



ARKANSAS CODE REVISION COMMISSION

REPRESENTATIVE MATTHEW J. SHEPHERD, CHAIR

VINCENT C. HENDERSON II, CODE REVISOR

ONE CAPITOL MALL – 5TH FLOOR

LITTLE ROCK, ARKANSAS 72201

TELEPHONE: (501) 683-1357

H.1

September 17, 2020

Honorable Senator Cecile Bledsoe
Co Chair Arkansas Legislative Council
Arkansas Senate
State Capitol
Little Rock, Arkansas

Honorable Representative Jeff Wardlaw
Co Chair Arkansas Legislative Council
Arkansas House of Representatives
State Capitol
Little Rock, Arkansas

RE: Arkansas Code Revision Commission Report of Revision Decisions Pertaining to Acts 2019, No. 910, made at the August 18, 2020, Commission meeting

Dear Senator Bledsoe and Representative Wardlaw,

The Arkansas Code Revision Commission met on August 18, 2020, to consider technical revisions and other codification decisions associated with the presentation of Act 910 of 2019 (the "Transformation bill"). Act 910 authorized the Arkansas Code Revision Commission to correct certain technical errors and directed the commission to report any such revisions to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Legislative Council. Please find below a list of the revisions related to Act 910 directed by the Arkansas Code Revision Commission at its August 18 meeting. If future revisions are made, they will be reported by separate letter.

- Amy Fecher, Secretary of the Department of Transformation and Shared Services, requested a revision to Arkansas Code § 19-11-715 to provide that the Secretary of the Department of Transformation and Shared Services has rulemaking authority regarding procurement ethics rather than the Secretary of the Department of Finance and Administration. In reviewing her request, it appears that certain additional Act 910 references to certain sections in Arkansas Code Title 19, Chapter 11, Subchapter 7, need to be corrected from Secretary of the Department of Finance and Administration to the Secretary of the Department of Transformation and Shared Services. These included §§ 19-11-705, 19-11-706, 19-11-712, 19-11-713, and 19-11-716. The Arkansas Code Revision Commission made the requested revision and other conforming revisions.
- As part of the review of Secretary Fecher's request, we discovered other Code sections that need to be corrected from Department of Finance and Administration to Department of Transformation and Shared Services in light of Act 910's intent. These sections were not

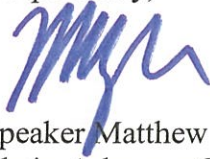
amended by Act 910, but require revision to match the changes made by Act 910. These sections include Arkansas Code §§ 19-11-242, 19-11-264, 19-11-269, 19-11-271, 19-11-1006, 19-11-1014, and 19-11-1101. The Arkansas Code Revision Commission made the conforming revisions.

- Secretary Fecher requested a revision to Arkansas Code § 21-5-109 to transfer from the State of Arkansas Chief Fiscal Officer to the Secretary of the Department of Transformation and Shared Services the authority to establish the standards and procedures and for granting exemptions to the direct deposit requirement for new employees. This section was not amended by Act 910 of 2019 but requires revision to implement its intent of transferring the Office of Personnel Management from the Department of Finance and Administration to the Department of Transformation and Shared Services. The Arkansas Code Revision Commission made the revisions.
- Secretary Fecher requested a revision to Arkansas Code § 22-9-208 to remove the reference to Building Authority Division from subsection (a)(3) as this section was amended by Act 910 of 2019 to include the Department of Transformation and Shared Services. Act 910 of 2019 transferred the Building Authority Division to the Department of Transformation and Shared Services. This revision removes a duplicative reference. The Arkansas Code Revision Commission made the revisions.
- Secretary Fecher also requested revisions to Arkansas Code § 25-4-115 moving the authority to enter into information technology professional service contracts to the Secretary of Transformation and Shared Services from the Director of the Division of Information Systems. Act 910 of 2019 transferred the Division of Information Systems to the Department of Transformation and Shared Services. Secretary Fecher also noted certain references to the Chief Fiscal Officer of the State in § 25-4-115 that she requested be changed to Secretary of the Department of Transformation and Shared Services. The Arkansas Code Revision Commission changed "Chief Fiscal Officer of the State" to "Secretary of the Department of Transformation and Shared Services" in 3 locations but did not approve the changes related to the Director of the Division of Information Systems and Division of Information Systems.
- Secretary Fecher also requested revisions to Arkansas Code § 25-34-107 and 25-34-108 to replace the references to the Department of Finance and Administration with the Department of Transformation and Shared Services. These sections were not amended by Act 910 of 2019 but require revision to remove any internal conflicts with Act 910 and to implement its intent of transferring the Office of State Procurement from the Department of Finance and Administration to the Department of Transformation and Shared Services. The Arkansas Code Revision Commission made the revisions.
- In §§ 6-66-113(b) and 6-67-114(b), Act 910, §§ 2012 and 2013, respectively, changed "Director of the Department of Education" to "Director of the Division of Elementary and Secondary Education". First, the reference should now be to "Commissioner of Elementary and Secondary Education" per Act 910. However, despite the changes made by Act 910, the correct reference should be to the Director of the Division of Higher Education. This is because the two Code sections concern institutions of higher education, and not secondary educational institutions. The Arkansas Code Revision Commission made the revisions to the Director of the Division of Higher Education.

