

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

SENATE BILL 256

5 By: Senator Irvin
6 By: Representative Davis
7

For An Act To Be Entitled

9 AN ACT TO TRANSFER THE ARKANSAS ENERGY OFFICE TO THE
10 ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY; AND FOR
11 OTHER PURPOSES.
12
13

Subtitle

15 TO TRANSFER THE ARKANSAS ENERGY OFFICE TO
16 THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL
17 QUALITY.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. DO NOT CODIFY. Transfer of the Arkansas Energy Office to
23 the Arkansas Department of Environmental Quality.

24 (a)(1) Arkansas Energy Office is transferred to the Arkansas
25 Department of Environmental Quality by a type 2 transfer under § 25-2-105.

26 (2) For the purposes of this act, the Arkansas Department of
27 Environmental Quality shall be considered a principal department established
28 by Acts 1971, No. 38.

29 (b) All authority, powers, duties, functions, records, personnel,
30 property, unexpended balances of appropriations, allocations, and other
31 funds, including the functions of budgeting or purchasing of the Arkansas
32 Energy Office, are transferred to the Arkansas Department of Environmental
33 Quality, except as specified by this act.

34 (c) All powers, duties, and functions, including rulemaking,
35 regulation, and licensing, promulgation of rules, rates, and standards, and
36 the rendering of findings, orders, and adjudications of the Arkansas Energy



1 Office are transferred to the Director of the Arkansas Department of
2 Environmental Quality.

3 (d) The employees and designees of the Arkansas Energy Office, and
4 their successors, shall continue to be selected in the manner and serve for
5 the terms provided by the statutes applicable to the Arkansas Energy Office
6 except as specified in this act.

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8 SECTION 2. Arkansas Code § 8-1-202(b)(2), concerning the powers of the
9 Director of the Arkansas Department of Environmental Quality, is amended to
10 read as follows:

11 (2) As such, the director’s duties shall include:

12 (A)(i) The administration of permitting, licensing,
13 certification, and grants programs deemed necessary to protect the
14 environmental integrity of the state.

15 (ii) The director, or his or her ~~delegatee~~ designee
16 within his or her staff, shall serve as the issuing authority for the state;

17 (B)(i) Initiation and settlement of civil or
18 administrative enforcement actions to compel compliance with laws, orders,
19 and regulations charged to the responsibility of the department.

20 (ii) In this regard, the director may propose the
21 assessment of civil penalties as provided by law and take all actions
22 necessary to collect such penalties;

23 (C) Issuance of orders in such circumstances that
24 reasonably require emergency measures to be taken to protect the environment
25 or the public health and safety, except to the extent that the matter
26 involved is reserved to the jurisdiction or orders of the Arkansas Pollution
27 Control and Ecology Commission for rulemaking procedures in § 8-4-202;

28 (D) Day-to-day administration of all activities that the
29 department is empowered by law to perform, including, but not limited to, the
30 employment and supervision of such technical, legal, and administrative
31 staff, within approved appropriations, as is necessary to carry out the
32 responsibilities vested with the department;

33 (E) Providing technical and legal expertise and assistance
34 in the field of environmental protection to other agencies and subdivisions
35 of the state as appropriate;

36 (F) Day-to-day administration of environmental programs

1 delegated to the State of Arkansas by the responsible agencies of the ~~federal~~
2 ~~government~~ United States Government; and

3 (G) The supervision of the Arkansas Energy Office under §
4 15-10-201 et seq.; and

5 ~~(G)(H)~~ Any other power or duty specifically vested with
6 the director or department by the General Assembly.

7
8 SECTION 3. Arkansas Code § 14-164-803(4)(A)(ii), concerning
9 definitions used throughout the Local Government Energy Efficiency Project
10 Bond Act, is amended to read as follows:

11 (ii) Are measurable and verifiable under the International
12 Performance Measurement and Verification Protocol, as adopted by the Arkansas
13 Energy Office with the approval of the Director of the Arkansas Department of
14 Environmental Quality in the rules required under § 19-11-1207; and

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16 SECTION 4. Arkansas Code § 14-164-821 is amended to read as follows:
17 14-164-821. Rules.

