



Legislative Oversight

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AMENDMENT 42

§ 1. Commission created — Members — Powers.

There is hereby created a State Highway Commission which shall be vested with all the powers and duties now or hereafter imposed by law for the administration of the State Highway Department, together with all powers necessary or proper to enable the Commission or any of its officers or employees to carry out fully and effectively the regulations and laws relating to the State Highway Department.

CONSTITUTIONAL POWERS AND DUTIES

1. State Highway Commission:

- Administration of the Arkansas Department of Transportation
- Carry out laws relating to Arkansas Department of Transportation
- Employ officers or employees
- Appoint Director of Highways
- Duties of Director of Highways
 - Changes require constitutional amendment

2. General Assembly:

- Grant or withdraw powers and duties of commission, department, and Director of Highways
 - Amendment 42 § 1, § 6
 - *Arkansas Motor Carriers Association, Inc. v. Pritchett*, 303 Ark. 620 (1990)
 - *Hooker v. Parkin*, 235 Ark. 218 (1962)

STATUTORY POWERS AND DUTIES OF STATE HIGHWAY COMMISSION

Ark. Code Ann. 27-65-107 lists the powers and duties granted by the General Assembly to the State Highway Commission for the administration of the Arkansas Department of Transportation. Powers and duties generally fall under the following:

- State Highways
- Federal Aid Programs
- Finance
- Special Programs

The General Assembly may add, amend, or remove these powers and duties

STATUTORY POWERS AND DUTIES OF ARKANSAS DEPARTMENT OF TRANSPORTATION

Jurisdiction over the following modes of transportation:

- Roads/bridges
- Public Transit
- Freight and Passenger Rail
- Pedestrian/bicycle

The General Assembly may add, amend, or remove these powers and duties



Can the General Assembly create an oversight committee to oversee the implementation of the recommendations provided as a result of the study required by Act 298 of 2019?



The Arkansas Supreme Court has recognized that the General Assembly has an important oversight role regarding the functions of state government, stating that the General Assembly “can and should hold hearings and investigate at length the performance of state agencies.” *Chaffin v. Arkansas Game and Fish Commission*, 296 Ark. 431 (1988)

One of the methods the General Assembly has utilized to investigate the performance of state agencies is the creation of oversight groups that focus and specialize in a particular subject or entity.

EXAMPLES OF EXISTING OVERSIGHT COMMITTEES

Lottery Oversight Subcommittee

Act 605 of 2009 creates the Arkansas Lottery Commission Legislative Oversight Committee

Act 1258 of 2015 repeals the committee and transfers its duties to Legislative Council

Lottery Oversight Subcommittee is referred all matters pertaining to:

- Expenditures of lottery proceeds
- Proposed rules of the Office of the Arkansas Lottery
- Proposed contracts of twenty-five thousand dollars (\$25,000) or more
- Reports pertaining to the lottery and lottery scholarships
- Any and all related lottery matters

EXAMPLES OF EXISTING OVERSIGHT COMMITTEES CONT.

Arkansas Health Insurance Marketplace Oversight Subcommittee

Act 1500 of 2013 creates the Arkansas Health Insurance Marketplace Legislative Oversight Committee

Identical Acts 4 and 5 of 2017 (1st Ex. Sess.) transfers oversight from the Arkansas Health Insurance Marketplace Legislative Oversight Committee to the Legislative Council

EXAMPLES OF EXISTING OVERSIGHT COMMITTEES CONT.

Arkansas Health Insurance Marketplace Oversight Subcommittee is referred all matters pertaining to:

- Reports pertaining to the Arkansas Health Insurance Marketplace, as requested by the subcommittee or required by law
- Any and all related insurance and marketplace matters

The subcommittee reports recommendations to the Legislative Council

APPROVAL OF ADMINISTRATIVE RULES

- Amendment 92 allows the General Assembly to provide for the approval of rules by a legislative committee before the rules go into effect.
- Ark. Code Ann. § 23-115-1101 requires the Legislative Council to review and approve lottery rules, which the Legislative Council delegated to the Lottery Oversight Subcommittee by rule.
- Ark. Code Ann. § 10-3-309 intentionally excludes the State Highway Commission and the Arkansas Department of Transportation from rule approval, but the General Assembly or the Legislative Council may amend the definition to include them.



QUESTIONS?