

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

Subtitle of House Bill No. 2623

"THE GOVERNMENT EFFICIENCY AND ACCOUNTABILITY ACT."

Amendment No. 2 to House Bill No. 2623.

Amend House Bill No. 2623 as engrossed, S3/31/05 (version: 03-31-2005 15:38):

Delete SECTIONS 2 and 3 in their entirety and substitute the following:

"SECTION 2. Arkansas Code Title 25 is amended to add an additional chapter to read as follows:

25-37-101. Short title.

This chapter shall be known as the "Government Efficiency and Accountability Act".

25-37-102. Definitions.

As used in this chapter:

(1) "Subcommittee" means the Government Efficiency and Accountability Review Subcommittee of the House and Senate Interim Committees on State Agencies and Governmental Affairs and the House and Senate Committees on State Agencies and Governmental Affairs; and

(2) "State agency" means an agency, department, board, commission, institution, council, advisory committee, program, or service of the State of Arkansas.

25-37-103. Government Efficiency and Accountability Review Subcommittee.

(a) There is created the Government Efficiency and Accountability Review Subcommittee.

(b)(1)(A) The subcommittee shall be a joint subcommittee of the House and Senate Interim Committees on State Agencies and Governmental Affairs.

(B) During legislative sessions, the subcommittee is authorized to meet as a subcommittee of the House and Senate Committees on State Agencies and Governmental Affairs.

(2) The voting membership of the subcommittee shall be comprised of:

(A) Up to a maximum of seven (7) House members appointed by the Speaker of the House from the membership of the House Interim Committee on State Agencies and Governmental Affairs; and

(B) Up to a maximum of seven (7) Senate members appointed by the Chair of the Senate Interim Committee on State Agencies and



Governmental Affairs.

(3) The voting members of the subcommittee shall be no more than the voting members of the House and Senate Interim Committees on State Agencies and Governmental Affairs.

(4) The nonvoting membership shall consist of the following:

(A) The Executive Director of the Arkansas State Employees Association;

(B) The Director of the Arkansas Public Employees' Retirement System;

(C) The Director of the Department of Finance and Administration or an agency deputy director as designated by the director;

(D) The Director of the Office of Personnel Management;
and

(E) Two (2) executive branch appointees that shall serve one-year terms and may be reappointed for a maximum of three (3) years.

(5)(A) The House cochair and vice chair shall be determined by the Speaker of the House and shall be from the membership of the House Interim Committee on State Agencies and Governmental Affairs; and

(B) The Senate cochair and vice chair shall be determined by the chair of the Senate Interim Committee on State Agencies and Governmental Affairs and shall be from the Senate membership.

(6) For interim meetings, legislative members shall be entitled to reimbursement for expenses and per diem at the same rate and from the same source as provided by law for attending other meetings of the interim committee and interim subcommittee.

25-37-104. Staff.

The Bureau of Legislative Research and Legislative Council shall provide staff support for the Government Efficiency and Accountability Review Subcommittee to ensure prudent fiscal stewardship of taxpayer dollars.

25-37-105. State agency report to the Government Efficiency and Accountability Review Subcommittee.

Before October 30 of the odd-numbered year before the year in which a state agency is to be abolished, the state agency shall report to the Government Efficiency and Accountability Review Subcommittee:

(1) Information regarding the application to the state agency of the criteria in § 25-37-108; and

(2) Any other information that the state agency considers appropriate or that is requested by the subcommittee.

25-37-106. Subcommittee duties.

(a) Before September 1 of the even-numbered year before the year in which a state agency subject to this chapter is abolished, the Government Efficiency and Accountability Review Subcommittee shall:

(1) Review and take action necessary to verify the reports submitted by the state agency under § 25-37-105;

(2) Consult the Legislative Council, the Office of the Governor, the Legislative Auditor, and the Director of the Department of Finance and Administration on the application to the state agency of the criteria provided in § 25-37-108;

(3) Conduct a performance evaluation of the state agency based

on the criteria provided in § 25-37-108 and prepare a written report; and

(4) Review the implementation of subcommittee recommendations contained in the reports presented to the General Assembly during the preceding legislative session.

