

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

HOUSE BILL 1636

4 By: Representatives Wren, Courtway, Cash, Choate, Fletcher Hill, Jones, Kidd,
5 Lynn, Mitchell, T. Smith, Stalnaker, Thomas, Wallis, and Young

6
7

For An Act To Be Entitled

8
9 "AN ACT TO AMEND ARKANSAS CODE SUBCHAPTER 3 OF CHAPTER 2
10 OF TITLE 1 AND § 25-15-204 TO PROVIDE FOR THE COMPILATION
11 OR CODIFICATION OF STATE AGENCY REGULATIONS BY THE
12 ARKANSAS CODE REVISION COMMISSION; AND FOR OTHER
13 PURPOSES."

14
15

Subtitle

16 "TO PROVIDE FOR THE CODIFICATION OF
17 STATE AGENCY REGULATIONS BY THE ARKANSAS
18 CODE REVISION COMMISSION."

19

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

21

22 SECTION 1. Section 1-2-303 is hereby amended to read as follows:

23 "1-2-303. Powers and Duties.

24 (a)(1)(A) The Arkansas Code Revision Commission shall, from time to
25 time, arrange for the publication of compilations, recom compilations, revisions,
26 codifications, or recodifications of, or cumulative or noncumulative
27 supplements to, the statutes of Arkansas.

28 (B) The Arkansas Code Revision Commission shall, from time
29 to time, arrange for the publication of complete compilations,
30 recom compilations, codifications, or recodifications of the regulations of each
31 agency having general applicability and legal effect, issued or promulgated
32 by the agency which are relied upon by the agency as authority for, or are
33 invoked or used by it in the discharge of, its activities or functions.

34 (2) The commission shall arrange for the solicitation and
35 receipt of competitive bids for all these publications on such terms as it

1 deems reasonable.

2 (3) Specifications for the publications shall be drawn under the
3 supervision of and subject to approval by the commission.

4 (4)(A) Contracts shall be awarded to the lowest responsible
5 bidder, taking into consideration, among other things, estimated time of
6 performance, quality of work, probability of timely and adequate performance,
7 and experience of the company regarding the services sought by the
8 commission. (B) If the best interests of the state would
9 be served, any and all bids submitted to the commission regarding any
10 publication project may be rejected, and the commission may negotiate any
11 necessary contract with the party most qualified to perform the services
12 sought by the commission.

13 (5) The price at which publications under this section shall be
14 sold shall, from time to time, be fixed by the Arkansas Code Revision
15 Commission . If the commission enters into a contract with a publisher for
16 any publication, the price at which the publication under the contract shall
17 be sold shall, from time to time, be fixed by agreement between the
18 commission and the publishers.

19 (6) Supplements and replacement volumes published under the
20 supervision of the commission shall be prima facie evidence of the law or
21 regulations contained therein.

22 (b) The Arkansas Code Revision Commission, in its discretion and
23 subject to the provisions and requirements of § 19-4-1109, may enter into
24 contracts for professional services to the commission, which contracts may
25 include, but are not limited to, the purposes of:

26 (1) Creation and maintenance of up-to-date continuing
27 computerized data base banks of the statutes and regulations of Arkansas by
28 use of magnetic tape or other means of photographic or electronic
29 preservation and reproduction systems with facilities for electronic access
30 and retrieval.

 (A) However, before the commission shall enter
31 into any contract for computerized data base banks of the statutes or
32 regulations of Arkansas, the commission shall confer with and seek the advice
33 of the President Pro Tempore of the Senate and the Speaker of the House of
34 Representatives of the General Assembly of the State of Arkansas, the
35 Arkansas Legislative Council, and the Bureau of Legislative Research with

1 respect to the needs and requirements for use of computerized data base banks
2 of the statutes or regulations of Arkansas:

3 (i) For electronic access and statutory retrieval in
4 connection with a computerized bill drafting and bill processing system;

5 (ii) To meet the needs of the General Assembly and
6 the committees thereof; and

7 (iii) To assist in the preparation of acts signed by
8 the Governor for printing of the official acts of Arkansas.

