

State of Arkansas  
91st General Assembly  
Regular Session, 2017

*As Engrossed: S2/20/17*  
**A Bill**

HOUSE BILL 1319

By: Representative Shepherd

By: Senator Rapert

### **For An Act To Be Entitled**

AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 23 OF  
THE ARKANSAS CODE CONCERNING PUBLIC UTILITIES AND  
REGULATED INDUSTRIES; AND FOR OTHER PURPOSES.

### **Subtitle**

*TO MAKE TECHNICAL CORRECTIONS TO TITLE 23  
OF THE ARKANSAS CODE CONCERNING PUBLIC  
UTILITIES AND REGULATED INDUSTRIES.*

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

SECTION 1. Arkansas Code § 23-2-103(a), concerning the office of the Arkansas Public Service Commission, is amended to clarify that the physical location of the office is in the state capital rather than the State Capitol Building, to read as follows:

(a) The office of the Arkansas Public Service Commission shall be in ~~the State Capitol~~ Little Rock, Arkansas, but the commission may conduct hearings and make investigations anywhere in the different parts of the state when, in the opinion of the commission, the hearings will best serve the interest and convenience of the public.

SECTION 2. Arkansas Code § 23-3-201(d), concerning exemptions claimed by a public utility under the Utility Facility Environmental and Economic Protection Act, is amended to subdivide the subsection for clarity and eliminate unnecessarily duplicative language, to read as follows:

(d) An exemption claimed by a public utility under § 23-18-504(a)(5)



does not bar the:

~~(1) public~~ Public utility from seeking the issuance of a certificate of public convenience and necessity under this section; or

~~(2) nor shall such exemption bar the commission~~ Commission from granting the public utility ~~such~~ the certificate of public convenience and necessity sought under subdivision (d)(1) of this section and thereby allow the public utility to seek recovery of the reasonable cost of the equipment or facilities through rates.

SECTION 3. Arkansas Code § 23-4-422(b)(2), concerning the Arkansas Public Service Commission's authority to determine rates and charges for utility services for retail jurisdiction rate classes, is amended to clarify the subdividing to read as follows:

~~(2)(A)~~ For the retail jurisdiction rate classes, ensure that:

~~(A) all~~ All electric utility *production plant*, production-related costs, ~~all~~ nonfuel production-related costs, purchased capacity costs, and any energy costs incurred resulting from the electric utility's environmental compliance are classified as production demand costs; and

~~(B)(i) Ensure that production~~ Production demand costs are allocated to each customer class pursuant to the average and excess method shown in Table 4-10B on page 51 of the 1992 National Association of Regulatory Utility Commissioners Electric Utility Cost Allocation Manual, as it existed on January 1, 2015, using the average of the four (4) monthly coincident peaks for the months of June, July, August, and September for each class for the coincident peak referenced in Table 4-10B of the manual, as it existed on January 1, 2015, or any subsequent version of the manual to the extent it produces an equivalent result.

~~(C)(ii)~~ Subdivision ~~(b)(2)(B)~~ (b)(2)(B)(i) of this section does not prescribe an allocation for a wind production plant; and

SECTION 4. Arkansas Code § 23-4-1003(b)(3), concerning the requirement for the adoption of rules by the Arkansas Public Service Commission, is repealed because the subdivision is obsolete.

~~(3) The commission shall adopt the initial rules under this subsection within one (1) year of July 31, 2007.~~

SECTION 5. Arkansas Code § 23-63-517(c)(4)(B)(iii), concerning notice of possible disclosure of information an insurer has shared with the National Association of Insurance Commissioners, is amended to clarify the wording to read as follows:

(iii) Require prompt notice ~~to~~ be given to an insurer whose confidential information is shared with and in the possession of the National Association of Insurance Commissioners under this section that the confidential information is subject to a request or subpoena to the National Association of Insurance Commissioners to disclose or produce the confidential information; and

SECTION 6. Arkansas Code § 23-69-409(e)(4)(B)(v), concerning notice of possible disclosure of information an insurer has shared with the National Association of Insurance Commissioners, is amended to clarify the wording to read as follows:

(v) Require prompt notice ~~to~~ be given to an insurer whose confidential information is in the possession of the National Association of Insurance Commissioners or a third-party consultant under this subchapter that the confidential information is subject to a request or subpoena to the National Association of Insurance Commissioners or a third-party consultant for disclosure or production; and

SECTION 7. Arkansas Code § 23-92-201, is amended to alphabetize the defined terms and to reorganize the defined term "third-party administrator" within the section to read as follows:

23-92-201. Definitions.

~~(a)~~ As used in this subchapter:

(1) "Pharmacy benefits manager" means an entity that administers or manages a pharmacy benefits plan or program;

(2) "Pharmacy benefits plan or program" means a plan or program that pays for, reimburses, covers the cost of, or otherwise provides pharmacist services to individuals who reside in or are employed in this state; and

~~(1)(3)(A)~~ "Third-party administrator" means a person, firm, or partnership that collects or charges premiums from or adjusts or settles claims on residents of this state in connection with life or accident and

health coverage provided by a self-insured plan or a multiple employer trust or multiple employer welfare arrangement+.

