

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4  
5 By: Senator D. Johnson  
6

# A Bill

SENATE BILL 890

## For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE PURCHASE  
9 OF WORK CENTER PRODUCTS BY STATE AGENCIES; AND FOR  
10 OTHER PURPOSES.

## Subtitle

14 TO AMEND ARKANSAS LAW CONCERNING THE  
15 PURCHASE OF WORK CENTER PRODUCTS BY STATE  
16 AGENCIES.

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

21 SECTION 1. Arkansas Code § 19-11-902 is amended to read as follows:  
22 19-11-902. Rules.

23 (a) The Office of State Procurement shall be responsible for  
24 developing rules governing implementation of this subchapter.

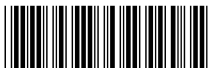
25 (b) As used in this subchapter:

26 ~~(1) "Arkansas Rehabilitation Services" means the Arkansas~~  
27 ~~Rehabilitation Services of the Department of Workforce Education;~~

28 ~~(2)(1) "Commodities" means all property, including, but not~~  
29 ~~limited to, including without limitation~~ equipment, printing, stationery,  
30 supplies, and insurance, but excluding real property, leases on real  
31 property, or a permanent interest in real property;

32 ~~(3) "Disabled individuals" means those persons who have a~~  
33 ~~medically or psychiatrically determined physical, mental, or developmental~~  
34 ~~disability constituting a substantial vocational handicap;~~

35 ~~(4)(2) "Fiscal year" means July 1 of one (1) year through June~~  
36 30 of the next year;



1           (3) "Individuals with disabilities" means those persons who have  
2 a medically or psychiatrically determined physical, mental, or developmental  
3 disability constituting a substantial vocational handicap;

4           ~~(5)~~(4) "Ordering office" means any state department, independent  
5 establishment, board, commission, bureau, service, or division of state  
6 government and any wholly owned state corporation;

7           ~~(6)~~(5) "Products", for purposes of this subchapter, means  
8 commodities or services wherein the price of the commodities includes at  
9 least twenty percent (20%) value added when the work center is awarded a  
10 contract using the ten percent (10%) preference, and in the case of services,  
11 that they are performed by individuals with disabilities;

12           ~~(7)~~(6)(A) "Services" means the furnishing of labor, time, or  
13 effort by a contractor, not involving the delivery of a specific end product  
14 other than reports which are merely incidental to the required performance.

15                   (B) "Services" shall not include employment agreements,  
16 collective bargaining agreements, or architectural or engineering contracts  
17 requiring approval of Arkansas Building Authority;

18           ~~(8)~~(7) "Sheltered workshop" means a work center which has:

19                   (A) Certification from the United States Department of  
20 Labor as a sheltered workshop; and

21                   (B) Been licensed by the Division of Developmental  
22 Disabilities Services of the Department of Human Services or certification  
23 from Arkansas Rehabilitation Services; ~~and~~

24           ~~(9)~~(8)(A) "Work center" means any facility certified by the  
25 Arkansas Rehabilitation Services where any manufacture or handiwork is  
26 carried on and which is operated for the primary purpose of providing  
27 evaluation, training, and gainful employment to individuals with disabilities  
28 of Arkansas:

29                           (i) As an interim step in the rehabilitation process  
30 for those who cannot be readily absorbed in the competitive labor market; or

31                           (ii) During such time as employment opportunities  
32 for them in the competitive labor market do not exist.

33                   (B) "Work center" includes without limitation:

34                           (i) a sheltered work center; and

35                           (ii) A work center for the blind; and

36           (9) "Work center for the blind" means a facility certified by

1 the Division of State Services for the Blind of the Department of Human  
2 Services where any manufacture, handiwork, or provision of services is  
3 carried on and that is operated to provide evaluation, training, and gainful  
4 employment to individuals in the State of Arkansas eligible for services from  
5 the Division of State Services for the Blind:

6 (A) As an interim step in the rehabilitation process for  
7 those who cannot be readily absorbed in the competitive labor market;

8 (B) During such time as employment opportunities for  
9 individuals in the State of Arkansas eligible for service from the Division  
10 of State Services for the Blind in the competitive labor market do not exist;  
11 or

12 (C) For whom such placement represents informed choice as  
13 appropriate employment at a competitive wage.

