

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 1803

5 By: Representatives B. Wilkins, Rice  
6 By: Senators R. Thompson, Teague  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING THE PROCUREMENT OF CONTRACTS FOR  
10 NONEMERGENCY TRANSPORTATION; TO REQUIRE THAT  
11 CONTRACTS FOR NONEMERGENCY TRANSPORTATION BE AWARDED  
12 BY COMPETITIVE SEALED PROPOSALS; TO REQUIRE THAT  
13 CONTRACTS FOR NONEMERGENCY TRANSPORTATION BE  
14 SUBMITTED TO THE LEGISLATIVE COUNCIL OR THE JOINT  
15 BUDGET COMMITTEE; TO DECLARE AN EMERGENCY; AND FOR  
16 OTHER PURPOSES.

## Subtitle

17  
18  
19  
20 TO REQUIRE THAT CONTRACTS FOR  
21 NONEMERGENCY TRANSPORTATION BE AWARDED BY  
22 COMPETITIVE SEALED PROPOSALS AND  
23 SUBMITTED TO THE GENERAL ASSEMBLY; AND TO  
24 DECLARE AN EMERGENCY.  
25  
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
28

29 SECTION 1. Arkansas Code § 19-11-203, concerning the definitions to be  
30 used in the Arkansas Procurement Law, is amended to add an additional  
31 subdivision to read as follows:

32 (37) "Nonemergency transportation" means transportation services  
33 provided by persons who ensure that eligible Medicaid recipients are  
34 transported to and from approved medical appointments.  
35

36 SECTION 2. Arkansas Code § 19-11-228 is amended to read as follows:



1 19-11-228. Methods of source selection.

2 Unless otherwise authorized by law, all contracts shall be awarded by  
 3 competitive sealed bidding, ~~pursuant to~~ under § 19-11-229, ~~which refers to~~  
 4 ~~competitive sealed bidding~~, except as provided in:

5 (1) Section 19-11-230, which refers to competitive sealed  
 6 proposals;

7 (2) Section 19-11-231, which refers to small procurements;

8 (3) Section 19-11-232, which refers to proprietary or sole  
 9 source procurements;

10 (4) Section 19-11-233, which refers to emergency procurements;

11 (5) Section 19-11-234, which refers to competitive bidding;

12 (6) Section 19-11-262, which refers to multiple award contracts;

13 ~~or~~

14 (7) Section 19-11-263, which refers to special procurements;

15 and

16 (8) Section 19-11-267, which refers to nonemergency  
 17 transportation.

18  
 19 SECTION 3. Arkansas Code § 19-11-265(a)(1), concerning the required  
 20 submission of certain contracts, is amended to read as follows:

21 (a)(1) All contracts for technical and general services, except for  
 22 those that are specifically exempt from review, requiring the service of an  
 23 individual or individuals for regular full-time or part-time weekly work in  
 24 the areas of information technology, the actual delivery of health care or  
 25 human services, nonemergency transportation, or educational services shall be  
 26 presented to the Legislative Council, or to the Joint Budget Committee, if  
 27 the General Assembly is in session, before the execution date of the contract  
 28 if the total contract amount exceeds one hundred thousand dollars (\$100,000).  
 29

30 SECTION 4. Arkansas Code Title 19, Chapter 11, Subchapter 2, is  
 31 amended to add an additional section to read as follows:

32 19-11-267. Nonemergency transportation – Findings and intent.

33 (a)(1) The General Assembly finds that:

34 (A) Nonemergency transportation providers are critical to  
 35 Arkansas’s medical delivery system;

36 (B) The safety and welfare of the persons who rely on

1 nonemergency transportation should be an essential consideration in selecting  
2 providers of this service; and

3 (C) Federal regulations regarding Medicaid transportation  
4 require that the competitive bidding process used to select a provider of  
5 nonemergency transportation be based on the state's evaluation of the  
6 provider's experience, performance, references, resources, qualifications,  
7 and costs.

8 (2) The intent of this section is to require state agencies to  
9 request proposals and consider other factors in addition to cost in selecting  
10 a provider for nonemergency transportation to ensure that this state's  
11 Medicaid recipients are provided with safe and reliable transportation.

12 (b)(1)(A) When a state agency purchases nonemergency transportation,  
13 the state agency shall use the process for soliciting, evaluating, and  
14 awarding competitive sealed proposals under § 19-11-230.

15 (B) However, in the solicitation, evaluation, and awarding  
16 of competitive sealed proposals under subdivision (b)(1)(A) of this section,  
17 no more than twenty percent (20%) of the evaluation criteria established by a  
18 state agency shall be determined by price.

19 (2) A contract for nonemergency transportation shall not be  
20 awarded using the competitive sealed bidding process under § 19-11-229.

21 (3) This section does not prohibit the emergency procurement of  
22 nonemergency transportation under § 19-11-233.

23  
24 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
25 General Assembly of the State of Arkansas that nonemergency transportation  
26 providers are critical to Arkansas's medical delivery system; that the safety  
27 and welfare of the persons who rely on nonemergency transportation should be  
28 an essential consideration in selecting providers; that federal regulations  
29 regarding Medicaid transportation require that the competitive bidding  
30 process used to select a provider of nonemergency transportation be based on  
31 the state's evaluation of the provider's experience, performance, references,  
32 resources, qualifications, and costs; that at least one (1) contract for  
33 nonemergency transportation will expire by July 1, 2013; and that this act is  
34 immediately necessary because the state will be required to immediately start  
35 the process of soliciting proposals and selecting a new nonemergency  
36 transportation provider. Therefore, an emergency is declared to exist, and

1 this act being immediately necessary for the preservation of the public  
2 peace, health, and safety shall become effective on:

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

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

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

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36