

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
94th General Assembly  
Regular Session, 2023

As Engrossed: H2/28/23 H3/9/23  
**A Bill**

HOUSE BILL 1444

By: Representative Ray  
By: Senator B. Johnson

### For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE ATTORNEY  
GENERAL'S REVIEW OF CONSENT DECREES ENTERED INTO BY  
COVERED ENTITIES; AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE LAW CONCERNING THE ATTORNEY  
GENERAL'S REVIEW OF CONSENT DECREES  
ENTERED INTO BY COVERED ENTITIES.

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

SECTION 1. Arkansas Code Title 25, Chapter 16, Subchapter 7, is amended to add an additional section to read as follows:

25-16-718. Approval by the Attorney General – Definitions.

(a) As used in this section:

(1)(A) "Consent decree" means any contract or agreement, entered into for the purpose of resolving existing litigation or avoiding anticipated litigation, containing injunctive or equitable relief as a term of the contract or agreement.

(B) "Consent decree" does not include a contract or agreement that resolves a dispute:

(i) Between a covered entity and a single individual, where the effect of any injunctive or equitable relief directly benefits only that individual; or

(ii) Regarding the obligations of a city, county, municipality, town, conversation district, public school, or school district



regarding a bidding or procurement process;

(2)(A) "Equitable or injunctive relief" means an enforceable obligation to undertake a specific action or refrain from undertaking a specific action.

(B) "Equitable or injunctive relief" does not include an obligation to pay money damages, court costs, attorney's fees, or a release of any claim against a party; and

(3) "Covered entity" means a city, county, municipality, town, conservation district, public school, school district, or public institution of higher education.

(b) In any instance where a covered entity is a defendant in any litigation or is anticipated to become a defendant in litigation and, through its governing executive office or legislative body, seeks to become a party to a consent decree, the covered entity shall send notice to the Attorney General.

(c) Notice as described in subsection (b) of this section shall include all pertinent information related to the subject matter of the litigation, including a draft of the proposed consent decree.

(d)(1)(A) Within thirty (30) days of receiving notice under subsection (b) of this section, the Attorney General shall:

(i) Review the proposed consent decree for compliance with state and federal law; and

(ii) Inform the covered entity, in writing, that the consent decree is approved or rejected.

(B) If the Attorney General fails to review the proposed consent decree within thirty (30) days as outlined in subdivision (d)(1)(A) of this section, the proposed consent decree shall be deemed approved.

(C) If a consent decree is rejected under subdivision (d)(1)(A)(ii) of this section, the Attorney General shall include an explanation of the legal basis for the disapproval.

(2) In addition to notifying the covered entity of the Attorney General's disapproval, the Attorney General may provide the covered entity with a revised draft of the proposed consent decree which would not be disapproved and may be entered into in accordance with this subsection.

(e) Notwithstanding any other provision of law, a covered entity, including through its governing executive official or legislative body, shall

not enter into, and shall be without legal authority under the laws of this state to enter into, any consent decree that has been disapproved by the Attorney General as described in subsection (d) of this section.

(f) Any documents, including without limitation the proposed consent decree and communication between the Attorney General and the covered entities, shall not be subject to the provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq., until the first of either the date that the:

(1) Litigation that formed the basis of the proposed consent decree is dismissed; or

(2) Consent decree is filed with a court.

/s/Ray