

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Dowd**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 22-9-204 TO INCREASE THE
9 BASE BID AMOUNT FROM TWENTY THOUSAND DOLLARS (\$20,000) TO
10 FIFTY THOUSAND DOLLARS (\$50,000) FOR LISTING
11 SUBCONTRACTORS ON PUBLIC WORKS PROJECTS AND TO SIMPLIFY
12 THE SEALED ENVELOPE REQUIREMENTS FOR THE SUBCONTRACTORS
13 LIST; AND FOR OTHER PURPOSES."

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15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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17 SECTION 1. Arkansas Code § 22-9-204 is hereby amended to read as
18 follows:

19 "22-9-204. Improvements exceeding \$50,000 - Subcontractors - Penalty.

20 (a) In each instance where the total bid amount submitted by the
21 licensed prime contractor exceeds fifty thousand dollars (\$50,000), all prime
22 contractors, as a condition to perform construction work for and in the State
23 of Arkansas, shall use no other subcontractors except those licensed by the
24 State Contractors Licensing Board and qualified in:

25 (1) Mechanical, indicative of heating, air conditioning, and
26 ventilating;

27 (2) Plumbing;

28 (3) Electrical, indicative of wiring and illuminating fixtures;
29 and

30 (4) Roofing and sheet metal work, indicative of roofing
31 application.

32 (b) In the event the prime contractor is qualified and licensed by the
33 Arkansas State Contractors Licensing Board, he may use his own forces to
34 perform those tasks listed in this section as subcontractors in one (1) or
35 more of the trades listed.

1 (c) (1) When the prime contractor makes a definite decision regarding
2 the subcontractors he intends to use, he shall:

3 (A) Place the names of each subcontractor in a blank space
4 to be provided on the form of proposal of his bid; and

5 (B) Place the name and amount of each of the above-listed
6 subcontractors, including his own estimate of that portion of the work where
7 he lists himself as a subcontractor, in a separate sealed envelope to
8 accompany the proposal.

9 (2) This separate sealed envelope is not to be opened unless one
10 (1) or more of the subcontractors named by the prime contractor in his
11 successful bid thereafter refuses to perform his contract or offered contract;

12 (3) In that event, the prime contractor may substitute another
13 subcontractor, licensed by the Arkansas State Contractors Licensing Board,
14 after having obtained prior approval from the architect or engineer, the
15 owner, and the Office of Construction of State Building Services.

16 (d) The prime contractor shall submit written evidence that the
17 substituted contractor is costing the same amount of money as shown in the
18 separate sealed envelope or less and, if costing less, that the savings will
19 be deducted from the total contract of the prime contractor and rebated to the
20 owner.

21 (e) It shall be mandatory that the mechanical, plumbing, electrical,
22 roofing, and sheet metal subcontractors named on the form of proposal by the
23 prime contractor awarded a contract under the provisions of this subchapter be
24 given contracts by the prime contractor in keeping with their proposals to
25 perform the items for which they were named.

26 (f) (1) It shall be a violation of this section for any prime contractor
27 to submit a bid listing unlicensed contractors or to use unlicensed
28 contractors on a public works project.

29 (2) It shall be a violation of this section for any subcontractor
30 who is not licensed by the Contractors Licensing Board to contract to perform
31 work on a public works project.

32 (3) Any contractor or subcontractor who, after notice and
33 hearing, is found to have violated this section shall pay to State Building
34 Services a civil penalty of not less than two hundred fifty dollars (\$250) and
35 not more than five hundred dollars (\$500), and may be suspended from bidding

1 future public works contracts for a term of not less than six (6) months nor
2 more than twelve (12) months.

3 (4) All hearings and appeals therefrom under this section shall
4 be pursuant to the provisions of the Arkansas Administrative Procedure Act,
5 25-15-201 et seq. State Building Services shall have the power to file suit
6 in the Circuit Court of Pulaski County to obtain a judgment for the amount of
7 any penalty not paid within thirty (30) days of service on the contractor of
8 the order assessing said penalty.

9 (5) Penalties collected pursuant to this section shall be
10 deposited in State Building Services Maintenance Fund."

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12 SECTION 2. All provisions of this act of general and permanent nature
13 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
14 Revision Commission shall incorporate the same in the Code.

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16 SECTION 3. If any provisions of this act or the application thereof to
17 any person or circumstance is held invalid, the invalidity shall not affect
18 other provisions or applications of the act which can be given effect without
19 the invalid provisions or application, and to this end the provisions of this
20 act are declared to be severable.

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22 SECTION 4. All laws and parts of laws in conflict with this act are
23 hereby repealed.

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