

1 State of Arkansas

*As Engrossed: 5/3/17*

2 91st General Assembly

**A Bill**

3 Regular Session, 2017

SENATE BILL 380

4  
5 By: Senators Hester, J. Hendren

6 By: Representative Wardlaw  
7

8 **For An Act To Be Entitled**

9 AN ACT TO AMEND THE ARKANSAS PROCUREMENT LAW; TO  
10 AMEND THE DEFINITIONS USED UNDER THE ARKANSAS  
11 PROCUREMENT LAW; TO EXEMPT CERTAIN COMMODITIES AND  
12 SERVICES UNDER THE ARKANSAS PROCUREMENT LAW; AND FOR  
13 OTHER PURPOSES.  
14

15  
16 **Subtitle**

17 TO EXEMPT CERTAIN COMMODITIES AND  
18 SERVICES UNDER THE ARKANSAS PROCUREMENT  
19 LAW.  
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21  
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code § 19-11-203(14), concerning the definition of  
25 "exempt commodities and services" under the Arkansas Procurement Law, is  
26 amended to add an additional subdivision to read as follows:

27 (EE) Commodities and services purchased by an academic  
28 medical center using revenue derived from and used for patient care and  
29 hospital enterprises;  
30

31 SECTION 2. Arkansas Code § 19-11-203(23), concerning the definitions  
32 used under the Arkansas Procurement Law, is amended to read as follows:

33 (23)(A) "Public funds" means all state-appropriated and cash  
34 funds of state agencies, as defined by applicable law or official ruling.

35 (B) Without necessarily being limited thereto, "public  
36 funds" does not include ~~grants~~;



1                    (i) Grants, donations, research derived from self-  
2     supporting enterprises ~~which~~ that are not operated as a primary function of  
3     the agency, no part of which funds are deposited into the State Treasury; and  
4                    (ii) Revenue derived from patient care and self-  
5     supporting hospital enterprises of an academic medical center;

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7                    /s/Hester

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10                   *APPROVED: 03/23/2017*  
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1 State of Arkansas

*As Engrossed: H3/9/17*

2 91st General Assembly

**A Bill**

3 Regular Session, 2017

HOUSE BILL 1839

4  
5 By: Representatives Beck, Bentley, Brown, Davis, Farrer, Henderson, Hillman, G. Hodges, Lemons,  
6 Magie, Payton, Sabin, Sullivan, Vaught

7 By: Senator D. Sanders

8  
9 **For An Act To Be Entitled**

10 AN ACT TO CREATE THE LOCAL FOOD, FARMS, AND JOBS ACT;  
11 AND FOR OTHER PURPOSES.

12  
13  
14 **Subtitle**

15 TO CREATE THE LOCAL FOOD, FARMS, AND JOBS  
16 ACT.

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18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20  
21 SECTION 1. Arkansas Code Title 15, Chapter 4, is amended to add an  
22 additional subchapter to read as follows:

23 Subchapter 38 – Local Food, Farms, and Jobs Act

24  
25 15-4-3801. Title.

26 This subchapter shall be known and may be cited as the "Local Food,  
27 Farms, and Jobs Act".

28  
29 15-4-3802. Legislative intent.

30 The General Assembly intends for this subchapter to:

31 (1) Create, strengthen, and expand local farm and food economies  
32 throughout the state; and

33 (2) Support and encourage the procurement of local farm or food  
34 products as a significant portion of all food products purchased by the  
35 state.  
36



1 15-4-3803. Definitions.

2 As used in this subchapter:

3 (1)(A) "Agency" means an entity that:

4 (i) Is funded in whole or in part by the state; and

5 (ii) Receives at least twenty-five thousand dollars  
6 (\$25,000) a year from the state for the purchase of food products.

7 (B) "Agency" includes without limitation a:

8 (i) Institution of higher education;

9 (ii) Child care facility;

10 (iii) State park;

11 (iv) After-school program;

12 (v) Hospital;

13 (vi) State agency or other entity of the state; and

14 (vii) Contractor operating an on-campus cafeteria  
15 for any of the entities stated in subdivision (1)(B)(i)-(vi) of this section;

16 (2) "Food product" means a substance, whether in liquid,  
17 concentrated, solid, frozen, dried, or dehydrated form, that is sold for  
18 ingestion or chewing by humans and is consumed for its taste or nutritional  
19 value; and

20 (3) "Local farm or food products" means food products that are  
21 grown in Arkansas or packaged and processed in Arkansas, or both.

22  
23 15-4-3804. Procurement goal – Preference.

24 (a)(1) For the fiscal year 2018, each agency shall make it a goal to  
25 ensure that ten percent (10%) of the amount budgeted for the agency's  
26 purchases of food products is spent on local farm or food products.

27 (2) For fiscal years beginning on and after July 1, 2018, each  
28 agency shall make it a goal to ensure that twenty percent (20%) of the amount  
29 budgeted for the agency's purchases of food products is spent on local farm  
30 or food products.

31 (b) In awarding a contract for the purchase of food products, an  
32 agency shall give preference to a provider of local farm or food products  
33 when:

34 (1) The contract is to be awarded to the lowest bidder;

35 (2) A responsible and responsive bidder that is a provider of  
36 local farm or food products submits a bid that does not exceed the lowest bid

1 by more than ten percent (10%); and

2 (3) The responsible and responsive bidder submitting the lowest  
3 bid is not a provider of local farm or food products.

4 (c) Each agency shall:

5 (1) Identify the percentage of funds spent on local farm or food  
6 products purchased for fiscal year 2017 to establish a baseline; and

7 (2) Develop a system for tracking and reporting purchases of  
8 local farm or food products each fiscal year.

9 (d) This section does not require an agency to use any specific  
10 procurement method for obtaining food products.

11  
12 15-4-3805. Reporting requirements.

13 (a) By October 1 of each year, an agency shall submit a compliance  
14 report to the Bureau of Legislative Research stating:

15 (1) The name of the agency;

16 (2) A policy statement signed by the executive head of the  
17 agency expressing a commitment to complying with this subchapter;

18 (3) The name of the person in the agency who is responsible for  
19 developing and administering the compliance report required under this  
20 section;

21 (4) The manner in which the agency intends to reach the  
22 procurement goals stated in this subchapter;

23 (5) The dollar value of the contracts the agency awarded to  
24 providers of local farm or food products in the previous fiscal year; and

25 (6) The percentage of the total dollar value of contracts the  
26 agency awarded for purchases of food products that were awarded to providers  
27 of local farm or food products.

