

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

# A Bill

HOUSE BILL 1994

5 By: Representative Bradford  
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## For An Act To Be Entitled

9 AN ACT TO CLARIFY THE REQUIREMENTS FOR STATE  
10 AGENCIES WHEN CONTRACTING FOR PROFESSIONAL AND  
11 CONSULTANT SERVICES WHEN THE SERVICES ARE  
12 IMPACTED BY ARRANGEMENTS RELATED TO PATENTS,  
13 COPYRIGHTS, AND OTHER PROPRIETARY INFORMATION  
14 BELONGING TO INSTITUTIONS OF HIGHER EDUCATION;  
15 AND FOR OTHER PURPOSES.  
16

## Subtitle

17 CLARIFY THE REQUIREMENTS FOR CONTRACTING  
18 FOR PROFESSIONAL AND CONSULTANT SERVICES  
19 WHEN THE SERVICES ARE IMPACTED BY  
20 ARRANGEMENTS RELATED TO PATENTS,  
21 COPYRIGHTS, AND OTHER PROPRIETARY  
22 INFORMATION.  
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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28 SECTION 1. Arkansas Code § 19-11-717 is amended to read as follows:  
29 19-11-717. Institutions of higher education.

30 (a) Notwithstanding anything in this subchapter to the contrary, it  
31 shall not be a violation of § 19-11-709, or a conflict of interest, or a  
32 breach of ethical standards for:

33 (1) An institution of higher education to contract with a person  
34 or firm in which an employee or former employee of such institution has a  
35 financial interest; or

36 (2) An employee or former employee of an institution of higher



1 education to participate directly or indirectly in any matter pertaining to  
 2 any contract or subcontract or any solicitation or proposal therefor between  
 3 the institution and a person or firm in which such employee or former  
 4 employee has a financial interest;

5 If, in either of the foregoing events, such contract or subcontract,  
 6 solicitation, or proposal involves patents, copyrights, or other proprietary  
 7 information in which the institution and the employee or former employee have  
 8 rights or interests; provided that any such contract or subcontract shall be  
 9 approved by the governing board of such institution in public meeting.

10 (b)(1) Nothing in the Arkansas Procurement Law, § 19-11-201 et seq. or  
 11 in § 19-11-1001 through 1012 shall prevent a state agency from contracting  
 12 for goods or services, including professional or consultant services, with an  
 13 organization that employs or contracts with a regular, full-time, or part-  
 14 time employee of a public institution of higher education in situations in  
 15 which the employee of the institution of higher education will provide some  
 16 or all of the goods or services under the contract.

17 (2) An employee of an institution of higher education who  
 18 provides goods or services to a state agency through his or her association  
 19 with an organization that has a contract with the state agency to provide  
 20 goods or services shall obtain the requisite approvals under the policies of  
 21 the institution of higher education by which he or she is employed and comply  
 22 with all provisions of this subchapter.

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 24 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 25 General Assembly of the State of Arkansas that a question has arisen  
 26 concerning the ability of state agencies to contract with business  
 27 organizations for professional or consultant services in situations where the  
 28 services will be provided, in whole or in part, by persons who are associated  
 29 with the business organization and who are also employees of the public  
 30 institution of higher education; that employees of institutions of higher  
 31 education engage in research that results in patents, copyrights, or  
 32 proprietary interests; that under the policies of most institutions of higher  
 33 education, the patents, copyrights, and proprietary interests are owned by  
 34 the institution and are often commercialized in a manner that encourages and  
 35 enhances economic development in the State of Arkansas through business  
 36 organizations in which the institutions of higher education and some of their

1 employees have an interest; that it is generally accepted under the policies  
2 of public institutions of higher education that employees whose inventions  
3 result in patents, copyrights, or other proprietary interests retain a right  
4 to receive a portion of the income from commercialization of these inventions  
5 and are allowed to devote a portion of their time to outside employment or  
6 consulting contracts with the business organizations that have licensed their  
7 inventions; that state agencies currently are uncertain whether they may  
8 contract for goods or services with business organizations to which employees  
9 of institutions of higher education provide services through arrangements  
10 related to patents, copyrights, or other proprietary interests; that such  
11 uncertainty has the effect of depriving state agencies of the benefit of new  
12 technology developments through public institutions of higher education; and  
13 that this act is immediately necessary in order to clarify the law so that  
14 state agencies are not unreasonably restricted in their ability to enter into  
15 necessary contractual arrangements that have positive impact on the economic  
16 development of the State of Arkansas and promote the development of new  
17 technologies. Therefore, an emergency is declared to exist and this act  
18 being immediately necessary for the preservation of the public peace, health,  
19 and safety shall become effective on:

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor,  
22 the expiration of the period of time during which the Governor may veto the  
23 bill; or

24 (3) If the bill is vetoed by the Governor and the veto is  
25 overridden, the date the last house overrides the veto.

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