

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

SENATE BILL 449

5 By: Senator Hester  
6 By: Representative Wardlaw  
7

## For An Act To Be Entitled

9 AN ACT TO CLARIFY THE RESOLUTION OF PROTESTED  
10 SOLICITATIONS AND AWARDS UNDER THE ARKANSAS  
11 PROCUREMENT LAW; TO CLARIFY THAT THE ARKANSAS STATE  
12 CLAIMS COMMISSION HAS EXCLUSIVE JURISDICTION OVER ALL  
13 CLAIMS AGAINST THE STATE IN CONNECTION WITH THE  
14 SOLICITATION OR AWARD OF A CONTRACT; TO CLARIFY THAT  
15 ADMINISTRATIVE DECISIONS REGARDING A PROTEST ARE NOT  
16 ORDERS SUBJECT TO THE ARKANSAS ADMINISTRATIVE  
17 PROCEDURE ACT; AND FOR OTHER PURPOSES.  
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19

## Subtitle

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21 TO CLARIFY THE RESOLUTION OF PROTESTED  
22 SOLICITATIONS AND AWARDS UNDER THE  
23 ARKANSAS PROCUREMENT LAW.  
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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28 SECTION 1. Arkansas Code § 19-11-244(b) and (c), concerning the  
29 resolution of protested solicitations and awards, are amended to read as  
30 follows:

31 (b)(1)(A) ~~Prior to the commencement of an action in court or any other~~  
32 ~~action provided by law concerning the controversy, the~~ The director, the head  
33 of a procurement agency, or a designee of either officer may settle and  
34 resolve a protest concerning the solicitation or award of a contract before  
35 rendering an administrative protest determination.

36 (B)(i) A meeting in an attempt to settle or resolve a



1 protest is not a public meeting.

2 (ii) However, a final settlement or resolution of a  
 3 protest made under this section shall not be kept secret, sealed, or withheld  
 4 from public disclosure.

5 (2) This The authority to settle or resolve a protest under this  
 6 section shall be exercised in accordance with laws governing the Arkansas  
 7 State Claims Commission, which has exclusive jurisdiction over all claims  
 8 against the state in connection with the solicitation or award of a contract,  
 9 and the ~~regulations~~ rules promulgated by the director.

10 (c)(1) If ~~the~~ a protest is not settled or resolved by mutual agreement  
 11 under subsection (b) of this section, and after reasonable notice to the  
 12 protestor involved and reasonable opportunity for the protestor to respond to  
 13 the protest issues according to the regulations promulgated by the director,  
 14 the head of a procurement agency, the director, or a designee of either  
 15 officer shall promptly issue a ~~decision~~ an administrative protest  
 16 determination in writing.

17 (2) The ~~decision~~ administrative protest determination shall  
 18 state the reasons for the action taken.

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 20 SECTION 2. Arkansas Code § 19-11-244(e), concerning the resolution of  
 21 protested solicitations and awards, is amended to read as follows:

22 (e) A ~~decision~~ An administrative protest determination under  
 23 subsection (c) of this section ~~shall be final~~ is:

24 (1) Final and conclusive; and

25 (2) Not an order as defined in the Arkansas Administrative  
 26 Procedure Act, § 25-15-201 et seq.