

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 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 1492

4
5 By: Representative Overbey
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For An Act To Be Entitled

8
9 AN ACT TO AMEND COUNTY SALE, LEASE, AND
10 PROCUREMENT PROCEDURES; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO AMEND COUNTY SALE, LEASE, AND
14 PROCUREMENT PROCEDURES.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 14-14-1102(b)(3), concerning custody of
20 county property, is amended to read as follows:

21 (3)(A) Custody of County Property. The county judge, as the
22 chief executive officer of the county, shall have custody of county property
23 and ~~shall be~~ is responsible for the administration, care, and keeping of such
24 county property, including the right to dispose of county property in the
25 manner and procedure provided by law for the disposal of county property by
26 the county court. The county judge shall have the right to lease, assign, or
27 not assign use of such property whether or not the county property was
28 purchased with county funds or was acquired through donations, gifts, grants,
29 confiscation, or condemnation.

30 (B) In addition to other terms the county court finds
31 reasonable and proper, the contract for the lease of county property shall
32 provide that when the leased property ceases to be used for the purpose
33 expressed in the lease or needs to be used by the county, the lease may be
34 cancelled by the county court after reasonable notice.
35

36 SECTION 2. Arkansas Code § 14-14-1102(b)(5)(A), concerning the



1 employment of necessary personnel, is amended to read as follows:

2 (5) Hiring of County Employees, Except Those Persons Employed by
3 Other Elected Officials of the County.

4 (A) The county judge, as the chief executive officer of
5 the county, ~~shall be~~ is responsible for the employment of the necessary
6 personnel or for the purchase of labor or services performed by individuals
7 or firms employed by the county, or an agency thereof, for salaries, wages,
8 insurance, or other forms of compensation.

9
10 SECTION 3. Arkansas Code § 14-16-105 is amended to read as follows:

11 14-16-105. Sale of county property generally.

12 (a) The county court of each county shall have power and jurisdiction
13 to sell or trade and cause to be conveyed any real estate or personal
14 property belonging to the county and to appropriate the proceeds of the sale
15 for the use of the county by proceeding in the manner set forth in this
16 section.

17 (b)(1) Whenever the county judge of any county shall consider it
18 advisable and to the best interest of the county to sell or trade and convey
19 any real or personal property belonging to the county, he or she shall cause
20 an order to be entered in the county court setting forth:

21 (A) A description of the property to be sold or traded;

22 (B) The reason for the sale or trade; and

23 (C) An order directing the county assessor to cause the
24 property to be appraised at its fair market value and to certify his or her
25 appraisal thereof to the county court within a time to be specified in the
26 order.

27 (2) A certified copy of the order shall be delivered to the
28 county assessor by the county clerk, and the county clerk shall certify the
29 date of the delivery of the copy on the margin of the record where the order
30 is recorded.

31 (3) An order and the procedures prescribed in this section shall
32 not be required for any sale by the county of any materials separated,
33 collected, recovered, or created by a recycling program authorized and
34 operated by the county. However, the county judge shall maintain a record of
35 the recyclable materials sold, whether they were sold at public or private
36 sale, a description of the recyclables sold, the name of the purchaser, and

1 the terms of the sale. All the proceeds of the sale shall be deposited with
 2 the county treasurer.

3 (4) An order and the procedures described in this section shall
 4 not be required for any conveyance by the county of a conservation easement
 5 as described in § 15-20-401 et seq. However, no such conveyance shall be made
 6 unless authorized by a majority vote of the quorum court.

7 (c)(1) Upon receipt of the certified copy of the order, the county
 8 assessor shall view the property described in the order and shall cause it to
 9 be appraised at its fair market value.

10 (2) Within the time specified in the order, the assessor shall
 11 file with the county clerk his or her written certificate of appraisal of the
 12 property.

13 (d)(1) If the appraised value of the property described in the order
 14 is less than the sum of ~~one thousand dollars (\$1,000)~~ two thousand dollars
 15 (\$2,000), the property may thereafter be sold or traded and conveyed by the
 16 county judge, either at public or private sale, for not less than three-
 17 fourths ($\frac{3}{4}$) of the appraised value as shown by the certificate of appraisal
 18 filed by the assessor.