28 (b) By December 31 of each year, the bureau shall:

29 (1) Prepare a report compiling the information received under  
30 subsection (a) of this section; and

31 (2) Make the report required under this subsection available to  
32 the Governor and the cochair of Legislative Council or, if the General  
33 Assembly is in session, the cochair of the Joint Budget Committee.

34  
35 15-4-3806. Promotion.

36 (a) The Arkansas Agriculture Department may use its internet resources

1 to:

2 (1) Promote, create, and expand local farm and food economies in  
3 this state;

4 (2) Maintain a list of local farm or food products and the  
5 providers of local farm or food products; and

6 (3) Facilitate compliance with this subchapter.

7 (b)(1) The Arkansas Agriculture Department shall establish a program  
8 coordinator position, which shall be responsible for developing partnerships  
9 among vendors, agencies, and providers of local farm or food products to  
10 support the goals of this subchapter.

11 (2) The program coordinator shall:

12 (A) Provide support and assistance to providers of local  
13 farm or food products that wish to compete for a contract with an agency by:

14 (i) Assisting the provider of local farm or food  
15 products in developing a business plan;

16 (ii) Working with distribution representatives; and

17 (iii) Using available resources, including without  
18 limitation agencies and other public and private entities;

19 (B) Be a resource for agencies to use to assist in  
20 tracking and reporting their progress in satisfying the procurement goals  
21 stated in this subchapter;

22 (C) Be a liaison between agencies and providers of local  
23 farm or food products to facilitate access to local farm or food products;

24 (D) Encourage and facilitate involvement and participation  
25 in the Farm to School Program administered by the United States Department of  
26 Agriculture by working with providers of local farm or food products,  
27 vendors, and distributors to assess the need for and availability of local  
28 farm and food products; and

29 (E) Cooperate with the Arkansas Agriculture Department and  
30 providers of local farm or food products to promote, encourage, and increase  
31 participation in the Arkansas Grown program administered by the Arkansas  
32 Agriculture Department.

33  
34 15-4-3807. Relationship to federal law.

35 (a) If this subchapter conflicts with federal law pertaining to a  
36 federal aid program, the conflicting provision or provisions of this

1 subchapter do not apply to a contract that is subject to that federal law,  
2 rule, or regulation to the extent of the conflict.

3 (b) To the extent a conflict does not exist with federal law, this  
4 subchapter applies to contracts paid, in whole or in part, with federal  
5 funds.

6  
7 15-4-3808. Rules.

8 The Office of State Procurement may promulgate rules to implement and  
9 administer this subchapter, including without limitation a method for:

10 (1) Identifying and certifying vendors as providers of local  
11 farm or food products; and

12 (2) Determining the means of satisfying and tracking the  
13 procurement goals stated in this subchapter.

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15 */s/Beck*  
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18 *APPROVED: 03/24/2017*  
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1 State of Arkansas *As Engrossed: S3/13/17 H3/17/17*

2 91st General Assembly

3 Regular Session, 2017

# A Bill

SENATE BILL 448

5 By: Senator Hester

6 By: Representative Wardlaw

## For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS PROCUREMENT LAW; TO  
10 PROMOTE EFFICIENCY IN STATE PROCUREMENT BY EXPANDING  
11 THE ABILITY OF THE STATE TO NEGOTIATE CONTRACTS; TO  
12 DEFINE "COLLUSION" UNDER ARKANSAS PROCUREMENT LAW; TO  
13 REQUIRE REVIEW OF A CONTRACT BEFORE IT IS RATIFIED OR  
14 AFFIRMED; AND FOR OTHER PURPOSES.

## Subtitle

18 TO EXPAND THE ABILITY OF THE STATE TO  
19 NEGOTIATE CONTRACTS; TO DEFINE  
20 "COLLUSION" UNDER ARKANSAS PROCUREMENT  
21 LAW; AND TO REQUIRE REVIEW OF A CONTRACT  
22 BEFORE IT IS RATIFIED OR AFFIRMED.

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

27 SECTION 1. Arkansas Code § 19-11-229(h)(2), concerning competitive  
28 sealed bidding, is amended to read as follows:

29 (2)(A) ~~In the event all bids exceed available funds as certified~~  
30 ~~by the appropriate fiscal officer in situations in which time or economic~~  
31 ~~considerations preclude resolicitation of work of a reduced scope, the Except~~  
32 ~~with respect to a contract being procured for a construction project, the~~  
33 director or the head of a procurement agency may negotiate an adjustment of  
34 ~~the a lower~~ bid price, including changes in the bid requirements, with the  
35 lowest responsive and responsible bidder, ~~in order to bring the bid within~~  
36 ~~the amount of available funds if:~~



1                   (i) All bids received from responsive and  
2 responsible bidders exceed available funding as certified by the appropriate  
3 fiscal officer of the procurement agency; or

4                   (ii) It appears that additional savings to the state  
5 may result from negotiation.

6                   (B)(i)(a) If negotiations with the lowest responsive and  
7 responsible bidder conducted under subdivision (h)(2)(A) of this section fail  
8 to result in a lower bid price, the state may negotiate for a lower bid price  
9 with the next lowest responsive and responsible bidder.

10                   (b) If negotiations with the next lowest  
11 responsive and responsible bidder under subdivision (h)(2)(B)(i)(a) of this  
12 section fail to result in a lower bid price, the state may negotiate for a  
13 lower bid price with the next lowest responsive and responsible bidder until  
14 an acceptable lower bid price is negotiated or the state determines that  
15 negotiations are no longer in the best interest of the state.

16                   (ii) A bid price resulting from negotiations  
17 conducted under this section shall not be higher than:

18                   (a) The bid price originally submitted by the  
19 lowest responsive and responsible bidder; or

20                   (b) A price previously offered in negotiations  
21 by a responsive and responsible bidder.

22                   (iii) Negotiations conducted under this section do  
23 not preclude the use of other methods of source selection or procurement  
24 authority provided under this subchapter.

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26           SECTION 2. Arkansas Code § 19-11-230(e), concerning competitive sealed  
27 proposals, is amended to read as follows:

28           (e)(1) As provided in the request for proposals and under ~~regulations~~  
29 rule, discussions may be conducted with responsible offerors who submit  
30 proposals determined to be reasonably susceptible of being selected for award  
31 for the purpose of ~~clarification~~:

32                   (A) Clarifying solicitation requirements to assure full  
33 understanding of, and responsiveness to, the solicitation requirements; or

34                   (B) Negotiating a contract that is more advantageous to  
35 the state.