14 (c) All state agencies as defined in § 19-11-203 are required to  
15 purchase their requirements of needed available and suitable products and  
16 purchase suitable services from nonprofit work centers for individuals with  
17 disabilities, unless such commodities and services are authorized by prior  
18 legislation for production in another state agency, department, or  
19 institution.

20 (d)(1) The Office of State Procurement shall issue to all state agency  
21 purchasing agents a schedule of ~~work center made~~ commodities and services  
22 made by the work center and the conditions under which they are to be  
23 procured from the workshops.

24 (2) The schedule shall include the item or service description.

25 (e) Arkansas Rehabilitation Services and the Division of State  
26 Services for the Blind shall undertake the inspection on a continuing basis  
27 of the workshops certified by ~~Arkansas Rehabilitation Services~~ each  
28 respective state agency to determine that they operate in accordance with the  
29 requirements of the statute and the regulations of this section.

30 (f)(1)(A) In order to qualify for participation in the program as a  
31 work center, an organization shall submit an application to the ~~office~~ Office  
32 of State Procurement.

33 (B) If required for all vendors, there should be included  
34 a list of the commodities and services offered for sale to the state.

35 (2) Work centers shall:

36 (A) Furnish commodities and services in strict accordance

1 with the allocation and government order;

2 (B) Maintain records of wages paid, hours of employment,  
3 and sales;

4 (C) Make available pertinent books and records of the  
5 state agency for inspection at any reasonable time to representatives of  
6 Arkansas Rehabilitation Services or the Division of State Services for the  
7 Blind, as applicable; and

8 (D)(i) Submit to Arkansas Rehabilitation Services or the  
9 Division of State Services for the Blind, as applicable, by September 1 an  
10 annual report for the preceding fiscal year.

11 (ii) This report shall include data on individuals  
12 with disabilities who are workers, wages and wage supplements, hours of  
13 employment, sales, whether the workshop requires a facilities sheltered  
14 workshop certificate from the United States Department of Labor and special  
15 minimum rates authorized where such certificate is held and such other  
16 relevant information as may be required.

17 (g) When a commodity or service is identified in the schedule of work  
18 center-made commodities and services as being available through the ~~office~~  
19 Office of State Procurement, it shall be obtained in accordance with the  
20 requisitioning procedures of the supplying state agency.

21 (h) An ordering office may purchase from a nonworkshop source  
22 commodities or services listed in the schedule of ~~work-center-made~~  
23 commodities and services made by the work center in any of the following  
24 circumstances:

25 (1) Necessity requires delivery within the specified period, and  
26 the work center cannot give assurance of positive availability;

27 (2) When commodities listed on the schedule of work center-made  
28 commodities can be purchased from a ~~nonwork-center~~ non-work-center source by  
29 the state agency for a price more than ten percent (10%) lower than ~~work~~  
30 ~~center-made~~ commodities made by the work center included in the schedule; or

31 (3) Services offered by any work center shall be procured by any  
32 state agency in accordance with this section at a price not more than ten  
33 percent (10%) above the lowest price submitted from a ~~nonwork-center~~ non-  
34 work-center source.

35 (i) ~~Work-center-made product~~ Product commodities made by a work center  
36 ~~will~~ shall be delivered in accordance with the terms of the purchase order.

1 (j) When a workshop fails to comply with the terms of a government  
2 order, the ordering office shall make reasonable efforts to negotiate an  
3 adjustment before taking action to cancel the order.

4 (k) Any alleged violation of these regulations shall be investigated  
5 by the ~~office~~ Office of State Procurement, which shall notify the work center  
6 concerned and afford it an opportunity to submit a statement of facts and  
7 evidence.

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