(b) The written report prepared by the subcommittee under subdivision (a)(3) of this section shall be considered a public record.

25-37-107. Subcommittee report.

(a)(1) At each regular session of the General Assembly, the Government Efficiency and Accountability Review Subcommittee shall present to the General Assembly a report on the state agencies scheduled to be abolished on June 30 of the year in which the regular session occurs.

(2) The General Assembly shall forward a copy of the report to the Governor, the Lieutenant Governor, and the Legislative Auditor for their review.

(b) The subcommittee shall include in the report:

(1) Its specific findings regarding each of the criteria prescribed by § 25-37-108;

(2) Its recommendations based on the matters prescribed by § 25-37-109; and

(3) Other information the subcommittee considers necessary for a complete evaluation of the state agency.

25-37-108. Criteria for review.

The Government Efficiency and Accountability Review Subcommittee and its staff shall consider the following criteria in determining whether a public need exists for the continuation of a state agency or for the performance of the functions of the state agency:

(1) The efficiency with which the state agency operates;

(2) An identification of the objectives intended for the state agency and the problem or need that the state agency was intended to address, the extent to which the objectives have been achieved, and any activities of the state agency in addition to those granted by statute and the authority for these activities;

(3) An assessment of less restrictive or alternate methods of performing any regulation that the state agency performs that could adequately protect the public;

(4) The extent to which the state agency is needed and is used;

(5) The extent to which the jurisdiction of the state agency and the programs administered by the state agency overlap or duplicate those of other state agencies and the extent to which the programs administered by the state agency can be consolidated with the programs of other state agencies;

(6) Whether the state agency has recommended to the legislature statutory changes calculated to be of benefit to the public rather than to an occupation, a business, or an institution that the state agency regulates;

(7) The promptness and effectiveness with which the state agency disposes of complaints concerning persons affected by the state agency;

(8) The extent to which the state agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates and the extent to which the public participation has resulted in rules compatible with the objectives of the state agency;

(9) The extent to which the state agency has complied with the applicable requirements of:

(A) An agency of the United States or of this state regarding equality of employment opportunity and the rights and privacy of individuals; and

(B) State law and applicable rules of any state agency regarding purchasing goals and programs for historically underutilized businesses;

(10) The extent to which changes are necessary in the enabling statutes of the state agency so that the state agency can adequately comply with the criteria listed in this section;

(11) The extent to which the state agency issues and enforces rules relating to potential conflicts of interest of its employees;

(12) The extent to which the state agency follows record management practices that enable the state agency to respond efficiently to requests for public information; and

(13) The effect of federal intervention or loss of federal funds if the state agency is abolished.

25-37-109. Recommendations.

(a) In its report on a state agency, the Government Efficiency and Accountability Review Subcommittee shall:

(1) Make recommendations on the abolition, continuation, or reorganization of each affected state agency and on the need for the performance of the functions of the state agency;

(2) Make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in state agencies under review;

(3) Recommend appropriation levels for each state agency for which abolition or reorganization is recommended under subdivision (a)(1) or subdivision (a)(2) of this section; and

(4) Include drafts of legislation necessary to carry out the subcommittee's recommendations under subdivisions (a)(1) and (2) of this section.

(b)(1) The General Assembly shall forward a copy of the report to the Legislative Auditor.

(2) Based on a risk assessment of and subject to the Legislative Joint Audit Committee's approval of including the examination in the audit plan under § 25-37-110, the Legislative Auditor may examine the recommendations which do not require a statutory change and include as part of the next approved audit of the state agency a report on whether the state agency has implemented the recommendations and, if so, in what manner.

25-37-110. Review of certain state agencies.

(a) In the two-year period preceding the date scheduled for the abolition of a state agency under this chapter, the Governmental Efficiency and Accountability Review Subcommittee may exempt certain state agencies from the provisions of this chapter relating to staff reports, hearings, and evaluations.

