

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Gordon**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 19-11-259 RELATING TO BID
9 PREFERENCE FOR ARKANSAS FIRMS; AND FOR OTHER PURPOSES."

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

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13 SECTION 1. Arkansas Code 19-11-259 is hereby amended to read as
14 follows:

15 "19-11-259. Preferences among bidders.

16 (a) Definitions. These definitions shall not be applicable to other
17 sections of this subchapter. As used in this section, unless the context
18 otherwise requires:

19 (1) 'Public agencies' shall mean all offices, whether constitutional
20 or otherwise, departments, boards, commissions, and institutions of the state,
21 counties, municipalities, and all political subdivisions thereof;

22 (2) 'Lowest qualified bid' shall mean the lowest bid which conforms to
23 the specifications and request for bids;

24 (3) 'Firm resident in Arkansas' shall mean any individual,
25 partnership, association, or corporation, whether domestic or foreign, who:

26 (A) Maintains at least one (1) staffed office in this state;

27 (B) For not less than two (2) successive years immediately prior to
28 submitting a bid, has paid taxes under the Arkansas Employment Security Act,
29 11-10-101 et seq., unless exempt therefrom, and either the Arkansas Gross
30 Receipts Act, 26-52-101 et seq., or the Arkansas Compensating Tax Act,
31 26-53-101 et seq., on any property used or intended to be used for or in
32 connection with the firm's business; and

33 (C) Within the two-year period, has paid any taxes to one (1) or more
34 counties, school districts, or municipalities of the State of Arkansas on
35 either real or personal property used or intended to be used or in connection

1 with the firm's business.

2 (4) 'Commodities' shall mean supplies, goods, material, and equipment
3 of every kind and character;

4 (5) 'Nonresident firm' shall mean a firm which is not included in the
5 definition of a 'firm resident in Arkansas.'

6 (b) Preference of Arkansas Firms over Nonresident Firms in Purchases
7 Under Competitive Bids.

8 (1) In the purchase of commodities by competitive bidding, all public
9 agencies shall accept the lowest qualified bid from a firm resident in
10 Arkansas. This bid shall be accepted only if the bid does not exceed the
11 lowest qualified bid from a nonresident firm by more than five percent (5%)
12 and if one (1) or more firms resident in Arkansas made written claim for a
13 preference at the time the bids were submitted. In calculating the preference
14 to be allowed, the appropriate purchasing officials pursuant to 19-11-201 -
15 19-11-259 shall take the amount of each bid of the Arkansas dealers who
16 claimed the preference and deduct five percent (5%) from its total. If, after
17 making such deduction, the bid of any Arkansas bidder claiming the preference
18 is lower than the bid of the nonresident firm, then the award shall be made to
19 the Arkansas firm which submitted the lowest bid regardless of whether that
20 particular Arkansas firm claimed the preference.

21 (2) The preference provided for in this section shall be applicable
22 only in comparing bids where one (1) or more bids are by a firm resident in
23 Arkansas and the other bid or bids are by a nonresident firm. This preference
24 shall have no application with respect to competing bids if both bidders are
25 firms resident in Arkansas as defined in this section. All public agencies
26 shall be responsible for carrying out the spirit and intent of this act in
27 their procurement policies. Any public agency as defined herein which through
28 any employee or designated agent is found guilty of violating the provisions
29 of this act or committing an unlawful act under it, shall be guilty of a
30 misdemeanor. Notwithstanding any other provisions of Arkansas law, upon
31 conviction that person shall be subject to imprisonment for not more than six
32 (6) months and/or a fine of not more than one thousand dollars (\$1,000). If
33 any provision or condition of this subchapter conflicts with any provision of
34 federal law or any rule or regulation made under federal law pertaining to
35 federal grants-in-aid programs or other federal aid programs, such provision

1 or condition shall not apply to such federal-supported contracts for the
2 purchase of commodities to the extent that the conflict exists, but all
3 provisions or conditions of this subchapter with which there is no conflict
4 shall apply to contracts to purchase commodities to be paid in whole or in
5 part from federal funds."

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7 SECTION 2. All provisions of this act of a general and permanent nature
8 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
9 Revision Commission shall incorporate the same in the Code.

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11 SECTION 3. If any provision of this act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 act are declared to be severable.

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17 SECTION 4. All laws and parts of laws in conflict with this act are
18 hereby repealed.

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