9 (B) The commission shall confer periodically with the
10 President Pro Tempore of the Senate and the Speaker of the House of
11 Representatives of the Arkansas General Assembly, the Legislative Council,
12 and the Bureau of Legislative Research and shall seek their advice with
13 respect to means of upgrading and improving the computerized data base banks
14 to meet the needs and requirements for their respective uses;

15 (2) Providing continuing assistance to the commission in the
16 maintenance of the data bases and the appropriate codification of legislation
17 adopted by the General Assembly and compilation or codification of
18 regulations promulgated by state agencies;

19 (3) Performing those other services which are determined by the
20 commission, from time to time, to be reasonably required and necessary in
21 order to maintain availability to the State of Arkansas of up-to-date
22 computerized data base indices of the statutes and regulations of Arkansas
23 and in furtherance of its duties and authority as otherwise provided by this
24 subchapter and by other provisions of law;

25 (4) Preparation of a compilation or codification of all
26 regulations of Arkansas in a code of regulations; or, in lieu of a single
27 compilation or codification of all regulations, preparation of compilations
28 or codifications of a similar subject or nature, from time to time, with the
29 overall objective of eventually incorporating all regulations in a
30 compilation or codification of those regulations; and

31 (5) Preparation of a codification of all the statutes of a
32 general and permanent nature in a proposed code of laws, to be presented to
33 the General Assembly of the State of Arkansas for approval and enactment; or,
34 in lieu of a single codification of all of the state's statutes of a general
35 and permanent nature, preparation of recommended codes of a similar subject

1 or nature in proposed titles or chapters of a code for consideration by the
2 General Assembly for enactment, from time to time, with the overall objective
3 of eventually incorporating all of the state's statutes of a general and
4 permanent nature in a unified codification of those laws.

5 (c) The Arkansas Code Revision Commission shall cause the executive
6 director and other staff members of the commission:

7 (1) To make continual studies and conduct reviews of the common
8 law, statutes, and current judicial decisions of the state in order to
9 identify:

- 10 (A) Obsolete statutes;
- 11 (B) Overlapping and duplicating laws;
- 12 (C) Inequitable or inconsistent laws;
- 13 (D) Deficiencies in existing laws which contribute to
14 indefiniteness of interpretation of the purpose of those laws or the
15 legislative intent thereof;
- 16 (E) Deficiencies in administrative procedures;
- 17 (F) Defects in practice and procedure;
- 18 (G) Deficiencies of due process provisions in the
19 enforcement of the criminal laws of this state;

20 (2) To provide for other and similar studies designed to lead to
21 the preparation of drafts of corrective legislation for presentation, after
22 review and approval by the Legislative Council, to each session of the
23 General Assembly for enactment; and

24 (3) To make studies of the methods, means, and systems used in
25 the various states for the compilation, codification, revision, and
26 publication of the compilations, codifications, or statutes of those states.
27 These studies are to be used by the commission in determining means of
28 improving the codification of the statutes of Arkansas and the compilation or
29 codification of the regulations of Arkansas and to prepare recommendations to
30 the General Assembly in regard thereto.

31 (d)(1) In exercising the powers and duties imposed upon it by this
32 section, the commission shall not authorize any change in the substance or
33 meaning of any provision of the Arkansas Code or any Act of the General
34 Assembly or any regulation. However, the commission is authorized to:

- 35 (A) Correct the spelling of words;

- 1 (B) Change the capitalization for the purpose of
2 uniformity;
- 3 (C) Correct manifest typographical and grammatical errors;
- 4 (D) Correct manifest errors in references to laws;
- 5 (E) Correct manifest errors in internal reference numbers;
- 6 (F) Substitute the proper Code section number, subchapter
7 number, chapter number, subtitle number, title number, or other number or
8 designation for the terms _this Act_, _the preceding Code section_, _this
9 regulation_, _the preceding regulation_, or any similar words or phrases;
- 10 (G) Renumber, redesignate, and rearrange chapters,
11 subchapters, sections, subsections, and subdivisions, or any combination or
12 portion thereof;
- 13 (H) Change internal reference numbers to agree with
14 renumbered chapters, subchapters, sections, subsections, subdivisions, or
15 portions thereof;
- 16 (I) Substitute the correct calendar date for _the
17 effective date of this Act_ or _the effective date of this regulation_ and
18 other phrases of similar import;
- 19 (J) Correct inaccurate references to the titles of
20 officers, the names of departments or other agencies of the state or local
21 governments, or the federal government, and to the short titles of other
22 laws, and make any other name changes necessary to be consistent with the
23 laws currently in effect;
- 24 (K) Rearrange definitions in alphabetical order;
- 25 (L) Insert or delete hyphens in words so as to follow
26 correct grammatical usage;
- 27 (M) Change numerals or symbols to words or vice versa and
28 add figures or words if they are merely a repetition of written words or vice
29 versa for purposes of uniformity and style;
- 30 (N) Change nouns from the singular to the plural or vice
31 versa and change forms of verbs for purposes of style and grammar; and
- 32 (O) Change punctuation for purposes of uniformity and
33 consistency of style.
- 34 (2) This subsection shall not apply to the publication known as
35 the Acts of Arkansas. The Acts of Arkansas shall be published containing the