36                   (2)(A) Offerors If discussions conducted after the deadline for

1 the receipt of proposals necessitate material revisions of proposals, each  
2 offeror determined to be responsible and reasonably susceptible of being  
3 awarded a contract shall be accorded fair and equal treatment with respect to  
4 any provided an opportunity for discussion and revision of proposals, and  
5 such revisions may be permitted after submissions and prior to award to  
6 revise its proposal for the purpose of obtaining submitting a best and final  
7 offers offer.

8 (B) An offeror may be permitted to revise its original  
9 proposal as a result of discussions only after the original submission  
10 deadline and before award for the purpose of providing a best and final  
11 offer.

12 (3) In conducting discussions, ~~there shall be no disclosure of~~  
13 any information derived from proposals a proposal submitted by a competing  
14 offerers offeror shall not be disclosed until after a notice of anticipation  
15 to award is announced.

16  
17 SECTION 3. Arkansas Code § 19-11-240 is amended to read as follows:

18 19-11-240. Reporting of suspected collusion – Definition.

19 (a) As used in this section, "collusion" means cooperation in the  
20 restraint of free and open competition in a public procurement, including  
21 without limitation:

22 (1) Price fixing;

23 (2) Bid rigging;

24 (3) Customer or market allocation;

25 (4) Misrepresenting the independence of the relationship between  
26 colluding parties; and

27 (5) Exerting improper influence on public officials to obtain  
28 advantage in a public procurement, including without limitation:

29 (A) Offering bribes or kickbacks;

30 (B) Extortion; and

31 (C) Fraudulent misrepresentation.

32 (b) Notification to the Attorney General. When for any reason  
33 collusion is suspected among any bidders or offerors, a written notice of the  
34 relevant facts shall be transmitted to the Attorney General.

35 ~~(b) (c)(1)~~ Retention of All Documents. All documents involved in any  
36 a procurement in which collusion is suspected shall be retained until the

1 Attorney General gives notice that they may be destroyed.

2 (2) All retained documents shall be made available to the  
3 Attorney General or a designee upon request and proper receipt ~~therefor~~ of  
4 the request.

5 (d) Collusion is cause for:

6 (1) Debarment from consideration for award of a contract under §  
7 19-11-245; and

8 (2) Suspension from consideration for award of a contract if  
9 there is probable cause for suspecting collusion as determined by the  
10 Attorney General or the State Procurement Director.

11  
12 SECTION 4. Arkansas Code § 19-11-247, concerning remedies for unlawful  
13 solicitation or award, is amended to add an additional subsection to read as  
14 follows:

15 (d) Before a contract is ratified and affirmed under subdivision  
16 (c)(1)(A) of this section, a contract shall be presented to the Legislative  
17 Council or, if the General Assembly is in session, to the Joint Budget  
18 Committee, for review if the contract is required to be submitted for review  
19 under § 19-11-1006.

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21 */s/Hester*

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24 *APPROVED: 03/27/2017*

1 State of Arkansas

*As Engrossed: 5/3/8/17*

2 91st General Assembly

**A Bill**

3 Regular Session, 2017

SENATE BILL 513

4  
5 By: Senator Hester

6 By: Representative Dotson  
7

8 **For An Act To Be Entitled**

9 AN ACT TO PROHIBIT PUBLIC ENTITIES FROM CONTRACTING  
10 WITH AND INVESTING IN COMPANIES THAT BOYCOTT ISRAEL;  
11 AND FOR OTHER PURPOSES.  
12

13 **Subtitle**

14 TO PROHIBIT PUBLIC ENTITIES FROM  
15 CONTRACTING WITH AND INVESTING IN  
16 COMPANIES THAT BOYCOTT ISRAEL.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code Title 25, Chapter 1, is amended to add an  
23 additional subchapter to read as follows:

24 Subchapter 5 – Prohibited Contracts and Investments  
25

26 25-1-501. Legislative findings.

27 The General Assembly finds that:

28 (1) Boycotts and related tactics have become a tool of economic  
29 warfare that threaten the sovereignty and security of key allies and trade  
30 partners of the United States;

31 (2) The State of Israel is the most prominent target of such  
32 boycott activity, which began with but has not been limited to the Arab  
33 League Boycott adopted in 1945, even before Israel's declaration of  
34 independence as the reestablished national state of the Jewish people;

35 (3) Companies that refuse to deal with United States trade  
36 partners such as Israel, or entities that do business with or in such



1 countries, make discriminatory decisions on the basis of national origin that  
2 impair those companies' commercial soundness;

3 (4) It is the public policy of the United States, as enshrined  
4 in several federal acts, to oppose boycotts against Israel, and Congress has  
5 concluded as a matter of national trade policy that cooperation with Israel  
6 materially benefits United States companies and improves American  
7 competitiveness;

8 (5) Israel in particular is known for its dynamic and innovative  
9 approach in many business sectors, and therefore a company's decision to  
10 discriminate against Israel, Israeli entities, or entities that do business  
11 with or in Israel, is an unsound business practice, making the company an  
12 unduly risky contracting partner or vehicle for investment; and

13 (6) Arkansas seeks to act to implement Congress's announced  
14 policy of "examining a company's promotion or compliance with unsanctioned  
15 boycotts, divestment from, or sanctions against Israel as part of its  
16 consideration in awarding grants and contracts and supports the divestment of  
17 state assets from companies that support or promote actions to boycott,  
18 divest from, or sanction Israel".

19  
20 25-1-502. Definitions.

21 As used in this subchapter:

22 (1)(A)(i) "Boycott Israel" and "boycott of Israel" means  
23 engaging in refusals to deal, terminating business activities, or other  
24 actions that are intended to limit commercial relations with Israel, or  
25 persons or entities doing business in Israel or in Israeli-controlled  
26 territories, in a discriminatory manner.

27 (ii) "Boycott" does not include those boycotts to  
28 which 50 App. U.S.C. § 2407(c) applies.

