

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

Subtitle of House Bill No. 2501

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

Amendment No. 2 to House Bill No. 2501.

Amend House Bill No. 2501 As Engrossed 03-11-2005 10:49:

Page 1, delete line 19 and substitute the following:

“SECTION 1. Arkansas Code § 7-6-217(g), concerning the authority of the Arkansas Ethics Commission, is amended to read as follows:

(g) The commission shall have the authority to:

(1) Pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., promulgate reasonable rules and regulations to implement and administer the requirements of this subchapter, as well as § 7-9-401 et seq., § 19-11-701 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq., § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq., and to govern procedures before the commission, matters of commission operations, and all investigative and disciplinary procedures and proceedings;

(2) Issue advisory opinions and guidelines on the requirements of § 7-1-103(a)(1)-(4), (6), and (7), this subchapter, § 7-9-401 et seq., § 19-11-701 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq., § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq.;

(3) After a citizen complaint has been submitted to the commission, investigate ~~alleged~~ violations of § 7-1-103(a)(1) - (4), (6), and (7), this subchapter, § 7-9-401 et seq., § 21-1-401 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq., § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq. and render findings and disciplinary action thereon;

(4) Investigate potential violations of § 19-11-701 et seq.;

~~(4)~~(5) Pursuant to commission investigations, subpoena any person or the books, records, or other documents being held by any person and take sworn statements;

~~(5)~~(6) Administer oaths for the purpose of taking sworn testimony of witnesses and conduct hearings;

~~(6)~~(7) Hire a staff and retain legal counsel;

~~(7)~~(8) Approve forms prepared by the Secretary of State pursuant to this subchapter, § 7-9-401 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq., § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801



et seq., § 21-8-901 et seq., and § 21-8-1001 et seq.; and

~~(8)~~(9)(A) File suit in the Pulaski County Circuit Court or in the circuit court of the county wherein the respondent resides or, pursuant to § 16-17-706, in the small claims division established in any district court in the State of Arkansas, to obtain a judgment for the amount of any fine imposed pursuant to § 7-6-218(b)(4)(B)(i)-(iii), or to enforce an order of the commission requiring the filing or amendment of a disclosure form.

(B) Said action by the court shall not involve further judicial review of the commission's actions.

(C) The fee normally charged for the filing of a suit in any of the circuit courts in the State of Arkansas shall be waived on behalf of the commission.

SECTION 2. Arkansas Code § 7-6-218(b), concerning investigations by the Arkansas Ethics Commission, is amended to read as follows:

(b)(1)(A) Upon a complaint stating facts constituting an alleged violation signed under penalty of perjury by any person, the commission shall investigate the alleged violation of this subchapter or § 7-1-103(a)(1) - (4), (6), or (7), § 7-9-401 et seq., § 21-1-401 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq., § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq.

(B) The commission shall immediately notify any person under investigation of the investigation and of the nature of the alleged violation.

(C) The commission in a document shall advise the complainant and the respondent of the final action taken, together with the reasons for the action, and such document shall be a public record.

(D) Filing of a frivolous complaint shall be a violation of this subchapter. For purposes of this section, "frivolous" means clearly lacking any basis in fact or law. In any case in which the commission has dismissed a complaint, the respondent may request in writing that the commission make a finding as to whether or not the complaint filed was frivolous. In the event that the commission finds that the complaint was frivolous, the respondent may file a complaint seeking sanctions as provided in § 7-6-218(b)(4).

(2) If, after the investigation, the commission finds that probable cause exists for a finding of a violation, the respondent may request a hearing. The hearing shall be a public hearing.

(3)(A) The commission shall keep a record of its investigations, inquiries, and proceedings.

(B)(i) All proceedings, records, and transcripts of any investigations or inquiries shall be kept confidential by the commission, unless the respondent requests disclosure of documents relating to investigation of the case, in case of a hearing under subdivision (b)(2) of this section, or in case of judicial review of a commission decision pursuant to § 25-15-212.