18 A municipality or county may provide by ordinance that the municipality
19 or county shall comply with the rules promulgated by the Arkansas Energy
20 Office with the approval of the Director of the Arkansas Department of
21 Environmental Quality under § 19-11-1207.

22
23 SECTION 5. Arkansas Code § 15-10-202(5), concerning the declaration of
24 policy under the Arkansas Energy Reorganization and Policy Act of 1981, is
25 amended to read as follows:

26 (5) It is in the best interest of the citizens of this state to
27 establish ~~a division~~ the Arkansas Energy Office within the ~~Arkansas Economic~~
28 ~~Development Commission~~ Arkansas Department of Environmental Quality to
29 coordinate the planning and execution of comprehensive energy conservation
30 programs; and

31
32 SECTION 6. Arkansas Code § 15-10-203 is amended to read as follows:
33 15-10-203. Arkansas Energy Office – Creation.

34 (a)(1) There is created ~~an~~ the Arkansas Energy Office, ~~also referred~~
35 ~~to in this subchapter as the “office”, as a division~~ an office within the
36 ~~Arkansas Economic Development Commission~~ Arkansas Department of Environmental

1 Quality.

2 (2)(A) The executive head of ~~this division~~ the office shall be
3 the Director of the Arkansas Energy Office.

4 (B) The Director of the Arkansas Energy Office shall be
5 appointed by the ~~Executive Director of the Arkansas Economic Development~~
6 ~~Commission~~ Director of the Arkansas Department of Environmental Quality with
7 the advice and consent of the Governor.

8 (b) The office shall consist of such divisions as may be established
9 by the Director of the Arkansas Energy Office, with the approval of the
10 ~~Executive Director of the Arkansas Economic Development Commission~~ Director
11 of the Arkansas Department of Environmental Quality.

12
13 SECTION 7. Arkansas Code § 15-10-204(c), concerning the Director of
14 the Arkansas Energy Office, is amended to read as follows:

15 (c) In addition to other duties and functions prescribed for the
16 Director of the Arkansas Energy Office elsewhere in this subchapter, the
17 Director of the Arkansas Energy Office shall supervise the daily operation of
18 the office and advise the ~~Executive Director of the Arkansas Economic~~
19 ~~Development Commission~~ Director of the Arkansas Department of Environmental
20 Quality, the Governor, and the General Assembly on energy matters.

21
22 SECTION 8. The introductory language of Arkansas Code § 15-10-205(a),
23 concerning the powers and duties of the Arkansas Energy Office, is amended to
24 read as follows:

25 (a) With the approval of the Director of the Arkansas Department of
26 Environmental Quality, The the Arkansas Energy Office shall coordinate
27 authority and planning by the state in energy-related matters and shall have
28 the following duties and responsibilities:

29
30 SECTION 9. The introductory language of Arkansas Code § 15-10-205(b),
31 concerning the powers and duties of the Arkansas Energy Office, is amended to
32 read as follows:

33 (b) The office with the approval of the Director of the Arkansas
34 Department of Environmental Quality shall have the authority to:

35
36 SECTION 10. Arkansas Code § 15-10-904(a), concerning rebates for

1 qualified clean-burning motor fuel property, is amended to read as follows:

2 (a) The Arkansas Energy Office ~~of the Arkansas Economic Development~~
3 ~~Commission~~ shall offer a rebate for qualified clean-burning motor vehicle
4 fuel property.