29 (B) A company's statement that it is participating in  
30 boycotts of Israel, or that it has taken the boycott action at the request,  
31 in compliance with, or in furtherance of calls for a boycott of Israel, can  
32 be considered by the Arkansas Development Finance Authority as a type of  
33 evidence, among others, that a company is participating in a boycott of  
34 Israel;

35 (2) "Company" means a sole proprietorship, organization,  
36 association, corporation, partnership, joint venture, limited partnership,

1 limited liability partnership, limited liability company, or other entity or  
2 business association, including all wholly owned subsidiaries, majority-owned  
3 subsidiaries, parent companies, or affiliates of those entities or business  
4 associations;

5 (3) "Direct holdings" in reference to a company means all  
6 publicly traded securities of that company that are held directly by the  
7 public entity in an actively managed account or fund in which the public  
8 entity owns all shares or interests;

9 (4) "Indirect holdings" in reference to a company means all  
10 securities of that company that are held in an account or fund, such as a  
11 mutual fund, managed by one (1) or more persons not employed by the public  
12 entity, in which the public entity owns shares or interests together with  
13 other investors not subject to the provisions of this act or that are held in  
14 an index fund;

15 (5) "Public entity" means the State of Arkansas, or a political  
16 subdivision of the state, including all boards, commissions, agencies,  
17 institutions, authorities, and bodies politic and corporate of the state,  
18 created by or in accordance with state law or regulations, and does include  
19 colleges, universities, a statewide public employee retirement system, and  
20 institutions in Arkansas as well as units of local and municipal government;

21 (6) "Restricted companies" means companies that boycott Israel;  
22 and

23 (7) "Retirement system" means a public retirement system in  
24 Arkansas.

25  
26 25-1-503. Prohibition on contracting with entities that boycott  
27 Israel.

28 (a) Except as provided under subsection (b) of this section, a public  
29 entity shall not:

30 (1) Enter into a contract with a company to acquire or dispose  
31 of services, supplies, information technology, or construction unless the  
32 contract includes a written certification that the person or company is not  
33 currently engaged in, and agrees for the duration of the contract not to  
34 engage in, a boycott of Israel; or

35 (2) Engage in boycotts of Israel.

36 (b) This section does not apply to:

1           (1) A company that fails to meet the requirements under  
2 subdivision (a)(1) of this section but offers to provide the goods or  
3 services for at least twenty percent (20%) less than the lowest certifying  
4 business; or

5           (2) Contracts with a total potential value of less than one  
6 thousand dollars (\$1,000).

7  
8           25-1-504. Prohibition on direct investments in companies that boycott  
9 Israel.

10           (a)(1) A public entity through its asset managers shall identify all  
11 companies that boycott Israel and assemble those identified companies into a  
12 list of restricted companies to be distributed to each retirement system.

13           (2) For each company newly identified and added to the list of  
14 restricted companies, the public entity through its asset managers shall send  
15 a written notice informing the company of its status and that it may become  
16 subject to divestment by the public entity.

17           (3) If, following the engagement by the public entity through  
18 its assets managers with a restricted company, that company ceases activity  
19 that designates it as a restricted company and submits a written  
20 certification to the public entity that it shall not reengage in such  
21 activity for the duration of any investment by the public entity, the company  
22 shall be removed from the restricted companies list.

23           (4) The public entity shall keep and maintain the list of  
24 restricted companies and all written certifications from restricted and  
25 previously restricted companies.

26           (b)(1) The public entity shall adhere to the following procedures for  
27 companies on the list of restricted companies:

28           (A) Each public entity shall identify the companies on the  
29 list of restricted companies that the public entity owns direct holdings and  
30 indirect holdings;

31           (B) The public entity shall instruct its investment  
32 advisors to sell, redeem, divest, or withdraw all direct holdings of  
33 restricted companies from the public entity's assets under management in an  
34 orderly and fiduciarly responsible manner within three (3) months after the  
35 appearance of the company on the list of restricted companies; and

36           (C) Upon request from the Arkansas Development Finance



1 Authority, each public entity shall provide the Arkansas Development Finance  
2 Authority with information regarding investments sold, redeemed, divested, or  
3 withdrawn in compliance under this section.

4 (2) The public entity shall not acquire securities of restricted  
5 companies as part of direct holdings.

6 (c)(1) Subsection (b) of this section does not apply to the public  
7 entity's indirect holdings or private market funds.

8 (2) The public entity shall submit letters to the managers of  
9 those investment funds identifying restricted companies and requesting that  
10 those investment funds consider removing the investments in the restricted  
11 companies from the funds.

12 (d) The costs associated with the divestment activities of the public  
13 entity shall be borne by the respective public entity.

14 (e) With respect to actions taken in compliance with this section,  
15 including all good-faith determinations regarding companies as required under  
16 this section, any statewide retirement system and the Arkansas Development  
17 Finance Authority are exempt from any conflicting statutory or common law  
18 obligations, including any fiduciary duties and any obligations with respect  
19 to choice of asset managers, investment funds, or investments for the  
20 statewide retirement systems' portfolios.

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22 /s/Hester  
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25 APPROVED: 03/27/2017  
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State of Arkansas  
91st General Assembly  
Regular Session, 2017

## A Bill

SENATE BILL 449

By: Senator Hester  
By: Representative Wardlaw

### For An Act To Be Entitled

AN ACT TO CLARIFY THE RESOLUTION OF PROTESTED  
SOLICITATIONS AND AWARDS UNDER THE ARKANSAS  
PROCUREMENT LAW; TO CLARIFY THAT THE ARKANSAS STATE  
CLAIMS COMMISSION HAS EXCLUSIVE JURISDICTION OVER ALL  
CLAIMS AGAINST THE STATE IN CONNECTION WITH THE  
SOLICITATION OR AWARD OF A CONTRACT; TO CLARIFY THAT  
ADMINISTRATIVE DECISIONS REGARDING A PROTEST ARE NOT  
ORDERS SUBJECT TO THE ARKANSAS ADMINISTRATIVE  
PROCEDURE ACT; AND FOR OTHER PURPOSES.

### Subtitle

TO CLARIFY THE RESOLUTION OF PROTESTED  
SOLICITATIONS AND AWARDS UNDER THE  
ARKANSAS PROCUREMENT LAW.

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

SECTION 1. Arkansas Code § 19-11-244(b) and (c), concerning the  
resolution of protested solicitations and awards, are amended to read as  
follows:

(b)(1)(A) ~~Prior to the commencement of an action in court or any other  
action provided by law concerning the controversy, the~~ The director, the head  
of a procurement agency, or a designee of either officer may settle and  
resolve a protest concerning the solicitation or award of a contract before  
rendering an administrative protest determination.

(B)(i) A meeting in an attempt to settle or resolve a



1 protest is not a public meeting.

2 (ii) However, a final settlement or resolution of a  
3 protest made under this section shall not be kept secret, sealed, or withheld  
4 from public disclosure.

