

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  
2 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: S3/17/05

# A Bill

SENATE BILL 1092

5 By: Senators Altes, *Broadway, Horn*  
6 By: Representatives Walters, *Glidewell*  
7

## For An Act To Be Entitled

10 AN ACT TO CLARIFY ARKANSAS LAWS CONCERNING  
11 CONSTRUCTION MANAGEMENT; AND FOR OTHER PURPOSES.  
12

### Subtitle

14 AN ACT TO CLARIFY ARKANSAS LAWS  
15 CONCERNING CONSTRUCTION MANAGEMENT.  
16  
17

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

20 SECTION 1. Arkansas Code § 19-11-801 is amended to read as follows:  
21 19-11-801. Policy.

22 (a)(1) As used in this section, "construction management" means a  
23 project delivery method based on an agreement in which a state agency,  
24 political subdivision, public school district, or institution of higher  
25 education acquires from a construction entity a series of services that  
26 include, but are not limited to, design review, scheduling, cost control,  
27 value engineering, constructability evaluation, preparation and coordination  
28 of bid packages, and construction administration.

29 (2) "Construction management" includes, but is not limited to:

30 (A)(i) "Agency construction management", in which a public  
31 school district selects a construction manager to serve as an agent for the  
32 purpose of providing administration and management services.

33 (ii) The construction manager shall not hold  
34 subcontracts for the project or provide project bonding for the project;

35 (B) "At-risk construction management", in which the  
36 construction entity, after providing agency services during the



1 preconstruction period, serves as the general contractor and the following  
2 conditions are met:

3 (i) The construction manager provides a maximum  
4 guaranteed price;

5 (ii) The public school district holds all trade  
6 contracts and purchase orders; and

7 (iii) The portion of the project not covered by the  
8 trade contracts is be bonded and guaranteed by the construction manager; and

9 (C)(i) "General contractor construction management", in  
10 which the construction entity, after providing agency services during the  
11 preconstruction period, serves as the general contractor.

12 (ii) The general contractor shall hold all trade  
13 contracts and purchase orders and shall bond and guarantee the project.

14 ~~(a)~~(b) It is the policy of the State of Arkansas and its political  
15 subdivisions that state agencies and political subdivisions shall follow the  
16 procedures stated in this section, except that competitive bidding shall not  
17 be used for the procurement of legal, architectural, engineering,  
18 construction management, and land surveying professional consultant services,  
19 if:

20 (1) State agencies not exempt from review and approval of the  
21 Arkansas Building Authority shall follow procedures established by the  
22 authority for the procurement of architectural, engineering, land surveying,  
23 and construction management services; and

24 (2) Institutions of higher education exempt from review and  
25 approval of the authority shall follow procedures established by their  
26 governing boards for the procurement of architectural, engineering, land  
27 surveying, and construction management professional consultant services.

28 ~~(b)~~(c) Public school districts shall negotiate contracts for  
29 construction management in the same manner as set forth in subsection ~~(a)~~(b)  
30 of this section, except that a two-thirds vote of the board of directors of a  
31 public school district shall not be required for a school district to  
32 negotiate a contract for construction management.

33  
34 SECTION 2. EMERGENCY CLAUSE. It is hereby found and determined by the  
35 General Assembly of the State of Arkansas that the Arkansas Supreme Court has  
36 determined that current public school facilities in Arkansas are inadequate

1 and inequitable; that the clarification of construction management as a  
2 project delivery method will increase the construction options of public  
3 schools entering into construction projects to improve their school  
4 facilities and assist in the process of improving current school facilities;  
5 and that the improvements to public school facilities through the use of  
6 construction management will ultimately benefit public school students and  
7 the state of Arkansas. Therefore, an emergency is declared to exist and this  
8 act being immediately necessary for the preservation of the public peace,  
9 health, and safety shall become effective on:

10 (1) The date of its approval by the Governor;

11 (2) If the bill is neither approved nor vetoed by the Governor,  
12 the expiration of the period of time during which the Governor may veto the  
13 bill; or

14 (3) If the bill is vetoed by the Governor and the veto is  
15 overridden, the date the last house overrides the veto.

16  
17 */s/ Altes*  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36