(b) The subcommittee may only exempt state agencies that have been inactive for a period of two (2) years preceding the date the state agency is scheduled for abolition.

(c) The subcommittee's action in exempting state agencies under this section shall be done by a majority vote of the subcommittee.

25-37-111. Monitoring of recommendations.

During each regular legislative session, the Government Efficiency and Accountability Review Subcommittee shall monitor legislation affecting state agencies that have undergone review under this chapter.

25-37-112. Continuation by law.

(a) During the regular legislative session immediately before the abolition of a state agency that is subject to this chapter, the General Assembly by law may continue the state agency for a period not to exceed twelve (12) years.

(b) This chapter does not prohibit the General Assembly from:

(1) Terminating a state agency subject to this chapter at a date earlier than that provided in this chapter; or

(2) Considering any other legislation relative to a state agency subject to this chapter.

25-37-113. Procedure after termination.

(a)(1) A state agency that is abolished in an odd-numbered year may continue in existence until June 30 of the following year to conclude its business.

(2) Unless the law provides otherwise, abolishment shall not reduce or otherwise limit the powers and authority of the state agency during the concluding year.

(3) A state agency is terminated and shall cease all activities at the end of the one-year period.

(4) Unless the law provides otherwise, all rules that have been adopted by the state agency expire at the expiration of the one-year period.

(b) Any unobligated and unexpended appropriations of an abolished state agency shall lapse on June 30 of the even-numbered year after abolishment.

(c)(1) Except as provided by subsection (f) of this section or as otherwise provided by law, all money in a dedicated fund of an abolished state agency on June 30 of the even-numbered year after abolishment shall be transferred to the General Revenue Fund Account of the State Apportionment Fund.

(2) The part of the law dedicating the money to a specific fund of an abolished state agency becomes void on June 30 of the even-numbered year after abolishment.

(d) Unless the law or a line item appropriation in an appropriation act of the General Assembly provides otherwise, an abolished state agency funded in an appropriation act of the General Assembly for both years of the biennium may not spend or obligate any of the money appropriated to it for the second year of the biennium.

(e)(1) Unless the Governor designates an appropriate state agency as prescribed by subsection (f) of this section, property and records in the custody of an abolished state agency on June 30 of the even-numbered year after abolishment shall be transferred to the Office of State Procurement of the Department of Finance and Administration.

(2) If the Governor designates an appropriate state agency, the

property and records shall be transferred to the designated state agency.

(f)(1) The General Assembly recognizes the state's continuing obligation to pay bonded indebtedness and all other obligations, including lease, contract, and other written obligations, incurred by a state agency abolished under this chapter, and this chapter does not impair or impede the payment of bonded indebtedness and all other obligations, including lease, contract, and other written obligations, in accordance with their terms.

(2) If an abolished state agency has outstanding bonded indebtedness or other outstanding obligations, including, but not limited to, lease, contract, and other written obligations, the bonds and all other obligations shall remain valid and enforceable in accordance with their terms and subject to all applicable terms and conditions of the laws and proceedings authorizing the bonds and all other obligations, including lease, contract, and other written obligations.

(3) The Governor shall designate an appropriate state agency that shall continue to carry out all covenants contained in the bonds and in all other obligations, including lease, contract, and other written obligations, and the proceedings authorizing them, including the issuance of bonds, and the performance of all other obligations, including lease, contract, and other written obligations, to complete the construction of projects or the performance of other obligations, including lease, contract, and other written obligations.

(4) The designated state agency shall provide payment from the sources of payment of the bonds in accordance with the terms of the bonds and shall provide payment from the sources of payment of all other obligations, including lease, contract, and other written obligations, in accordance with their terms, whether from taxes, revenues, or otherwise, until all bonds and interest on the bonds are paid in full and all other obligations, including lease, contract, and other written obligations, are performed and paid in full.

(5) If the proceedings so provide, all funds established by laws or proceedings authorizing the bonds or authorizing other obligations, including lease, contract, and other written obligations, shall remain with the Director of the Department of Finance and Administration or the previously designated trustees.