(B) "Third-party administrator" includes:

(i) An administrative-services-only contract offered by insurers and health maintenance organizations; and

(ii) A pharmacy benefits manager that administers or manages a pharmacy benefits plan or program that furnishes, covers the cost of, or otherwise provides for the practice of pharmacy as defined in § 17-92-101 under any life and accident and health coverage provided in this state by a self-insured plan, a multiple-employer trust, or a multiple-employer-welfare arrangement.

(C) "Third-party administrator" does not include:

(i) An employer, for its employees or for the employees of a subsidiary or affiliated corporation of the employer;

(ii) A union, for its members;

(iii) An insurer or health maintenance organization licensed to do business in this state;

(iv) A creditor, for its debtors, regarding insurance covering a debt between the creditor and its debtors;

(v) A credit-card-issuing company that advances for, or collects premiums or charges from, its credit card holders, as long as that company does not adjust or settle claims;

(vi) An individual who adjusts or settles claims in the normal course of his or her practice or employment and who does not collect charges or premiums in connection with life or accident and health coverage; or

(vii) An agency licensed by the Insurance Commissioner and performing duties pursuant to an agency contract with an insurer authorized to do business in this state.

~~(2) "Pharmacy benefits manager" means an entity that administers or manages a pharmacy benefits plan or program; and~~

~~(3) "Pharmacy benefits plan or program" means a plan or program that pays for, reimburses, covers the cost of, or otherwise provides pharmacist services to individuals who reside in or are employed in this state.~~

~~(b) As used in this subchapter, "third party administrator" includes:~~

~~(1) An administrative services only contract offered by insurers and health maintenance organizations; and~~

~~(2) A pharmacy benefits manager that administers or manages a pharmacy benefits plan or program that furnishes, covers the cost of, or otherwise provides for the practice of pharmacy as defined in § 17-92-101 under any life and accident and health coverage provided in this state by a self-insured plan, a multiple employer trust, or a multiple employer welfare arrangement.~~

~~(c) As used in this subchapter, "third party administrator" does not include the following persons:~~

~~(1) An employer, for its employees or for the employees of a subsidiary or affiliated corporation of the employer;~~

~~(2) A union, for its members;~~

~~(3) An insurer or health maintenance organization licensed to do business in this state;~~

~~(4) A creditor, for its debtors, regarding insurance covering a debt between them;~~

~~(5) A credit card issuing company that advances for or collects premiums or charges from its credit card holders as long as that company does not adjust or settle claims;~~

~~(6) An individual who adjusts or settles claims in the normal course of his or her practice or employment and who does not collect charges or premiums in connection with life or accident and health coverage; or~~

~~(7) An agency licensed by the Insurance Commissioner and performing duties pursuant to an agency contract with an insurer authorized to do business in this state.~~

SECTION 8. Arkansas Code § 23-115-503(b)(1), concerning the authority of the Director of the Office of the Arkansas Lottery to cancel, deny, revoke, suspend, or fail to renew a major procurement contract, is amended to further subdivide the subdivision for clarity to read as follows:

(b)(1) If the Director of the Office of the Arkansas Lottery or his or her designee determines that cancellation, denial, revocation, suspension, or the failure to renew a major procurement contract is in the best interest of the Arkansas Scholarship Lottery, the public welfare, or the State of Arkansas, the director or his or her designee may:

(A) Subject to notice and a right to a hearing, cancel, suspend, revoke, or terminate subject to notice and a right to a hearing a major procurement contract issued under this chapter; or

(B) fail Fail to renew a major procurement contract issued under this chapter.

SECTION 9. Arkansas Code § 23-115-601(d)(2)(A), concerning the posting requirements for a retailer's license, is amended to clarify the wording of the subdivision to read as follows:

(2)(A) A retailer shall post its license and keep the license conspicuously displayed in a location on the premises accessible to the public ~~its license~~.

SECTION 10. Arkansas Code § 23-115-604(b)(1), concerning the authority of the Director of the Office of the Arkansas Lottery to cancel, deny, revoke, suspend, or fail to renew a retailer license, is amended to further subdivide the subdivision for clarity to read as follows:

(b)(1) If the Director of the Office of the Arkansas Lottery or his or her designee determines that cancellation, denial, revocation, suspension, or the failure to renew a retailer license is in the best interest of the Arkansas Scholarship Lottery, the public welfare, or the State of Arkansas, the director or his or her designee may:

(A) Subject to notice and a right to a hearing, cancel, suspend, revoke, or terminate subject to notice and a right to a hearing a retailer license issued under this chapter; or

(B) fail Fail to renew a retailer license issued under this chapter.

SECTION 11. Arkansas Code § 23-115-901(a)(1), concerning the penalty for selling lottery tickets to individuals under eighteen (18) years of age, is amended to remove an erroneous imposition of a time limit for a first offense to read as follows:

(1) A fine not to exceed two hundred fifty dollars (\$250) for a first violation ~~within a forty-eight month period;~~

SECTION 12. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

It is the intent of the General Assembly that:

(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-First General Assembly;

(2) To the extent that a conflict exists between an act of the regular session of the Ninety-First General Assembly and this act:

(A) The act of the regular session of the Ninety-First General Assembly shall be treated as a subsequent act passed by the General Assembly for the purpose of:

(i) Giving the act of the regular session of the Ninety-First General Assembly its full force and effect; and

(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

(B) Section 1-2-107 shall not apply; and

(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987.

*/s/Shepherd*

**APPROVED: 03/03/2017**