

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas As Engrossed: H2/8/05 H2/10/05 H2/22/05 H3/2/05

2 85th General Assembly

# A Bill

3 Regular Session, 2005

HOUSE BILL 1364

4

5 By: Representatives Overbey, Medley

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## For An Act To Be Entitled

9 AN ACT TO CLARIFY PROFESSIONAL SERVICES AND  
10 BIDDING REQUIREMENTS *FOR SCHOOL DISTRICTS,*  
11 *COUNTIES, CITIES, AND TOWNS;* AND FOR OTHER  
12 PURPOSES.

13

14

## Subtitle

15 AN ACT TO CLARIFY PROFESSIONAL SERVICES  
16 AND BIDDING REQUIREMENTS *FOR SCHOOL*  
17 *DISTRICTS, COUNTIES, CITIES, AND TOWNS.*

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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 amended to read as follows:*

23 *19-11-801. Policy – Definitions.*

24 *(a) It is the policy of the State of Arkansas ~~and its political~~*  
25 *~~subdivisions~~ that state agencies ~~and political subdivisions~~ shall follow the*  
26 *procedures stated in this section, except that competitive bidding shall not*  
27 *be used for the procurement of legal, architectural, engineering,*  
28 *construction management, and land surveying professional consultant services,*  
29 *if:*

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31 *(1) State agencies not exempt from review and approval of the*  
32 *Arkansas Building Authority shall follow procedures established by the*  
33 *authority for the procurement of architectural, engineering, land surveying,*  
34 *and construction management services; and*

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36 *(2) Institutions of higher education exempt from review and*  
*approval of the authority shall follow procedures established by their*  
*governing boards for the procurement of architectural, engineering, land*



1 surveying, and construction management professional consultant services.

2 ~~(b) Public school districts shall negotiate contracts for construction~~  
3 ~~management in the same manner as set forth in subsection (a) of this section,~~  
4 ~~except that a two thirds vote of the board of directors of a public school~~  
5 ~~district shall not be required for a school district to negotiate a contract~~  
6 ~~for construction management.~~

7 (b) It is the policy of the State of Arkansas and its political  
8 subdivisions that political subdivisions shall follow the procedures stated  
9 in this section, except that competitive bidding shall not be used for the  
10 procurement of legal, financial advisory, architectural, engineering,  
11 construction management, and land surveying professional consultant services.

12 (c) For purposes of this subchapter, political subdivisions of the  
13 state may elect to not use competitive bidding for other professional  
14 services not listed in subsection (b) of this section with a two-thirds (2/3)  
15 vote of its governing body.

16 (d) As used in this subchapter:

17 (1) "Political subdivision" means counties, school districts,  
18 cities of the first class, cities of the second class, and incorporated  
19 towns; and

20 (2) "Other professional services" means professional services  
21 not listed in subsection (b) of this section as defined by a political  
22 subdivision upon a two-thirds (2/3) vote of its governing body.

23  
24 SECTION 2. Arkansas Code § 19-11-802 is amended to read as follows:

25 19-11-802. Annual statements of qualifications and performance data -  
26 Restrictions on competitive bidding.

27 (a) In the procurement of professional services, a state agency or  
28 political subdivision which utilizes these services may encourage firms  
29 engaged in the lawful practice of these professions to submit annual  
30 statements of qualifications and performance data to the political  
31 subdivision or may request such information as needed for a particular public  
32 project.

33 (b) The state agency or political subdivision shall evaluate current  
34 statements of qualifications and performance data of firms on file or may  
35 request such information as needed for a particular public project whenever a  
36 project requiring professional services is proposed.

1           (c)(1) The political subdivision shall not use competitive bidding for  
2 the procurement of legal, financial advisory, architectural, engineering,  
3 construction management, and land surveying professional consulting services.

4           (2) A political subdivision shall not use competitive bidding  
5 for the procurement of other professional services with a two-thirds (2/3)  
6 vote of its governing body.

7           (d)(1) A public school district that utilizes construction management  
8 services shall encourage construction management firms to submit to the  
9 school district annual statements of qualifications and performance data or  
10 may request such information as needed for a particular public project.

11           (2) The public school district shall evaluate current statements  
12 of qualifications and performance data on file with the school district or  
13 when submitted as requested whenever a project requiring professional  
14 services of a construction manager is proposed.

15           (3) The public school district shall not use competitive bidding  
16 for the procurement of professional services of a construction manager.

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18           SECTION 3. Arkansas Code § 19-11-806 is repealed.

19           ~~19-11-806. Cities of the first or second class—Ordinances.~~

20           ~~(a)(1) Any city of the first or second class, or any incorporated~~  
21 ~~town, that defines a professional service pursuant to this subchapter must do~~  
22 ~~so by ordinance.~~

23           ~~(2) Any ordinances that define a professional service must be~~  
24 ~~read publicly at two (2) regularly scheduled meetings.~~

25           ~~(3) No ordinance that defines a professional service may be~~  
26 ~~adopted with an emergency clause.~~

27           ~~(b)(1) In addition, in a city of the first or second class or an~~  
28 ~~incorporated town which has delegated the operation of its water or sewer~~  
29 ~~services to a board of public utilities or commission, it shall be the~~  
30 ~~responsibility of that board or commission to define a professional service~~  
31 ~~as used in this subchapter.~~

32           ~~(2)(A) It shall be defined by a motion or resolution of the~~  
33 ~~board or commission.~~

34           ~~(B) The motion or resolution defining a professional~~  
35 ~~service shall be read publicly at two (2) regularly scheduled meetings and~~  
36 ~~shall be effective thirty (30) days after its second reading and passage.~~

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*/s/ Overbey, et al*