5 (2) This The authority to settle or resolve a protest under this  
6 section shall be exercised in accordance with laws governing the Arkansas  
7 State Claims Commission, which has exclusive jurisdiction over all claims  
8 against the state in connection with the solicitation or award of a contract,  
9 and the regulations rules promulgated by the director.

10 (c)(1) If the a protest is not settled or resolved by mutual agreement  
11 under subsection (b) of this section, and after reasonable notice to the  
12 protestor involved and reasonable opportunity for the protestor to respond to  
13 the protest issues according to the regulations promulgated by the director,  
14 the head of a procurement agency, the director, or a designee of either  
15 officer shall promptly issue a decision an administrative protest  
16 determination in writing.

17 (2) The decision administrative protest determination shall  
18 state the reasons for the action taken.

19  
20 SECTION 2. Arkansas Code § 19-11-244(e), concerning the resolution of  
21 protested solicitations and awards, is amended to read as follows:

22 (e) A decision An administrative protest determination under  
23 subsection (c) of this section shall be final is:

24 (1) Final and conclusive; and

25 (2) Not an order as defined in the Arkansas Administrative  
26 Procedure Act, § 25-15-201 et seq.

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29 APPROVED: 04/04/2017  
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1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

As Engrossed: H3/23/17

## A Bill

HOUSE BILL 2096

5 By: Representative G. Hodges  
6 By: Senator Hester  
7

### For An Act To Be Entitled

8  
9 AN ACT TO AMEND THE ARKANSAS PROCUREMENT LAW; TO  
10 AMEND PROVISIONS OF PROCUREMENT LAW TO REFLECT THE  
11 IMPACT OF INFLATION ON THE COST OF GOODS AND SERVICES  
12 AND TO ENCOURAGE MORE PARTICIPATION BY SMALL  
13 BUSINESSES; AND FOR OTHER PURPOSES.  
14  
15

### Subtitle

16  
17 TO AMEND PROVISIONS OF PROCUREMENT LAW TO  
18 REFLECT THE IMPACT OF INFLATION ON THE  
19 COST OF GOODS AND SERVICES AND TO  
20 ENCOURAGE MORE PARTICIPATION BY SMALL  
21 BUSINESSES.  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code § 19-11-204(13), concerning the definitions  
27 relating to source selection and contract formation under the Arkansas  
28 Procurement Law, is amended to read as follows:

29 (13)(A)(i) "Small procurements" means any a procurement not  
30 exceeding a purchase price of ten thousand dollars (\$10,000) twenty thousand  
31 dollars (\$20,000).

32 (ii) Small purchases procurements may be procured  
33 without seeking competitive bids or competitive sealed bids.

34 ~~(ii)~~ (iii) However, competition should be used to  
35 the maximum extent practicable.

36 (B) Items under state contract are excluded.



1  
2       SECTION 2. Arkansas Code § 19-11-222(a), concerning the State  
3 Procurement Director's exclusive jurisdiction over procurement, is amended to  
4 read as follows:

5       (a) The State Procurement Director shall have exclusive jurisdiction  
6 over the procurement of:

- 7           (1) Items subject to Arkansas Constitution, Amendment 54;  
8           (2) Wholesale gasoline, oil, and related products;  
9           (3) Tires;  
10          (4)(A) Passenger motor vehicles and trucks, except highway  
11 construction and highway maintenance equipment or any specialized type of  
12 equipment used in highway construction, except as otherwise provided in this  
13 subchapter.

14                (B) The director may issue a request for qualifications  
15 for the procurement of passenger motor vehicles and trucks to compile a  
16 qualified vendor list that includes vendors in multiple areas of the state;

- 17           (5) Paper products;  
18           (6) New and used school buses for state agencies;  
19           (7) A purchasing card program and travel card program to include  
20 implementation and administration; and  
21           (8) An electronic commerce procurement solution to include  
22 planning and administration consistent with the established financial systems  
23 of the state.

24  
25       SECTION 3. Arkansas Code § 19-11-229(b)(1), concerning competitive  
26 sealed bidding under the Arkansas Procurement Law, is amended to read as  
27 follows:

28       (b)(1) Contracts exceeding an estimated purchase price of ~~fifty~~  
29 ~~thousand dollars (\$50,000)~~ seventy-five thousand dollars (\$75,000) shall be  
30 awarded by competitive sealed bidding unless a determination is made in  
31 writing by the agency procurement official or the State Procurement Director  
32 that this method is not practicable and advantageous and specifically states  
33 the reasons that this method is not practicable and advantageous.

34  
35       SECTION 4. Arkansas Code § 19-11-234(b)(1), concerning competitive  
36 bidding under the Arkansas Procurement Law, is amended to read as follows:

1 (b)(1) Contracts in which the purchase price exceeds ~~ten thousand~~  
2 ~~dollars (\$10,000)~~ twenty thousand dollars (\$20,000) and is less than or equal  
3 to ~~fifty thousand dollars (\$50,000)~~ seventy-five thousand dollars (\$75,000)  
4 may be awarded by use of competitive bidding procedures.

5  
6 /s/G. Hodges

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9 **APPROVED: 04/06/2017**  
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State of Arkansas *As Engrossed: H3/14/17 H3/23/17 S3/29/17*

91st General Assembly

Regular Session, 2017

## A Bill

HOUSE BILL 2218

By: Representatives M. Gray, V. Flowers, M. Hodges, *Vaught, Davis*

By: Senators Irvin, D. Wallace, Elliott

### For An Act To Be Entitled

AN ACT TO AMEND THE MINORITY BUSINESS ECONOMIC  
DEVELOPMENT ACT; TO REPEAL CERTAIN CONTRACTING GOALS;  
AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE MINORITY BUSINESS ECONOMIC  
DEVELOPMENT ACT; AND TO REPEAL CERTAIN  
CONTRACTING GOALS.

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

*SECTION 1. Arkansas Code Title 15, Chapter 4, Subchapter 3, is amended  
to read as follows:*

*Subchapter 3 – Minority and Women-Owned Business Economic Development Act*

*15-4-301. Title.*

*This subchapter shall be known and may be cited as the “Minority and  
Women-Owned Business Economic Development Act”.*

*15-4-302. Purpose – Goals – Notice.*

*(a) The General Assembly finds that it is the policy of the State of  
Arkansas to support equal opportunity as well as economic development in  
every sector.*

*(b) The General Assembly recognizes that it is the purpose of this  
subchapter to support to the fullest all possible participation of firms  
owned and controlled by minority persons and women in state-funded and state-*



1 directed public construction programs and in the purchase of goods and  
2 services for the state.