- Acts 2019, No. 910, § 2212, amended § 10-3-1602(2) and contained a list of state entities, revising “State Board of Career Education” to “State Board of Education”. Act 910, § 2213, amending § 10-3-1602(4), contained an analogous list but this time “State Board of Career Education” became the “Career Education and Workforce Development Board.” We believed the intent was not to duplicate “State Board of Education” in subdivision (2), but that “Career Education and Workforce Development Board” was intended to replace “State Board of Career Education” in subdivisions (2) and (4), thus making them parallel. With the revision to § 10-3-1602(2) by Act 910, the State Board of Education is referenced in the list twice. The Arkansas Code Revision Commission affirmed the modifications made by staff during the codification process.
- Two sections of Act 910 amended § 20-27-1507 in an inconsistent manner regarding the duties of the Department of Health and Division of Higher Education. It is clear that the General Assembly intended by the amendment to § 20-27-1507(a) and (b) by Act 910, § 5035, as well as all the other changes made throughout subchapter 15 by other sections of Act 910, including §§ 2291 and 2292 that amended § 20-27-1507(c)(2)(A) and (e), that the amendment to § 20-27-1507(a) and (b) by Act 910, § 2290, was an oversight, not intended, and that the correct reference should be to the Department of Health, and not the Division of Higher Education. The Arkansas Code Revision Commission corrected the references.
- In § 20-78-206(a)(2)(A)(ii), “Commissioner of Education” should have been changed to “Secretary of the Department of Education” to conform to the change made in subdivision (a)(3) by Act 910, § 5104. The Arkansas Code Revision Commission corrected the reference.
- In various places in §§ 20-79-205, 20-79-206(b) and (c), 20-79-207, 20-79-208(b) and (c)(2), 20-79-211(a), 20-79-213(b), and 20-79-215, concerning Arkansas Rehabilitative Services which was assigned by Act 910 to the Department of Commerce there is the phrase “the appropriate division of the Department of Human Services”. However, DHS no longer has authority over Arkansas Rehabilitative Services. It has been transferred to the Division of Workforce Services in the Department of Commerce. While not perfect, we believe that in most instances the Division of Workforce Services should replace the Department of Human Services in the phrase, except in one instance in 20-79-211(a), Department of Commerce is the better reference. The Arkansas Code Revision Commission ratified the changes made by staff during the codification process.
- Also in 20-79-207(4), we believe that Arkansas Rehabilitation Services was intended to replace the orphaned “state board” reference as the only other reference to state board in the section, in subdivision (2), was amended by Act 910 to Arkansas Rehabilitation Services. The Arkansas Code Revision Commission ratified the changes made by staff during the codification process.
- Section 25-30-104, as amended by Acts 2019, No. 910, § 2389, including the section catchline, now requires the State Board of Education to coordinate “their” activities. The problem is that the sentence went from two subjects to one, but merely correcting the plural pronoun “their” to the singular pronoun “its” doesn’t make sense with the requirement to coordinate. In view of the change made to the section catchline, we believe the intent of the amendment is to replace in the text the original reference to the State Board of Education with the Division of Elementary and Secondary Education. The Arkansas Code Revision Commission replaced the text with the Division of Elementary and Secondary Education.

If you have any questions, please do not hesitate to contact me.

Respectfully,

A handwritten signature in blue ink, appearing to read 'MS', with a stylized flourish at the end.

Speaker Matthew Shepherd
Chair, Arkansas Code Revision Commission