

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

As Engrossed: H2/28/23 H3/9/23

# A Bill

HOUSE BILL 1444

5 By: Representative Ray  
6 By: Senator B. Johnson  
7

## For An Act To Be Entitled

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

15 TO AMEND THE LAW CONCERNING THE ATTORNEY  
16 GENERAL'S REVIEW OF CONSENT DECREES  
17 ENTERED INTO BY COVERED ENTITIES.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code Title 25, Chapter 16, Subchapter 7, is  
23 amended to add an additional section to read as follows:

24 25-16-718. Approval by the Attorney General – Definitions.

25 (a) As used in this section:

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

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

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

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



1 regarding a bidding or procurement process;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (2) Consent decree is filed with a court.

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13 /s/Ray  
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