 8 is amended to add a new section to read as follows:

16-43-808. State employee as a witness.

(a) If a state employee is subpoenaed as a witness to give a deposition or testimony in state or federal court, at a hearing, or before any body with power to issue a subpoena, the state employee is:

(1) Entitled to retain any witness fees that may be tendered to him or her under state or federal law or court rules only if the matter is:

(A) Outside the employee's scope of state employment; or

(B) The employee is a party to the matter other than as a representative of the state employer.

(2) Entitled to retain any mileage fees that may be tendered to him or her under state or federal law or court rules only if the matter is:

(A)(i) Within the employee's scope of state employment;

(ii) The employee uses a personal vehicle for travel in obeying the subpoena; and

(iii) The employee's employer does not reimburse the employee for travel expenses; or

(B) Outside the employee's scope of state employment and the employee does not use a state-owned vehicle for travel in obeying the subpoena.

(b) If the state employee is subpoenaed for purposes under subsection (a) to appear on a non-work day, the employee may retain any witness and mileage fees tendered to him or her."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Luker

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Secretary