

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Malone

A Bill

SENATE BILL 512

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; TO ADD CONSTRUCTION MANAGEMENT
12 SERVICES FOR PUBLIC SCHOOL DISTRICTS AS A PROFESSIONAL
13 SERVICE SUBJECT TO THE PROFESSIONAL SERVICES PROCUREMENT
14 REQUIREMENTS; TO DECLARE AN EMERGENCY; AND FOR OTHER
15 PURPOSES."

Subtitle

18 "TO PERMIT MORE FLEXIBLE PROCUREMENT OF
19 PROFESSIONAL SERVICES AND TO ADD
20 CONSTRUCTION MANAGEMENT SERVICES FOR
21 PUBLIC SCHOOL DISTRICTS AS A
22 PROFESSIONAL SERVICE SUBJECT TO THE
23 PROFESSIONAL SERVICES PROCUREMENT
24 REQUIREMENTS."

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

28 SECTION 1. Arkansas Code §19-11-801 is hereby amended to read as
29 follows:

30 "19-11-801. Policy.

31 (a) It is the policy of the State of Arkansas and political
32 subdivisions that the state and political subdivisions shall negotiate
33 contracts for professional services on the basis of demonstrated competence
34 and qualifications for the type of services required and at fair and
35 reasonable prices and to prohibit the use of competitive bidding for the

1 procurement of professional services. *For purposes of this subchapter, the*
2 *term 'professional services' shall include legal, architectural, engineering,*
3 *land surveying, and such other consulting services as the political*
4 *subdivision shall designate by two-thirds (2/3rds) vote of its governing*
5 *body.*

6 (b) Public school districts shall negotiate contracts for construction
7 management in the same manner as set forth in subsection (a), *except that a*
8 *two-thirds (2/3rds) vote of the board of directors of a public school*
9 *district shall not be required for a school district to negotiate a contract*
10 *for construction management."*

11

12 SECTION 2. Arkansas Code §19-11-802 is hereby amended to read as
13 follows:

14 "19-11-802. Annual statements of qualifications and performance data -
15 Restrictions on competitive bidding.

16 (a) In the procurement of *professional* services, a political
17 subdivision which utilizes such services *may* encourage firms engaged in the
18 lawful practice of these professions to submit annual statements of
19 qualifications and performance data to the political subdivision, *or may*
20 *request such information as needed for a particular public project.*

21 (b) The political subdivision shall evaluate current statements of
22 qualifications and performance data of firms on file, *or may request such*
23 *information as needed for a particular public project* whenever a project
24 requiring professional services is proposed.

25 (c) The political subdivision shall not use competitive bidding for
26 the procurement of professional services.

27 (d)(1) A public school district that utilizes construction management
28 services shall encourage construction management firms to submit to the
29 school district annual statements of qualifications and performance data, *or*
30 *may request such information as needed for a particular public project.*

31 (2) The public school district shall evaluate current statements
32 of qualifications and performance data on file with the school district, *or*
33 *when submitted as requested* whenever a project requiring professional
34 services of a construction manager is proposed.

35 (3) The public school district shall not use competitive bidding

1 for the procurement of professional services of a construction manager."

2

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

5 "19-11-805. Negotiation of contracts.

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

9 (b) If the political subdivision is unable to negotiate a satisfactory
10 contract with the firm selected, negotiations with that firm shall be
11 terminated. The political subdivision shall then undertake negotiations with
12 another of the qualified firms selected. If there is a failing of accord
13 with the second firm, negotiations with such firm shall be terminated. The
14 political subdivision shall undertake negotiations with the third qualified
15 firm.

16 (c) If the political subdivision is unable to negotiate a contract
17 with any of the selected firms, the agency shall reevaluate the necessary
18 professional services, including the scope and reasonable fee requirements,
19 again compile a list of qualified firms, and proceed in accordance with the
20 provisions of this subchapter.

21 (d) When unable to negotiate a contract for construction management, a
22 public school district shall also perform a reevaluation of services in
23 accordance with subsection (c)."

24

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

27 "19-11-806. (a) Any city of the first or second class, or any
28 incorporated town, that defines a professional service pursuant to this
29 subchapter must do so by ordinance. Any ordinances that define a
30 professional service must be read publicly at two (2) regularly scheduled
31 meetings. No ordinance that defines a professional service may be adopted
32 with an emergency clause.

33 (b) In addition, in a city of the first or second class or an
34 incorporated town which has delegated the operation of its water or sewer
35 services to a Board of Public Utilities or Commission, it shall be the

1 responsibility of that Board or Commission to define a professional service
2 as used in this subchapter. It shall be defined by a motion or resolution of
3 the Board or Commission. The motion or resolution defining a professional
4 service shall be read publicly at two (2) regularly scheduled meetings and
5 shall be effective thirty (30) days after its second reading and passage."
6

7 SECTION 5. All provisions of this act of a general and permanent
8 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
9 Code Revision Commission shall incorporate the same in the Code.
10

11 SECTION 6. 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.
16

17 SECTION 7. All laws and parts of laws in conflict with this act are
18 hereby repealed.
19

20 SECTION 8. EMERGENCY. It is hereby found and determined by the
21 General Assembly that the state and its political subdivisions are hampered
22 in the ability to select the most qualified professional services since the
23 present statutory definition of professional services excludes many
24 professions that are vital to the successful completion of important public
25 projects. Since each public entity is better able to determine which
26 professional services it will need and since the public health, safety and
27 welfare require that many of these public projects proceed as soon as
28 possible, an emergency is hereby declared to exist and this act being
29 necessary for the preservation of the public peace, health and safety shall
30 be in full force and effect from and after its passage and approval.
31

32
33
34
35

/s/Malone

- 1
- 2
- 3
- 4
- 5