5
6 SECTION 11. Arkansas Code § 15-72-802(1), concerning definitions used
7 throughout the Emergency Petroleum Set-Aside Act, is amended to read as
8 follows:

9 (1) "Assignment" means an action taken by the Arkansas Energy
10 Office with the approval of the Director of the Arkansas Department of
11 Environmental Quality, designating that a prime supplier of petroleum
12 products supply them to an authorized consumer, wholesale purchaser-consumer,
13 or wholesale purchaser-reseller to facilitate relief of emergency or hardship
14 needs, pursuant to § 15-72-804;

15
16 SECTION 12. Arkansas Code § 15-72-802(9), concerning definitions used
17 throughout the Emergency Petroleum Set-Aside Act, is amended to read as
18 follows:

19 (9) "Set-aside" means, with respect to a particular prime
20 supplier, the amount of a petroleum product which is made available from the
21 total supply of a prime supplier, pursuant to the provisions of § 15-72-804,
22 for utilization by the Arkansas Energy Office with the approval of the
23 Director of the Arkansas Department of Environmental Quality to resolve
24 emergencies and hardships due to shortages or other dislocations in petroleum
25 products distribution systems; and

26
27 SECTION 13. Arkansas Code § 15-72-804(a)(1), concerning the
28 establishment of state emergency petroleum set-aside, is amended to read as
29 follows:

30 (a)(1) With the approval of the Director of the Arkansas Department of
31 Environmental Quality, ~~The the~~ Director of the Arkansas Energy Office shall
32 promulgate rules in accordance with the Arkansas Administrative Procedure
33 Act, as amended, § 25-15-201 et seq., establishing a set-aside system for
34 petroleum products and reporting requirements for prime suppliers and
35 brokers.

1 SECTION 14. Arkansas Code § 19-5-1249(c), concerning the Clean-burning
2 Motor Fuel Development Fund, is amended to read as follows:

3 (c) The fund shall be used by the Arkansas Energy Office ~~of the~~
4 ~~Arkansas Economic Development Commission~~ to provide rebates and incentives
5 under the Arkansas Clean-burning Motor Fuel Development Act, § 15-10-901 et
6 seq.

7
8 SECTION 15. Arkansas Code § 19-11-1202(1)(A)(i)(b), concerning
9 definitions used throughout the Guaranteed Energy Cost Savings Act, is
10 amended to read as follows:

11 (b) Are measurable and verifiable under the
12 International Performance Measurement and Verification Protocol, as adopted
13 by the Arkansas Energy Office, with the approval of the Director of the
14 Arkansas Department of Environmental Quality, in the rules required under §
15 19-11-1207; and

16
17 SECTION 16. The introductory language of Arkansas Code § 22-3-
18 2003(b)(1), concerning the Sustainable Energy-Efficient Buildings Program, is
19 amended to read as follows:

20 (1) For public agencies, the Arkansas Energy Office with the
21 approval of the Director of the Arkansas Department of Environmental Quality
22 shall develop and:

23
24 SECTION 17. The introductory language of Arkansas Code § 22-3-2006(a),
25 concerning the program to manage energy usage of public agencies, is amended
26 to read as follows:

27 (a) The Arkansas Energy Office with the approval of the Director of
28 the Arkansas Department of Environmental Quality shall:

29
30 SECTION 18. The introductory language of Arkansas Code § 22-3-2006(b),
31 concerning the program to manage energy usage of public agencies, is amended
32 to read as follows:

33 (b) To implement its plan, the Arkansas Energy Office with the
34 approval of the Director of the Arkansas Department of Environmental Quality
35 shall to the extent funds are available:

36

1 SECTION 19. Arkansas Code § 22-3-2006(c), concerning the program to
 2 manage energy usage of public agencies, is amended to read as follows:

3 (c) The Arkansas Energy Office with the approval of the Director of
 4 the Arkansas Department of Environmental Quality may adopt architectural and
 5 engineering standards to implement this section.

6
 7 SECTION 20. Arkansas Code § 22-3-2007(4), concerning application to
 8 historic and unique buildings, is amended to read as follows:

9 (4) A building that the Arkansas Energy Office with the approval
 10 of the Director of the Arkansas Department of Environmental Quality has
 11 exempted from this subchapter because of its unique architectural
 12 characteristics or usage.

