

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**

# **A Bill**

**ACT 429 OF 1995**  
**HOUSE BILL 1377**

4 **By: Representatives Lynn, Jones, Ray, McJunkin, Luker, and Sheppard**

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

8 "AN ACT TO AMEND SUBCHAPTER 8 OF CHAPTER 11 OF TITLE 19 OF  
9 THE ARKANSAS CODE TO PERMIT MORE FLEXIBLE PROCUREMENT OF  
10 PROFESSIONAL SERVICES BY THE STATE OF ARKANSAS AND ITS  
11 POLITICAL SUBDIVISIONS; DECLARING AN EMERGENCY; AND FOR  
12 OTHER PURPOSES."

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## **Subtitle**

15 "TO PERMIT MORE FLEXIBLE PROCUREMENT OF  
16 PROFESSIONAL SERVICES BY THE STATE OF  
17 ARKANSAS AND ITS POLITICAL  
18 SUBDIVISIONS."

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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 19-11-801 is hereby amended to read as  
23 follows:

24 "19-11-801. Policy.

25 It is the policy of the State of Arkansas and its political subdivisions  
26 that the state and its political subdivisions shall negotiate contracts for  
27 professional services on the basis of demonstrated competence and  
28 qualifications for the type of services required and at fair and reasonable  
29 prices and to prohibit the use of competitive bidding for the procurement of  
30 professional services. For purposes of this subchapter, the term professional  
31 services shall include legal, architectural, engineering, land surveying, and  
32 such other consulting services as the political subdivision shall designate by  
33 two-thirds (2/3rds) vote of its governing body."

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35 SECTION 2. Arkansas Code 19-11-802 is hereby amended to read as  
36 follows:

1 "19-11-802. Annual statements of qualifications and performance data -  
2 Restrictions on competitive bidding.

3 (a) In the procurement of professional services, a political subdivision  
4 which utilizes such services may encourage firms engaged in the lawful  
5 practice of these professions to submit annual statements of qualifications  
6 and performance data to the political subdivision, or may request such  
7 information as needed for a particular public project.

8 (b) The political subdivision shall evaluate current statements of  
9 qualifications and performance data of firms on file, or when submitted as  
10 requested, whenever a project requiring professional services is proposed.

11 (c) The political subdivision shall not use competitive bidding for the  
12 procurement of professional services."  
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14 SECTION 3. Arkansas Code 19-11-805 is hereby amended to read as  
15 follows:

16 "19-11-805. Negotiation of contracts.

17 (a) For the basis of negotiations, the political subdivisions and the  
18 selected firm shall jointly prepare a detailed, written description of the  
19 scope of the proposed services.

20 (b) If the political subdivision is unable to negotiate a satisfactory  
21 contract with the firm selected, negotiations with that firm shall be  
22 terminated. The political subdivision shall then undertake negotiations with  
23 another of the qualified firms selected. If there is a failing of accord with  
24 the second firm, negotiations with such firm shall be terminated. The  
25 political subdivision shall undertake negotiations with the third qualified  
26 firm.

27 (c) If the political subdivision is unable to negotiate a contract with  
28 any of the selected firms, the agency shall reevaluate the necessary  
29 professional services, including the scope and reasonable fee requirements,  
30 again compile a list of qualified firms, and proceed in accordance with the  
31 provisions of this subchapter."  
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33 SECTION 4. Subchapter 8 of Chapter 11 of Title 19 of the Arkansas Code  
34 is hereby amended to add the following section:

35 " 19-11-806. (a) Any city of the first or second class, or any

1 incorporated town, that defines a professional service pursuant to this  
2 subchapter must do so by ordinance. Any ordinances that define a professional  
3 service must be read publicly at two regularly scheduled meetings. No  
4 ordinance that defines a professional service may be adopted with an emergency  
5 clause.

6       (b) *In addition, in a city of the first or second class or an*  
7 *incorporated town which has delegated the operation of its water or sewer*  
8 *services to a Board of Public Utilities or Commission, it shall be the*  
9 *responsibility of that Board or Commission to define a professional service as*  
10 *used in this subchapter. It shall be defined by a motion or resolution of the*  
11 *Board or Commission. The motion or resolution defining a professional service*  
12 *shall be read publicly at two (2) regularly scheduled meetings and shall be*  
13 *effective thirty (30) days after its second reading and passage."*

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15       SECTION 5. All provisions of this act of a general and permanent nature  
16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
17 Revision Commission shall incorporate the same in the Code.

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19       SECTION 6. If any provision of this act or the application thereof to  
20 any person or circumstance is held invalid, such invalidity shall not affect  
21 other provisions or applications of the act which can be given effect without  
22 the invalid provision or application, and to this end the provisions of this  
23 act are declared to be severable.

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25       SECTION 7. All laws and parts of laws in conflict with this act are  
26 hereby repealed.

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28       SECTION 8. EMERGENCY. It is hereby found and determined by the General  
29 Assembly that the state and political subdivisions are hampered in the ability  
30 to select the most qualified professional services since the present statutory  
31 definition of professional services excludes many professions that are vital  
32 to the successful completion of important public projects. Since each public  
33 entity is better able to determine which professional services it will need  
34 and since the public health, safety and welfare require that many of these  
35 public projects proceed as soon as possible, an emergency is hereby declared

1 to exist and this act being necessary for the preservation of the public  
2 peace, health and safety shall be in full force and effect from and after its  
3 passage and approval.

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*/s/Rep. Lynn, et al*

APPROVED: 2-24-95

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