1 acts of the General Assembly exactly as enacted by the General Assembly. No
2 correction, change, renumbering, substitution, redesignation, or
3 rearrangement shall be made to the text of the acts published in the Acts of
4 Arkansas."

5

6 SECTION 2. Subchapter 3 of chapter 2 of title 1 is hereby amended by
7 adding a new § 1-2-307 to read as follows:

8 "1-2-307. Code of state regulations.

9 (a) The format and indexing of a code of state regulations shall
10 conform as nearly as practical to the format and indexing of the Arkansas
11 Code of 1987 Annotated.

12 (b) To be accepted by the Code Revision Commission for publication in
13 a code of state regulations, a rule shall:

14 (1) Cite the law under which the rule is adopted;

15 (2) Be signed by the head of the agency or the rule-making
16 coordinator for the agency adopting the rule; and

17 (3) Be in the physical form specified by the commission.

18 (c) In the performance of its duties under this subchapter, the
19 commission may:

20 (1) Call upon an agency to submit to the commission one or more
21 copies of all existing rules as well as subsequent amendments, repeals,
22 additions, or new rules;

23 (2) Advise agencies as to the form and style of their rules as
24 well as the compilation or codification thereof; and

25 (3) Promulgate general or special rules respecting the nature
26 and content of the code of state regulations, making exceptions to it,
27 supplementing or limiting the duties of agencies under this subchapter, and
28 otherwise carrying out the purposes of this subchapter.

29 (d)(1) After consulting with the agency that adopted the rule, the
30 commission may revise the form of a rule submitted for inclusion in a code of
31 state regulations to do one or more of the following:

32 (A) Rearrange the order of the rule in the code or the
33 order of the subsections, subdivisions, or other subparts of the rule;

34 (B) Provide a heading for the rule or revise the heading
35 of the rule;

1 (C) Reletter or renumber the rule or the subparts of the
2 rule in accordance with a uniform system;

3 (D) Rearrange definitions and lists; and

4 (E) Make any other changes in arrangement or in form that
5 do not change the substance of the rule and are necessary or desirable for a
6 clear and orderly arrangement of the rule.

7 (2) Revision of a rule by the commission under this section does
8 not affect the effective date of the rule or require the agency to readopt or
9 resubmit the rule. When the commission revises the form of a rule, the
10 commission shall send the agency that adopted the rule a copy of the revised
11 rule. The revised rule is the official rule.

12 (e) No rule shall be valid unless adopted and filed in substantial
13 compliance with this section."

14

15 SECTION 3. Section 25-15-204(d) is hereby amended to read as follows:

16 "(d)(1) Every agency, including those exempted under § 25-15-202,
17 shall file with the Secretary of State, the Arkansas State Library, and the
18 Arkansas Code Revision Commission a certified copy of each rule and
19 regulation adopted by it.

20 (2) The Secretary of State shall keep a register of the rules
21 open to public inspection, and it shall be a permanent register.

22 (3) The Arkansas Code Revision Commission shall publish a code
23 of state regulations pursuant to § 1-2-301 et seq."

24

25 SECTION 4. All provisions of this act of a general and permanent
26 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
27 Code Revision Commission shall incorporate the same in the Code.

28

29 SECTION 5. If any provision of this act or the application thereof to
30 any person or circumstance is held invalid, such invalidity shall not affect
31 other provisions or applications of the act which can be given effect without
32 the invalid provision or application, and to this end the provisions of this
33 act are declared to be severable.

34

35 SECTION 6. All laws and parts of laws in conflict with this act are

1 hereby repealed.

2

3

4

5

6

7

8