13
 14 SECTION 21. Arkansas Code § 22-3-2008 is amended to read as follows:
 15 22-3-2008. Advisory committee for the Arkansas Energy Office ~~of the~~
 16 ~~Arkansas Economic Development Commission.~~

17 (a)(1) The Director of the Arkansas Energy Office with the approval of
 18 the Director of the Arkansas Department of Environmental Quality shall create
 19 a sustainable, energy-efficient building advisory committee composed of:

- 20 (A) Representatives from the design and construction
 21 industry who are involved in public works contracting;
- 22 (B) Persons from public agencies who are responsible for
 23 overseeing public works projects or for developing energy efficiency programs
 24 and policies; and
- 25 (C) Other persons that the ~~director~~ Director of the
 26 Arkansas Energy Office considers to have useful information.

27 (2) Committee members shall serve at the pleasure of the
 28 ~~director~~ Director of the Arkansas Energy Office.

29 (b) The committee shall provide advice on the implementation of this
 30 subchapter, including without limitation recommendations regarding:

- 31 (1) An education and training process for persons who are
 32 involved in the implementation of this subchapter;
- 33 (2) An ongoing evaluation or feedback process to help the
 34 Arkansas Energy Office to implement this section; and
- 35 (3) Water-deficiency requirements and energy-efficiency
 36 requirements.

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SECTION 22. Arkansas Code § 22-3-2009 is amended to read as follows:
22-3-2009. Rules.

(a) The Arkansas Energy Office with the approval of the Director of the Arkansas Department of Environmental Quality shall:

(1) Adopt rules for the implementation of operation and maintenance energy conservation measures in a public building; and

(2) Develop or revise the Arkansas Energy Office’s architectural and engineering standards to provide assistance in determining:

(A) Which energy conservation measures are best suited to the unique characteristics of each building; and

(B) The specifications for the energy conservation measures under this subchapter; and

(3) Adopt rules for the development of education and training requirements for the various personnel that may be involved in a major facility or a major renovation under this subchapter.

(b) The Arkansas Energy Office with the approval of the Director of the Arkansas Department of Environmental Quality may adopt:

(1) Rules to implement this subchapter; and

(2) Architectural or engineering standards as needed to implement this section.

SECTION 23. The introductory language of Arkansas Code § 22-3-2010(a), concerning performance review, is amended to read as follows:

(a) The Arkansas Energy Office with the approval of the Director of the Arkansas Department of Environmental Quality, to the extent funds are available, shall conduct a performance review of the Sustainable Energy-Efficient Buildings Program that includes at least the following:

SECTION 24. Arkansas Code § 22-3-2011(c)(1), concerning applicability under the Sustainable Energy-Efficient Buildings Program, is amended to read as follows:

(1) Preclude an institution of higher education from adopting the policies and technical guidelines for a major facility or a major renovation that are established by the Arkansas Energy Office with the approval of the Director of the Arkansas Department of Environmental Quality

1 under § 22-3-2003(b)(1); or

2
3 SECTION 25. Arkansas Code § 25-11-103 is amended to read as follows:
4 25-11-103. Transfer of the Weatherization Assistance Program.

5 (a)(1) The Weatherization Assistance Program, a federally funded
6 program under 42 U.S.C. § 6861 et seq., operated by the Division of County
7 Operations of the Department of Human Services is abolished and all the
8 powers, duties and functions, records, property, personnel, unexpended
9 balances of appropriations, allocations, or other funds are transferred by a
10 type 3 transfer to the Arkansas Energy Office ~~of the Arkansas Economic~~
11 ~~Development Commission~~ within the Arkansas Department of Environmental
12 Quality.

13 (2) This transfer does not conflict with any duties,
14 responsibilities, or powers of the office.

15 ~~(b) Unspent funds associated with the Weatherization Assistance~~
16 ~~Program shall be transferred from the Department of Human Services to the~~
17 ~~Arkansas Economic Development Commission within thirty (30) days of the~~
18 ~~effective date of this act.~~

19 ~~(c)~~(b) The department office with the approval of the Director of the
20 Arkansas Department of Environmental Quality annually shall transfer to the
21 ~~commission~~ department a minimum of fifteen percent (15%) up to a maximum of
22 twenty-five percent (25%), as allowed by federal law or regulation, of the
23 annual allocation for the Low Income Home Energy Assistance Program to the
24 ~~commission~~ department to be used by the Weatherization Assistance Program.