

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1931

Bill Subtitle: TO AMEND PROCUREMENT LAWS TO PROHIBIT CONTRACTS WITH A BUSINESS THAT IS SUBJECT TO A BUSINESS CLOSURE ORDER UNDER THE ARKANSAS TAX PROCEDURE ACT.

Basic Change :

Sponsor: Rep. M. Gray

HB1931 would allow for a state agency to cancel a contract, as soon as reasonably practicable, with a contractor that has been issued a final business closure order by the Department of Finance and Administration (DFA).

Business closure orders are issued to retailers who have failed to report and remit the sales taxes they collected from their customers for at least three months out of the most recent 24-month period. Business closure orders are also issued for wage withholding non-compliance. The orders are issued to taxpayers who fail to remit taxes and who fail to arrange with DFA for repayment of the tax or who fail on the agreed repayment arrangement.

HB1931 provides that DFA would provide a list of all contractors for which a final business closure order has been issued to the Office of State Procurement (OSP). Upon receiving this list, OSP would notify each state agency with which the contractor has a contract of the closure order and that any provisions of goods or services, or both, under a contract with the contractor shall cease as soon as reasonably practicable. The contractor would not be awarded or maintain a contract with a state agency unless OSP notifies the agency that the closure has been resolved.

This bill would effective on January 1st, 2020.

Revenue Impact :

None.

[There is reduced risk of loss from state contractors when a state contract can be canceled if the contractor violates the provisions of state laws and does not comply with tax reporting and tax remittance requirements.]

Taxpayer Impact :

Contractors that have been issued a final business closure order and have exhausted all remedies afforded in existing Arkansas Law would no longer be eligible to hold a contract to provide goods or services with State agencies.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

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Procedural Changes :

Updates to the States tax rules will need to be promulgated. Also, a method in which to communicate and transfer the notification of contractors which meet the final business closure status would need to be developed.

Other Comments :

None.

Legal Analysis :

HB1931 prohibits the continuance of state contracts with businesses that have been administratively closed by DFA for being non-compliant taxpayers of sales or withholding wage tax. Currently, DFA has a procedure to administratively close a business that fails to report or remit sales or withholding wage tax for three or more periods within a twenty-four month period under § 26-18-1001, *et seq.*

HB1931 allows DFA to notify OSP that a business has been administratively closed (and has exhausted all remedies afforded to it by law). OSP is then required to notify the state agencies who have contracts with the business to cease the provision of goods or services from that business as soon as reasonably practicable. Additionally, state contracts will not be awarded to business who have been administratively closed under the business closure procedures.

If a business cures the deficiencies that put it into business closure, DFA will notify OSP, who will then notify state agencies that they may resume the contract with the business.