(6) If the proceedings do not provide that the funds remain with the Director of the Department of Finance and Administration or the previously designated trustees, the funds shall be transferred to the designated state agency.

25-37-114. Subpoena power.

(a)(1) The Government Efficiency and Accountability Review Subcommittee may issue process to compel the attendance of witnesses and the production of books, records, papers, and other objects necessary or proper for the purposes of the subcommittee proceedings.

(2) The process may be served on a witness at any place in this state.

(b) If a majority of the subcommittee directs the issuance of a subpoena, the chair of the subcommittee shall issue the subpoena in the name of the subcommittee.

(c) If the chair is absent, the chair's designee may issue a subpoena or other process in the same manner as the chair.

(d)(1) If necessary to obtain compliance with a subpoena or other process, the subcommittee may issue attachments.

(2) The attachments may be addressed to and served by any peace officer in this state.

(e) Testimony taken under subpoena shall be reduced to writing and given under oath subject to the penalty of perjury.

(f) A witness who attends a subcommittee proceeding under process is entitled to the same mileage and per diem as a witness who appears before a grand jury in this state.

25-37-115. Assistance and access to state agencies.

(a)(1) The Government Efficiency and Accountability Review Subcommittee may request the assistance of state agencies and officers.

(2) When assistance is requested, a state agency or officer may assist the subcommittee.

(b) In carrying out its functions under this chapter, the subcommittee or its designated staff member may inspect the records, documents, and files of any state agency.

25-37-116. Records protected from disclosure.

A record held by another entity that is confidential by law and that the Government Efficiency and Accountability Review Subcommittee receives in connection with the performance of the subcommittee's functions under this chapter or another law remains confidential and is excepted from the Freedom of Information Act of 1967, § 25-19-101 et seq.

25-37-117. Relocation of employees.

If an employee is displaced because a state agency is abolished, reorganized, or continued, the state agency and the Arkansas Employment Security Department shall make a reasonable effort to relocate the displaced employee.

25-37-118. Saving provision.

Except as otherwise provided, abolition of a state agency does not affect rights and duties that matured, penalties that were incurred, civil or criminal liabilities that arose, or proceedings that were begun before the effective date of the abolition.

25-37-119. Gifts and grants.

(a) The Government Efficiency and Accountability Review Subcommittee may accept gifts, grants, and donations from any organization described in Section 501(c)(3) of the Internal Revenue Code as it existed on January 1, 2005, for the purpose of funding any activity under this chapter.

(b) All gifts, grants, and donations shall:

(1) Be accepted in an open meeting by a majority of the voting members of the subcommittee; and

(2) Reported in the public record of the subcommittee with the name of the donor and the purpose of the gift, grant, or donation.

25-37-120. Attrition.

Whenever possible, state government is encouraged to utilize attrition as a long-term approach to reducing state agency costs and as a means of

saving taxpayer money.

25-37-121. Review of proposed legislation creating regulatory state agency.

(a) Each bill filed in the General Assembly that would create a new state agency having regulatory authority shall be forwarded to the Government Efficiency and Accountability Review Subcommittee.

(b) The subcommittee shall review the bill to determine if:

(1) The proposed regulatory or other functions of the state agency or committee may be administered by one (1) or more existing state agencies;

(2) The form of regulation, if any, proposed by the bill is the least restrictive form of regulation that will adequately protect the public;

(3) The bill provides for adequate public input regarding any regulatory function proposed by the bill; and

(4) The bill provides for adequate protection against conflicts of interest within the state agency.

(c) After reviewing the bill, the subcommittee shall forward a written comment on the legislation to the sponsor of the bill and to the chair of the committee to which the bill is referred.

25-37-122. Rules.

The Government Efficiency and Accountability Review Subcommittee shall promulgate rules necessary to carry out the provisions of this chapter."

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

By: Senator Faris

MMC/BKA - 04-07-2005 10:32

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Secretary