

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

As Engrossed: H3/17/11 H3/21/11

# 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 *THE BIDDING PRACTICES FOR THE CONSTRUCTION OF*  
10 *PUBLICLY FUNDED BUILDINGS, INFRASTRUCTURE, AND*  
11 *FACILITIES; AND FOR OTHER PURPOSES.*  
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### Subtitle

14 REGULATE THE FAIRNESS AND COMPETITION IN  
15 *CONSTRUCTION MANAGEMENT.*  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 *SECTION 1. Arkansas Code § 19-11-801 is amended to read as follows:*  
22 *19-11-801. Policy – Definitions.*

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

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

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

36 *(b) It is the policy of the State of Arkansas and its political*



1 subdivisions that political subdivisions shall follow the procedures stated  
2 in this section, except that competitive bidding shall not be used for the  
3 procurement of legal, financial advisory, architectural, engineering,  
4 ~~construction management, and land surveying professional consultant services.~~

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

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

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

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

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

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

26 ~~(i) The construction manager provides a maximum~~  
27 ~~guaranteed price;~~

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

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

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

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

1           ~~(e)~~(c) *As used in this subchapter:*

2                   (1) *“Political subdivision” means counties, school districts,*  
3 *cities of the first class, cities of the second class, and incorporated*  
4 *towns; and*

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

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*/s/Murdock*

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