

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

*As Engrossed: H3/4/15*

# A Bill

HOUSE BILL 1480

5 By: Representative Blake  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE PREFERENCE OF  
9 MUNICIPAL BIDDING; AND FOR OTHER PURPOSES.

### Subtitle

10 TO AMEND THE LAW CONCERNING THE  
11 PREFERENCE OF MUNICIPAL BIDDING.  
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13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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17 *SECTION 1. Arkansas Code Title 14, Chapter 58, Subchapter 1, is*  
18 *amended to add an additional section to read as follows:*

19 14-58-105. Purchase of commodities or services by municipalities  
20 through competitive bidding -- Preference among bidders -- Definitions.

21 (a) As used in this section:

22 (1) "Commodities" means all property, including without  
23 limitation equipment, printing, stationery, supplies, insurance, and capital  
24 improvements, but excluding leases on real property, real property, or a  
25 permanent interest in real property, and exempt commodities and services;

26 (2) "Firm resident in the municipality" means any  
27 individual, partnership, association, or corporation, whether domestic or  
28 foreign, that:

29 (A) Maintains at least one (1) staffed place of  
30 business located within the corporate limits of the municipality; and

31 (B) For not less than two (2) successive years  
32 immediately before submitting a bid, has paid taxes to the county that  
33 benefit the municipality on either real or personal property used or intended  
34 to be used in connection with the firm's business;  
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1                   (3) “Lowest qualified bid” means the lowest bid that  
2 conforms to the specifications and request for bids;

3                   (4) “Municipality” means an incorporated town, a city of  
4 the first class, and a city of the second class;

5                   (5) “Nonresident firm” means a firm that is not included  
6 in the definition of a “firm resident in the municipality”; and

7                   (6) “Services” means labor, time, or effort furnished by a  
8 contractor.

9                   (b)(1)(A) In the purchase of commodities or services by competitive  
10 bidding, a municipality may grant by ordinance a percentage preference to the  
11 lowest qualified bid from a firm resident in the municipality.

12                   (B) The ordinance may provide a preference of up to five  
13 percent (5%) for a bidder that qualifies as a firm resident in the  
14 municipality.

15                   (C) The ordinance may place a specific dollar cap on the  
16 total monetary amount of preference granted, regardless of the bid amount or  
17 percentage of preference designated in the ordinance.

18                   (D)(i) In calculating the preference to be allowed, the  
19 appropriate procurement officials shall take the total amount of each bid of  
20 each firm resident in the municipality who claimed the preference and deduct  
21 the percentage mandated by ordinance, if applicable, from the total amount of  
22 each bid.

23                   (ii) If after making the deduction the bid of any  
24 firm resident in the municipality claiming the preference is lower than the  
25 bid of the nonresident firm, then the award shall be made to the firm  
26 resident in the municipality that submitted the lowest qualified bid, whether  
27 or not that particular firm resident in the municipality claimed the  
28 preference.

29                   (2)(A) The preference provided for in this section only applies  
30 in comparing bids when one (1) or more bids are by a firm resident in the  
31 municipality and the other bid or bids are by a nonresident firm.

32                   (B) The preference provided for in this section does not  
33 apply to competing bids if each bidder is a firm resident in the  
34 municipality.

35                   (C)(i) If any provision or condition of this section or  
36 the municipal ordinance conflicts with any provision of federal or state law

1 or any rule or regulation made under federal or state law pertaining to  
2 federal grants-in-aid programs or other federal or state aid programs, the  
3 provision or condition shall not apply to the state-supported or federal-  
4 supported contracts for the purchase of commodities or services to the extent  
5 that the conflict exists.

6 (ii) However, all provisions or conditions of this  
7 section with which there is no conflict apply to contracts to purchase  
8 commodities or services to be paid, in whole or in part, from federal funds.

9 (c) The provisions of this section, if adopted by local ordinance,  
10 shall apply to public works projects, capital improvements, commodities,  
11 materials, equipment, and services procured by the municipality.

12 (d) When circumstances arise to which this section and § 19-11-259  
13 apply, both the preference provided under this section and the preference  
14 provided under § 19-11-259 also apply.

15 (e) To the extent that federal purchasing laws or bidding preferences  
16 conflict, this section does not apply to projects related to supplying water  
17 or wastewater utility services, operations, or maintenance to a federal  
18 military installation by a municipality of the state.

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20 SECTION 2. The lead-in language of Arkansas Code § 22-9-203(a),  
21 concerning the award procedure for public improvement projects generally, is  
22 amended to read as follows:

23 (a) ~~No~~ Except as provided under § 14-58-105, a contract providing for  
24 the making of major repairs or alterations, for the erection of buildings or  
25 other structures, or for making other permanent improvements shall not be  
26 entered into by the state or ~~any~~ an agency thereof, ~~any~~ of the state or by a  
27 county, municipality, school district, or other local taxing unit with any  
28 contractor in instances ~~where~~ in which all estimated costs of the work shall  
29 exceed the sum of twenty thousand dollars (\$20,000) unless:

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31 /s/Blake  
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