

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: H3/17/11

# A Bill

HOUSE BILL 2210

5 By: Representative Murdock  
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## For An Act To Be Entitled

8 AN ACT TO REGULATE THE FAIRNESS AND COMPETITION IN  
9 CONSTRUCTION MANAGEMENT; AND FOR OTHER PURPOSES.  
10

### Subtitle

11  
12 REGULATE THE FAIRNESS AND COMPETITION IN  
13 CONSTRUCTION MANAGEMENT.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code § 19-11-801 is amended to read as follows:  
20 19-11-801. Policy – Definitions.

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

26 (1) State agencies not exempt from review and approval of the  
27 Arkansas Building Authority shall follow procedures established by the  
28 authority for the procurement of architectural, engineering, and land  
29 surveying, ~~and construction management services~~; and

30 (2) Institutions of higher education exempt from review and  
31 approval of the authority shall follow procedures established by their  
32 governing boards for the procurement of architectural, engineering, and land  
33 surveying, ~~and construction management professional consultant services~~.

34 (b) It is the policy of the State of Arkansas and its political  
35 subdivisions that political subdivisions shall follow the procedures stated  
36 in this section, except that competitive bidding shall not be used for the



1 procurement of legal, financial advisory, architectural, engineering,  
2 ~~construction management~~, and land surveying professional consultant services.

3 (c) For purposes of this subchapter, a political subdivision of the  
4 state may elect to not use competitive bidding for other professional  
5 services not listed in subsection (b) of this section with a two-thirds (2/3)  
6 vote of the political subdivision's governing body.

7 ~~(d)(1) As used in this section, "construction management" means a~~  
8 ~~project delivery method based on an agreement in which a state agency,~~  
9 ~~political subdivision, public school district, or institution of higher~~  
10 ~~education acquires from a construction entity a series of services that~~  
11 ~~include, but are not limited to, design review, scheduling, cost control,~~  
12 ~~value engineering, constructability evaluation, preparation and coordination~~  
13 ~~of bid packages, and construction administration.~~

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

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

18 ~~(ii) The construction manager shall not hold~~  
19 ~~subcontracts for the project or provide project bonding for the project;~~

20 ~~(B) "At risk construction management", in which the~~  
21 ~~construction entity, after providing agency services during the~~  
22 ~~preconstruction period, serves as the general contractor and the following~~  
23 ~~conditions are met:~~

24 ~~(i) The construction manager provides a maximum~~  
25 ~~guaranteed price;~~

26 ~~(ii) The public school district holds all trade~~  
27 ~~contracts and purchase orders; and~~

28 ~~(iii) The portion of the project not covered by the~~  
29 ~~trade contracts is bonded and guaranteed by the construction manager; and~~

30 ~~(C)(i) "General contractor construction management", in~~  
31 ~~which the construction entity, after providing agency services during the~~  
32 ~~preconstruction period, serves as the general contractor.~~

33 ~~(ii) The general contractor shall hold all trade~~  
34 ~~contracts and purchase orders and shall bond and guarantee the project.~~

35 ~~(e)(d) As used in this subchapter:~~

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

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

*/s/Murdock*