(ii) Provided, however, that the commission may, through its members or staff, disclose confidential information to proper law enforcement officials, agencies, and bodies or as may be required to conduct its investigation.

(C) Thirty (30) days after any final adjudication in which the commission makes a finding of a violation, all records relevant to the

investigation and upon which the commission has based its decision, except working papers of the commission and its staff, shall be open to public inspection.

(4) If the commission finds a violation of this subchapter, § 7-1-103(a)(1)-(4), (6), or (7), § 21-1-401 et seq., § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq., § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., § 21-8-901 et seq., and § 21-8-1001 et seq., then the commission shall do one (1) or more of the following, unless good cause be shown for the violation:

(A) Issue a public letter of caution or warning or reprimand;

(B)(i) Notwithstanding the provisions of §§ 7-6-202, 7-9-409, 21-8-403, and 21-8-903, impose a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000) for negligent or intentional violation of this subchapter or § 21-8-301 et seq., § 21-8-401 et seq., § 21-8-501 et seq., § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et seq., and § 21-8-901 et seq.

(ii) The commission shall adopt rules governing the imposition of such fines in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(iii) All moneys received by the commission in payment of fines shall be deposited in the State Treasury as general revenues;

(C) Order the respondent to file or amend a statutorily required disclosure form; or

(D)(i) Report its finding, along with such information and documents as it deems appropriate, and make recommendations to the proper law enforcement authorities.

(ii) When exercising the authority provided in this subdivision (b)(4), the commission is not required to make a finding of a violation of the laws under its jurisdiction.

(5) Upon the finding of one (1) or more violations of § 19-11-701 et seq., the commission may impose civil and administrative remedies as provided in §§ 19-11-712 and 19-11-713.

~~(5)~~(6)(A) The commission shall complete its investigation of a complaint filed pursuant to this section and take final action within one hundred fifty (150) days of the filing of the complaint; except that, if a hearing under subdivision (b)(2) of this section or other hearing of adjudication is conducted, all action on the complaint by the commission shall be completed within one hundred eighty (180) days.

(B) Provided, however, that such time shall be tolled during the pendency of any civil action, civil appeal, or other judicial proceedings involving those particular commission proceedings.

SECTION 3. Arkansas Code § 19-11-708(8), concerning definitions in”

AND

Page 2, delete lines 21 through 23 and substitute the following:
“the existence of the blind trust has been made to the ~~Director of the Department of Finance and Administration~~ Arkansas Ethics Commission.”

AND

Page 2, delete lines 26 through 28, and substitute the following:

“file a written statement of disqualification with the ~~Director of the Department of Finance and Administration~~ Arkansas Ethics Commission and shall withdraw from further participation in the transaction”

AND

Page 2, line 29, delete “director” and substitute “~~director~~ Arkansas Ethics Commission”

AND

Page 3, line 3, delete “executive director”

AND

Page 3, line 4, delete “of the”

AND

Page 3, line 10, delete “director” and substitute “~~director~~ Arkansas Ethics Commission”

AND

Page 3, delete lines 17 through 19 and substitute the following:

“thereunder, the ~~Director of the Department of Finance and Administration~~ Arkansas Ethics Commission may impose any one (1) or”

AND

Page 3, delete lines 32 through 35 and substitute the following:

“promulgated thereunder, the ~~Director of the Department of Finance and Administration~~ Arkansas Ethics Commission may impose any one (1) or more of the following:

AND

Page 4, line 14, delete “director of the Arkansas Ethics Commission” and substitute “~~director~~ Arkansas Ethics Commission”

AND

Page 4, line 19, delete “director” and substitute “~~director~~ Arkansas Ethics Commission”

AND

Page 4, line 22, delete "director" and substitute "~~director~~ Arkansas Ethics Commission"

AND

Appropriately renumber the sections of the bill

The Amendment was read _____

By: Representative Mahony
MBM/JGH - 03-15-2005 15:20
MBM314

Chief Clerk