

**Hall of the House of Representatives**  
85th General Assembly - Regular Session, 2005  
**Amendment Form**

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**Subtitle of House Bill No. 2501**

"AN ACT TO AMEND THE ETHICS IN PUBLIC CONTRACTING LAWS."

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**Amendment No. 1 to House Bill No. 2501.**

Amend House Bill No. 2501 as originally introduced:

Page 1, delete lines 28 through 34 and substitute the following:

"(a)~~(1)~~ Conflict of Interest.

(1) Unless approved as provided in § 19-11-718, it shall be a breach of ethical standards for any employee or a member of the employee's immediate family to have a financial interest in a contract with the state agency employing the employee or a nonprofit organization created for the specific benefit of the state agency employing the employee.

(2) It shall be a breach of ethical standards for any employee to participate directly or indirectly in any proceeding or application, in any request for ruling or other determination, in any claim or controversy, or in any other particular matter pertaining to any contract or subcontract, and any solicitation or proposal therefor with a state agency, in which to the employee's knowledge:"

AND

Page 2, line 7, delete "(2)" and substitute "~~(2)~~(3)"

AND

Page 2, line 8, delete "a financial interest,"

AND

Page 2, line 17, delete "Director" and substitute "~~Director~~ executive director"

AND

Page 2, delete line 18, and substitute the following:

~~"Department of Finance and Administration~~ Arkansas Ethics Commission."

AND



Page 2, line 21, delete "Director" and substitute "~~Director~~ executive director"

AND

Page 2, line 22, delete "Department of Finance and Administration" and substitute "~~Department of Finance and Administration~~ Arkansas Ethics Commission"

AND

Page 2, delete lines 33 and 34 and substitute the following:

"Director of the Department of Finance and Administration executive director of the Arkansas Ethics Commission by August 1 for transactions or contracts pertaining to the previous fiscal year. However, this section shall not apply to a contract with a"

AND

Immediately following SECTION 3, add additional sections to read as follows:

"SECTION 4. Arkansas Code § 19-11-712(b), pertaining to the civil and administrative remedies against employees who breach ethical standards, is amended to read as follows:

(b) Supplemental Remedies. In addition to existing remedies for breach of the ethical standards of this subchapter, or regulations promulgated thereunder, the executive director of the Arkansas Ethics Commission may recommend to the Director of the Department of Finance and Administration or other executive or governing body the imposition of ~~may impose~~ any one (1) or more of the following:

- (1) Oral or written warnings or reprimands;
- (2) Forfeiture of pay without suspension;
- (3) Suspension with or without pay for specified periods of time; and
- (4) Termination of employment.

SECTION 5. Arkansas Code § 19-11-713(b), pertaining to the civil and administrative remedies against nonemployees who breach ethical standards, is amended to read as follows:

(b) Supplemental Remedies. In addition to the existing remedies for breach of the ethical standards of this subchapter, or regulations promulgated thereunder, the executive director of the Arkansas Ethics Commission may recommend to the Director of the Department of Finance and Administration or other executive or governing body the imposition of ~~may impose~~ any one or more of the following:

- (1) Oral or written warnings or reprimands;
- (2) Termination of transactions; and
- (3) Suspension or debarment from being a contractor or subcontractor under state contracts."

AND

Page 4, line 18, add "pertaining to the prior fiscal year" between "transactions" and "by"

AND

Page 5, line 8, add "pertaining to the prior fiscal year" between "transactions" and "by"

AND

Page 5, delete lines 16 through 32 and substitute the following:

"19-11-718. Issue of waivers by the Arkansas Ethics Commission.

(a) A state agency or a nonprofit organization created for the specific benefit of a state agency may file a request with the Arkansas Ethics Commission to review a contract between the state agency or nonprofit organization and an employee of that state agency or nonprofit organization and to request a waiver for the contract from the provisions of this subchapter.

(b) The request shall fully disclose all pertinent terms and conditions of the contract and shall state the unusual circumstances necessitating and justifying the contract.

(c) The commission may request additional information, testimony, or other pertinent data before ruling on the request.

(d) After examining the submitted information and additional requested testimony or data, the commission may approve by a majority vote the waiver of the contract if in the opinion of the commission:

(1) The circumstances are such that fair competitive access to governmental procurement has been obtained;

(2) The contract is in the best interest of the state;

(3) The state agency or nonprofit organization has followed proper procedures in bidding or awarding the contract;

(4) Reasonable alternatives for contracting with a nonemployee are not available;

(5) It appears that an employee has not used his or her position to obtain the contract; and

(6) Any ethical conflict is insubstantial or remote."

AND

Page 5, delete line 33 and substitute:

"(e) All decisions of the commission regarding the"

AND

Page 5, line 34, delete "agency, the" and substitute "agency or nonprofit organization, the"

AND

Page 6, line 1, delete "(d)" and substitute "(f)"

AND

Page 6, line 4, delete “(e)” and substitute “(g)”

AND

Page 6, line 6, delete “(f)” and substitute “(h)”

AND

Immediately following SECTION 7, add an additional section to read as follows:

"SECTION 10. Arkansas Code § 19-11-1004(c), pertaining to restrictions on contracts, is amended to read as follows:

(c)(1) Except as provided in this subsection, no state agency shall engage in a professional services or consultant services contract with a part-time or full-time employee who occupies a position authorized to be paid from extra help or regular salaries for a state agency, except as provided in § 21-1-403.

(2) However, this subsection does not prohibit an institution of higher education from executing a contract with a state agency under which professional or consulting services will be performed by employees of the institution of higher education.

(3) An employee of an institution of higher education performing professional or consulting services to a state agency may receive additional compensation if:

(A) The institution of higher education requests and receives written approval from the Office of Personnel Management of the Department of Finance and Administration concerning the amount of additional compensation to be paid to any employee; and

(B) The total salary payments received from the employee's regular salaried position and amounts received for services performed under a professional services contract do not exceed one hundred twenty-five percent (125%) of the maximum annual salary authorized by law for the employee's position with the institution of higher education.

(4) Any state agency engaging in a professional services or consultant services contract as provided in subdivisions (c)(2) or (c)(3) of this section shall provide a listing of such contracts for the previous year, including the amounts paid and the person or persons performing the services, to the Legislative Council and the Legislative Joint Auditing Committee by August 1 of each year."

AND

Appropriately renumber the sections of the bill

The Amendment was read \_\_\_\_\_

By: Representative Mahony  
MMC/BKA - 03-09-2005 16:12  
MMC191

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Chief Clerk