19 (2)(A) When the sale or trade has been completed, the county
 20 court shall enter its order approving the sale.

21 (B) The order shall set forth:

22 (i) The description of the property sold or traded;

23 (ii) The name of the purchaser or the entity to whom
 24 the property has been conveyed;

25 (iii) The terms of the sale or trade; and

26 (iv)(a)(1) That the proceeds of the ~~sale~~ conveyance,
 27 if in cash, have been deposited with the county treasurer; ~~and or~~

28 (2) That the proceeds of the conveyance,
 29 if in kind and not a consumable commodity, have been listed on the county's
 30 schedule of fixed assets and equipment as required by § 14-25-106 and
 31 credited to the office or department from which the trade originated; and

32 (b) The funds, if in cash, to which the
 33 proceeds were credited by the county treasurer.

34 (e)(1)(A)(i) If the appraised value of the property to be sold exceeds
 35 the sum of ~~one thousand dollars (\$1,000)~~ two thousand dollars (\$2,000), the
 36 county judge may sell the property to the highest and best bidder, upon

1 sealed bids received by the judge.

2 (ii) The sheriff, the treasurer, and the circuit
 3 clerk of the county in which the property is to be sold shall constitute a
 4 board of approval for the sales, and the judge shall be the ex officio chair
 5 of the board without a vote.

6 (B) Such property, when it exceeds the appraised value of
 7 ~~one thousand dollars (\$1,000)~~ two thousand dollars (\$2,000), shall not be
 8 sold for less than three-fourths ($\frac{3}{4}$) of its appraised value as determined by
 9 the certificate of the assessor.

10 (2)(A) Notice of the sale shall be published for two (2)
 11 consecutive weekly insertions in some newspaper published and having a
 12 general circulation in the county.

13 (B) The notice shall specify:

14 (i) The description of the property to be sold;

15 (ii) The time and place for submitting written bids,
 16 including that the sale may be conducted on the Internet; and

17 (iii) The appraised value of the property to be
 18 sold.

19 (C) The notice shall be dated and signed by the judge.

20 (3) The judge shall have the right to reject any and all bids
 21 received by him or her pursuant to the notice.

22 (4)(A) When the judge has accepted a bid for the property, he or
 23 she, as chair of the approval board, shall immediately call a meeting of the
 24 board, and the proposals to sell at the acceptable bid shall be submitted to
 25 the board for its approval.

26 (B)(i) If a majority of the board approves the sale, then
 27 the judge may sell and convey the property to the highest bidder.

28 (ii) When the sale has been approved and completed,
 29 the county court shall enter an order approving the sale, which shall set
 30 forth the details of the sale as provided in subdivision (d)(2)(B) of this
 31 section.

32 (f)(1)(A) Any sale or conveyance of real or personal property
 33 belonging to any county not made pursuant to the terms of this section shall
 34 be null and void.

35 (B)(i) Any taxpayer of the county may bring an action to
 36 cancel the sale and to recover possession of the property sold within two (2)

1 years from the date a sale is consummated.

2 (ii) This action for the use and benefit of the
 3 county is to be taken in the circuit court of the county in which the sale is
 4 made or in any county where personal property so sold may be found.

5 (iii) In the event the property is recovered for the
 6 county in the action, the purchaser shall not be entitled to a refund of the
 7 consideration paid by him or her for the sale.

8 (2) The procedures for sale and conveyance of county property
 9 set forth in this section shall not apply in these instances:

10 (A) When personal property of the county is traded in on
 11 new or used equipment and credit approximating the fair market price of the
 12 personal property is given the county toward the purchase price of new
 13 equipment;

14 (B) When the sale of the personal property of the county
 15 involves the sale by the county of any materials separated, collected,
 16 recovered, or created by a recycling program authorized and operated by the
 17 county;

18 (C) When the county is conveying an easement, including,
 19 but not limited to, easements granted upon county lands for water
 20 improvements, sewer improvements, gas lines, electric lines, phone lines,
 21 utilities, railways, public roads, highways, and conservation easements as
 22 described in § 15-20-401 et seq. for any of the purposes enumerated in § 15-
 23 20-401 et seq., as the same may be amended from time to time; or

24 (D) When the county is leasing county property, including,
 25 but not limited to, leasing county lands or property under § 14-16-108, § 14-
 26 16-109, § 14-16-110, or the Municipalities and Counties Industrial
 27 Development Revenue Bond Law, § 14-164-201 et seq.