3 (c) All state agencies shall attempt to ensure that ~~ten percent (10%)~~  
4 the following percentages of the total amount expended in state-funded and  
5 state-directed public construction programs and in the purchase of goods and  
6 services for the state each fiscal year ~~is~~ are paid to minority business  
7 enterprises and women-owned business enterprises:

8 (1)(A) For minority business enterprises, ten percent (10%).

9 (B) The ten-percent goal under subdivision (c)(1)(A) of  
10 this section shall be allocated as follows:

11 (i) Two percent (2%) for service-disabled veteran-  
12 owned minority business enterprises; and

13 (ii) Eight percent (8%) for all other minority  
14 business enterprises; and

15 (2) For women-owned business enterprises, five percent (5%).

16 (d) To facilitate notification of potential respondents to procurement  
17 solicitations, a state agency shall publish all state contract solicitations  
18 on the website for the Office of State Procurement of the Department of  
19 Finance and Administration.

20  
21 15-4-303. Definitions.

22 As used in this subchapter:

23 (1)(A) "Exempt" means goods and services classified as exempt  
24 for the purpose of administering this subchapter.

25 (B) The classification shall be determined by the Office  
26 of State Procurement of the Department of Finance and Administration and the  
27 Division of Minority and Women-owned Business Enterprise of the Arkansas  
28 Economic Development Commission and submitted to the Arkansas Economic  
29 Development Council for its review and consideration for the purposes of this  
30 subchapter;

31 (2) "Minority" means a lawful permanent resident of this state  
32 who is:

33 (A) African American;

34 (B) Hispanic American;

35 (C) American Indian;

36 (D) Asian American; or

1 (E) Pacific Islander American; ~~or~~

2 (F) A service-disabled veteran as designated by the United  
3 States Department of Veterans Affairs;

4 (3) "Minority business enterprise" means a business that is at  
5 least fifty-one percent (51%) owned by one (1) or more minority persons as  
6 defined in this section;

7 (4) "Minority and women-owned business officer" means the  
8 individual within each state agency with the responsibility for carrying out  
9 the intended purposes of this subchapter;

10 (5)(A) "Nonexempt" means goods and services classified as  
11 nonexempt for the purpose of administering this subchapter.

12 (B) The classification shall be determined by the office  
13 and the division and submitted to the council for its review and  
14 consideration for the purposes of this subchapter;

15 (6) "Procurement" means buying, purchasing, renting, leasing, or  
16 otherwise acquiring any goods or services;

17 (7) "State agency" means a department, an office, a board, a  
18 commission, or an institution of this state, including a state-supported  
19 institution of higher education; ~~and~~

20 (8) "State contract" means a state agreement, regardless of what  
21 it may be called, for the purchase of commodities and services and for the  
22 disposal of surplus commodities and services not otherwise exempt; and

23 (9) "Women-owned business enterprise" means a business that is  
24 at least fifty-one percent (51%) owned by one (1) or more women who are  
25 lawful permanent residents of this state.

26

27 15-4-304. Creation.

28 The Division of Minority and Women-owned Business Enterprise of the  
29 Arkansas Economic Development Commission:

30 (1) Is established and confirmed within the Arkansas Economic  
31 Development Commission ~~under the jurisdiction of the Arkansas Economic~~  
32 ~~Development Council;~~

33 (2) Shall be operated as a division within the commission; and

34 (3) Shall perform the functions and duties as provided in this  
35 subchapter.

36

1           15-4-305. *Administrator.*

2           *The head of the Division of Minority and Women-owned Business*  
3           *Enterprise of the Arkansas Economic Development Commission is the*  
4           *Administrator of the Division of Minority and Women-owned Business Enterprise*  
5           *of the Arkansas Economic Development Commission and shall be appointed by the*  
6           *Governor.*

7  
8           15-4-306. *Duties.*

9           *The Division of Minority and Women-owned Business Enterprise of the*  
10          *Arkansas Economic Development Commission shall:*

11                   (1) *Provide technical, managerial, and counseling services and*  
12                   *assistance to minority business enterprises and women-owned business*  
13                   *enterprises;*

14                   (2) *With the participation of other state departments and state*  
15                   *agencies as appropriate:*

16                           (A) *Develop comprehensive plans and specific program goals*  
17                           *for a minority business enterprise and women-owned business enterprise*  
18                           *program;*

19                           (B) *Establish regular performance monitoring and reporting*  
20                           *systems to assure that goals are being achieved; and*

21                           (C) *Evaluate the impact of federal and state support in*  
22                           *achieving the objectives established by the Arkansas Economic Development*  
23                           *Commission;*

24                   (3) *Implement state policy in support of minority business*  
25                   *enterprise and development and women-owned business enterprise and*  
26                   *development and coordinate the plans, programs, and operations of state*  
27                   *government that affect or may contribute to the establishment, preservation,*  
28                   *and strengthening of minority business enterprises and women-owned business*  
29                   *enterprises;*

30                   (4) *Coordinate, make application for, and administer federal*  
31                   *funding grants from the United States Minority Business Development Agency ~~of~~*  
32                   *~~the United States Department of Commerce, the United States Small Business~~*  
33                   *Administration, the United States Department of Veterans Affairs, and other*  
34                   *federal agencies ~~where~~ when applicable;*

35                   (5) *Promote the mobilization of activities and resources of*  
36                   *state agencies and local governments, business and trade associations,*

1 universities, foundations, professional organizations, and volunteer and  
2 other groups toward the growth of minority business enterprises and women-  
3 owned business enterprises, and facilitate the coordination of the efforts of  
4 these groups with those of other state departments and state agencies;

5 (6) Establish a center for the development, collection, and  
6 dissemination of information that will be helpful to persons and  
7 organizations throughout the state in undertaking or promoting the  
8 establishment and successful operation of minority business enterprises and  
9 women-owned business enterprises;

10 (7) Conduct coordinated reviews of all proposed state training  
11 and technical assistance activities in direct support of the minority  
12 business enterprise and women-owned business enterprise program to ensure  
13 consistency with program goals and to preclude duplication of effort of other  
14 state agencies with overlapping jurisdictions;

15 (8) Recommend appropriate legislative or executive actions to  
16 enhance minority business enterprise and women-owned business enterprise  
17 opportunities in this state;

18 (9) Assist minority business enterprises and women-owned  
19 business enterprises in obtaining governmental or commercial financing for  
20 business expansion, establishment of new businesses, or industrial  
21 development projects;

22 (10) Provide services to promote the organization of local  
23 development corporations for rural development and assist minority business  
24 enterprise and women-owned business enterprise persons in agrarian endeavors;

25 (11) Assist minority business enterprises and women-owned  
26 business enterprises to promote reciprocal foreign trade and investment;

27 (12) Assist minority and women-owned business persons in  
28 business contract procurement from governmental and private commercial  
29 sources; and

30 (13) Provide a program effort to ensure participation of  
31 veterans and women in Arkansas minority business enterprise activities and  
32 women-owned business enterprise activities.

