

**Hall of the House of Representatives**  
89th General Assembly - Regular Session, 2013  
**Amendment Form**

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**Subtitle of House Bill No. 2206**

TO REQUIRE THE DEPARTMENT OF WORKFORCE SERVICES TO FOLLOW THE ADMINISTRATIVE  
PROCEDURE ACT.

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**Amendment No. 1 to House Bill No. 2206**

Amend House Bill No. 2206 as originally introduced:

Page 1, delete lines 8 through 10 and substitute the following:

"AN ACT TO AMEND ARKANSAS CODE § 11-10-301 ET SEQ., CONCERNING THE DEPARTMENT OF WORKFORCE SERVICES LAW BY PLACING THE DEPARTMENT OF WORKFORCE SERVICES UNDER THE ADMINISTRATIVE PROCEDURE ACT; TO AMEND EXEMPTIONS PERMITTED FOR AN EMPLOYMENT BENEFIT; AND FOR OTHER PURPOSES."

AND

Page 1, delete lines 14 through 16 and substitute the following:

"TO REQUIRE THE DEPARTMENT OF WORKFORCE SERVICES TO FUNCTION UNDER THE ADMINISTRATIVE PROCEDURE ACT; AND TO AMEND EXEMPTIONS PERMITTED FOR AN EMPLOYMENT BENEFIT."

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 11-10-210(e), concerning the definition of employment for the Department of Workforce Services Law, is amended to read as follows:

(e) Service performed by an individual for wages shall be deemed to be employment subject to this chapter irrespective of whether the common law relationship of master and servant exists, unless and until it is shown to the satisfaction of the director that:

(1) Such individual has been and will continue to be free from control and direction in connection with the performance of the service, both under his or her contract for the performance of service and in fact;

(2) The service is performed either outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise for which the service is performed; ~~and~~ or

(3) The individual is customarily engaged in an independently



established trade, occupation, profession, or business of the same nature as that involved in the service performed.

SECTION 2. Arkansas Code § 11-10-210, concerning the definition of employment for the Department of Workforce Services Law, is amended to add additional subsections to read as follows:

"(f) "Employment" does not include services performed under a contract with an individual licensed or approved by an agency of the State of Arkansas to conduct professional or paraprofessional services for wages for which the individual is licensed or approved.

(g) The Department of Workforce Services is an agency under the Arkansas Administrative Procedure Act, § 25-15-201, et seq."

SECTION 3. Arkansas Code § 11-10-308(d), concerning administrative determinations of coverage by the Director of the Department of Workforce Services, is amended to read as follows:

(d) A review of the determination made by the director or the board may be had by filing a petition for review in the ~~Court of Appeals~~ circuit court of a county in which the petitioner resides or does business under the Arkansas Administrative Procedure Act, § 25-15-201, et seq., within thirty (30) calendar days after the mailing of notice of the determination to the employing unit's last known address, or in the absence of mailing, within thirty (30) calendar days after the delivery of the notice

SECTION 4. Arkansas Code § 25-15-202(2)(C), concerning the definition of agency for the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201, et seq., is amended to read as follows:

(C) The word "agency" shall not include the Arkansas Public Service Commission, and the Arkansas Pollution Control and Ecology Commission, the Workers' Compensation Commission, ~~and the Department of Workforce Services~~, it being determined by the General Assembly that the existing laws governing those agencies provide adequate administrative procedures for those agencies."

The Amendment was read \_\_\_\_\_  
By: Representative H. Wilkins  
MGF/NJR - 03-28-2013 10:08:29  
MGF445

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Chief Clerk