28 (g)(1) County hospitals constructed or maintained in whole or part by
 29 taxes approved by the voters shall not be sold unless the sale is approved by
 30 the majority of electors voting on the issue at a general or special
 31 election. This subsection is applicable to county hospitals constructed
 32 before and after July 20, 1987.

33 (2) An election shall not be required for the sale of a
 34 county hospital that has been vacant or not used as a county hospital for
 35 more than one hundred twenty (120) days.

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1 SECTION 4. Arkansas Code § 14-16-109 is amended to read as follows:
 2 14-16-109. Lease of county lands to municipality.

3 (a) Any county in this state is authorized and empowered to may lease
 4 any lands owned by the county to any municipality in the county, to be used
 5 for such purposes, subject to such restrictions, and for such consideration
 6 or compensation as shall be agreed upon by the contracting county and
 7 municipality.

8 (b) In addition to other terms the county court finds reasonable and
 9 proper, the contract for the lease of county property shall provide that when
 10 the leased property ceases to be used for the purpose expressed in the lease
 11 or needs to be used by the county, the lease may be cancelled by the county
 12 court after reasonable notice.

13
 14 SECTION 5. Arkansas Code § 14-16-110(c)(3), concerning leases of
 15 county property to educational institutions, is amended to read as follows:

16 (3) Any such lease shall provide, in addition to any other terms
 17 as the county court shall deem reasonable and proper, that when the property
 18 ~~shall cease~~ ceases to be used for the foregoing purposes or needs to be used
 19 by the county, then the lease may be cancelled by the county court, after
 20 reasonable notice.

21
 22 SECTION 6. Arkansas Code § 14-22-101(8), concerning the definition of
 23 "used or secondhand motor vehicles, equipment, or machinery", is amended to
 24 read as follows:

25 (8)(A) "Used or secondhand motor vehicles, equipment, or
 26 machinery" means any motor vehicles, equipment, or machinery at least two (2)
 27 years in age from the date of original manufacture or that has at least five
 28 hundred (500) working hours' prior use or ten thousand (10,000) miles' prior
 29 use.

30 (B)(i) Any purchase of a used motor vehicle, equipment, or
 31 machinery shall be accompanied by a statement in writing from the vendor on
 32 the bill of sale or otherwise documenting that the motor vehicle, equipment,
 33 or machinery is at least two (2) years in age from the date of original
 34 manufacture or has been used a minimum of five hundred (500) hours or driven
 35 a minimum of ten thousand (10,000) miles.

36 (ii) This statement shall be filed with the county

1 clerk at the time of purchase.

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3 SECTION 7. Arkansas Code § 14-22-106(14), concerning commodities that
4 may be purchased without soliciting bids, is amended to read as follows:

5 (14) Motor fuels, oil, asphalt, asphalt oil, and natural gas;

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7 SECTION 8. Arkansas Code § 14-22-106, concerning commodities that may
8 be purchased without soliciting bids, is amended to add new subdivisions to
9 read as follows:

10 (17)(A) New motor vehicles purchased from a licensed automobile
11 dealership located in Arkansas for an amount not to exceed the fleet price
12 awarded by the Office of State Procurement and in effect at the time the
13 county submits the purchase order for the same make and model motor vehicle.

14 (B) The purchase amount for a new motor vehicle may
15 include additional options up to six hundred dollars (\$600) over the fleet
16 price awarded;

17 (18) Renewal or an extension of the term of an existing
18 contract;

19 (19) Purchase of insurance for county employees, including
20 without limitation health insurance, workers' compensation insurance, life
21 insurance, risk management services, or dental insurance; and

22 (20) Purchases made through programs of the National Association
23 of Counties or the Association of Arkansas Counties.

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