33  
34 15-4-307. Minority and Women-owned Business Advisory Council.

35 (a) The Division of Minority and Women-owned Business Enterprise of  
36 the Arkansas Economic Development Commission shall be represented by a

1 statewide Minority and Women-owned Business Advisory Council and shall report  
2 to that council.

3 (b)(1) The council shall consist of ~~seven (7)~~ nine (9) members.

4 (2) The council shall:

5 (A) Monitor progress, make recommendations, and develop  
6 strategic plans for performance improvement; and

7 (B) Report to the Governor, the Speaker of the House of  
8 Representatives, and the President Pro Tempore of the Senate.

9 (c)(1) The Governor shall appoint three (3) members of the council  
10 with the advice and consent of the Senate.

11 (2) The President Pro Tempore of the Senate shall appoint two  
12 (2) members of the council.

13 (3) The Speaker of the House of Representatives shall appoint  
14 two (2) members of the council.

15 (4) The Executive Director of the Arkansas Economic Development  
16 Commission shall appoint two (2) members of the council.

17 ~~(4)(5)~~ Appointments shall reflect and be representative of the  
18 minority and women-owned business community communities, resource  
19 organizations, entrepreneurs, corporations, and other minority and women-  
20 owned business advocates.

21 (d) Except as otherwise provided by law, members of the council shall  
22 serve without compensation.

23 (e) The term of office of the council shall be:

24 (1) Be at the pleasure of the appointing officer; and

25 (2) Not exceed five (5) years.

26 (f) There is established a formal relationship between the council and  
27 the Administrator of the Division of Minority and Women-owned Business  
28 Enterprise of the Arkansas Economic Development Commission.

29 (g)(1) The administrator ~~and the small-disadvantaged business officer~~  
30 shall be the liaison to the council and shall be responsible for submitting  
31 to the council any reports and documents under the provisions of this  
32 section.

33 (2) Their duties in relation to this section shall be considered  
34 official duty in the conduct of state business.

35 (h) The council's duties and responsibilities shall be to:

36 (1) Review reports and interpret each state agency's achievement

1 of its goals under § 15-4-302(c);

2 (2) Advise the Governor when a state agency has not reached its  
3 goals under § 15-4-302(c);

4 (3) Make annual reports to the Governor, including without  
5 limitation:

6 (A) A summary of the state's performance in relation to  
7 the goals stated in § 15-4-302(c); and

8 (B) Any recommendations for modifications to the  
9 division's or other state agency's plans for improving statewide performance  
10 in relation to the goals stated in § 15-4-302(c);

11 (4) Recommend to the state agency, the division, and the Office  
12 of State Procurement of the Department of Finance and Administration  
13 corrective actions to strengthen minority and women-owned business  
14 opportunities in the state; and

15 (5) Conduct public hearings when necessary to obtain public  
16 input and support for the purpose of carrying out the provisions of this  
17 subchapter.

18 (i) Each state agency, through its minority and women-owned business  
19 officer, shall submit to the division, ~~the council~~, and the office the state  
20 agency's plan to reach its goals for the coming fiscal year and shall:

21 (1) Be submitted to the division by June 30 of each year;

22 (2) Contain the name of the state agency submitting the plan;

23 (3) Contain a policy statement signed by the state agency head  
24 expressing a commitment to ~~use~~ strengthen minority business enterprises and  
25 women-owned business enterprises in all aspects of contracting to the maximum  
26 extent feasible;

27 (4) Identify the name of the minority and women-owned business  
28 officer in the state agency who is responsible for developing and  
29 administering the compliance plan;

30 (5) Establish a timetable for the state agency to reach its  
31 goals under the plan and the manner in which the state agency intends to  
32 reach its goals; and

33 (6) Contain any other procedures the division deems necessary to  
34 comply with the goals and the compliance plan.

35  
36 15-4-308. Administration.

1           (a) *The Division of Minority and Women-owned Business Enterprise of*  
2 *the Arkansas Economic Development Commission and the Office of State*  
3 *Procurement of the Department of Finance and Administration shall serve as*  
4 *the principal coordinators of the initiative to ensure the successful*  
5 *implementation of this subchapter.*

6           (b) *The division and the office shall provide assistance to minority*  
7 *business enterprises and women-owned business enterprises seeking state*  
8 *contract opportunities with various state agencies.*

9           (c) *The division and the office shall maintain a directory of all*  
10 *minority and women-owned business officers for each state agency.*

11           (d) *The division and the office shall provide management and technical*  
12 *assistance to any state agency that experiences difficulty in complying with*  
13 *the provisions of this subchapter.*

14           (e) *The division and the office shall maintain a current directory of*  
15 *minority business enterprises and women-owned business enterprises and shall*  
16 *make the directory available to each state agency and minority and women-*  
17 *owned business officer.*

18           (f) *The division shall serve as a central clearinghouse for*  
19 *information on state contracts, including a record of all pending state*  
20 *contracts upon which minority business enterprises and women-owned business*  
21 *enterprises may participate.*

22  
23           15-4-309. *Exempt contracts.*

24           *Upon the approval of the Minority and Women-owned Business Advisory*  
25 *Council, the Division of Minority and Women-owned Business Enterprise of the*  
26 *Arkansas Economic Development Commission and the Office of State Procurement*  
27 *of the Department of Finance and Administration shall determine the*  
28 *classifications of state contracts to be exempted from the goals established*  
29 *by this subchapter whenever there exists an insufficient number of minority*  
30 *business enterprises or women-owned business enterprises to ensure adequate*  
31 *competition.*

32  
33           15-4-310. *Minority and women-owned business officer.*

34           (a) *Each state agency shall designate an individual as its minority*  
35 *and women-owned business officer.*

36           (b) *The minority and women-owned business officer shall be the person*



1 within the state agency with whom the Division of Minority and Women-owned  
2 Business Enterprise of the Arkansas Economic Development Commission and the  
3 Minority and Women-owned Business Advisory Council shall work in their  
4 efforts to accomplish the goals of this subchapter.

