

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

A Bill

HOUSE BILL 1377

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

5
6

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."

13

Subtitle

14
15 "TO PERMIT MORE FLEXIBLE PROCUREMENT OF
16 PROFESSIONAL SERVICES BY THE STATE OF
17 ARKANSAS AND ITS POLITICAL
18 SUBDIVISIONS."

19

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

21

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
31 professional services shall include legal, architectural, engineering, land
32 surveying, and such other consulting services as the political subdivision
33 shall designate by two-thirds (2/3rds) vote of its governing body."

34

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

1 follows:

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

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

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

12 (c) The political subdivision shall not use competitive bidding for the
13 procurement of professional services."

14

15 SECTION 3. Arkansas Code 19-11-805 is hereby amended to read as
16 follows:

17 "19-11-805. Negotiation of contracts.

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

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

28 (c) If the political subdivision is unable to negotiate a contract with
29 any of the selected firms, the agency shall reevaluate the necessary
30 professional services, including the scope and reasonable fee requirements,
31 again compile a list of qualified firms, and proceed in accordance with the
32 provisions of this subchapter."

33

34 SECTION 4. Subchapter 8 of Chapter 11 of Title 19 of the Arkansas Code
35 is hereby amended to add the following section:

1 " 19-11-806. (a) Any city of the first or second class, or any
2 incorporated town, that defines a professional service pursuant to this
3 subchapter must do so by ordinance. Any ordinances that define a
4 professional service must be read publicly at two regularly scheduled
5 meetings. No ordinance that defines a professional service may be adopted
6 with an emergency clause.

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

15

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

19

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

25

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

28

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

1 welfare require that many of these public projects proceed as soon as
2 possible, an emergency is hereby declared to exist and this act being
3 necessary for the preservation of the public peace, health and safety shall
4 be in full force and effect from and after its passage and approval.

5 */s/Rep. Lynn, et al*
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

1

2

3