5 (c) Upon the appointment of the minority and women-owned business  
6 officer in each state agency, the state agency shall notify the division and  
7 the Office of State Procurement of the Department of Finance and  
8 Administration.

9  
10 15-4-311. Annual minority and women-owned purchasing plan.

11 (a) Prior to June 30 each year, each state agency shall submit to the  
12 Division of Minority and Women-owned Business Enterprise of the Arkansas  
13 Economic Development Commission and the Office of State Procurement of the  
14 Department of Finance and Administration a minority and women-owned  
15 purchasing plan that shall outline the state agency's plan to reach its goals  
16 for the coming fiscal year.

17 (b) The minority and women-owned purchasing plan shall include without  
18 limitation:

19 (1) The name of the state agency;

20 (2) A policy statement signed by the state agency head  
21 expressing a commitment to use minority business enterprises and women-owned  
22 business enterprises in all aspects of contracting to the maximum extent  
23 feasible;

24 (3) The name of the minority and women-owned business officer in  
25 the state agency who is responsible for developing and administering the  
26 compliance purchasing plan;

27 (4) The time table for the state agency to reach its goals under  
28 the purchasing plan and the manner in which the state agency intends to reach  
29 its goals, including without limitation the manner in which the state agency  
30 intends to include minority business enterprises and women-owned business  
31 enterprises in reaching its goals; and

32 (5) Any other procedures the state agency deems necessary to  
33 comply with the goals and the compliance purchasing plan.

34 (c) The minority and women-owned business officer shall determine the  
35 category to which a purchase shall be assigned for purposes of the minority  
36 and women-owned purchasing plan required under this section.

1  
2 15-4-312. State agencies to submit reports.

3 ~~The Minority Business Advisory Council shall require each state agency~~  
4 ~~to produce within~~ Within fifteen (15) days of the close of each ~~three-month~~  
5 six-month period, each state agency shall submit a report to the Minority and  
6 Women-owned Business Advisory Council summing up total procurement for all  
7 state contracts, except exempt state contracts of the state agency, and the  
8 dollar value and the percentage of the state contracts of the state agency  
9 awarded to minority business enterprises and women-owned business  
10 enterprises.

11  
12 15-4-313. Accelerated payments.

13 To ensure that minority business enterprises and women-owned business  
14 enterprises are not financially hindered due to delays in payment by state  
15 agencies entering into state contracts with minority business enterprises and  
16 women-owned business enterprises under this subchapter, state agencies shall  
17 accelerate payment to minority vendors and women-owned vendors to preclude  
18 accounts receivable problems of minority business enterprises and women-owned  
19 business enterprises caused by the State of Arkansas.

20  
21 15-4-314. Minority business enterprises and women-owned business  
22 enterprises certification process.

23 (a) The Division of Minority and Women-owned Business Enterprise of  
24 the Arkansas Economic Development Commission shall promulgate rules to create  
25 a certification process for minority business enterprises and women-owned  
26 business enterprises.

27 (b) The certification process shall include without limitation:

28 (1) Criteria for certification that shall include without  
29 limitation:

30 (A) A determination that the business is structured as a  
31 minority business enterprise or a women-owned business enterprise;

32 (B) Verification of minority or woman ownership and  
33 control of the business; and

34 (C) Annual updates indicating continuing minority or woman  
35 ownership and control;

36 (2) A formal application process;

1 (3) An education program to assist minority business enterprises  
2 and women-owned business enterprises in achieving certification; and

3 (4) An outreach to ensure the broadest possible participation of  
4 minority business enterprises and women-owned business enterprises and  
5 persons proposing new minority business enterprises or women-owned business  
6 enterprises.

7 (c) The Office of State Procurement of the Department of Finance and  
8 Administration shall cooperate with the division to the fullest extent  
9 possible in sharing information concerning certification and registration of  
10 minority business enterprises and women-owned business enterprises carrying  
11 out the purposes of this section.

12  
13 SECTION 2. Arkansas Code Title 15, Chapter 4, Subchapter 3, is amended  
14 to add an additional section to read as follows:

15 15-4-315. Small procurements.

16 To assist the state in ensuring that the percentages of the total  
17 amount expended in state-funded and state-directed public construction  
18 programs and procurement of commodities and services for the state each  
19 fiscal year under § 15-4-302 are paid to minority business enterprises and  
20 women-owned business enterprises under this subchapter, a procurement that  
21 does not exceed two (2) times the amount stated in § 19-11-204(13) may be  
22 procured without seeking competitive bids or competitive sealed bids if the  
23 procurement is with a certified minority business enterprise or certified  
24 women-owned business enterprise

25  
26 SECTION 3. Arkansas Code § 19-11-106 is repealed.

27 ~~19-11-106. Contracting goals for service-disabled veterans —~~  
28 ~~Definitions.~~

29 ~~(a) As used in this section:~~

30 ~~(1) "Service-disabled veteran" means any individual who:~~

31 ~~(A) Is at least thirty-percent (30%) disabled as a result~~  
32 ~~of military service and is designated as such by the United States Department~~  
33 ~~of Veterans Affairs; and~~

34 ~~(B) Has been a resident of the State of Arkansas for at~~  
35 ~~least two (2) years; and~~

36 ~~(2) "Business of a service-disabled veteran" means a business~~

1 ~~that:~~

2 ~~(A) Not less than fifty-one percent (51%) of which is~~  
3 ~~owned by one (1) or more service-disabled veterans;~~

4 ~~(B) The management and daily business operations of which~~  
5 ~~are controlled by one (1) or more service-disabled veterans; and~~

6 ~~(C) Has been certified as a business of a service-disabled~~  
7 ~~veteran by the Division of Minority Business Enterprise of the Arkansas~~  
8 ~~Economic Development Commission under the Minority Business Economic~~  
9 ~~Development Act, § 15-4-301 et seq.~~

10 ~~(b)(1) All state agencies shall attempt to ensure that five percent~~  
11 ~~(5%) of the total amount expended in state-funded and state-directed public~~  
12 ~~construction programs and in the purchase of goods and services for the state~~  
13 ~~each fiscal year is paid to businesses of service-disabled veterans.~~

14 ~~(2) This subsection shall not be construed as establishing a~~  
15 ~~preference in contracting with businesses of service-disabled veterans.~~

16  
17 /s/M. Gray

18  
19  
20 APPROVED: 04/07/2017