

SB291 ENROLLED



1 2B4VKS-3
2 By Senator Coleman
3 RFD: Fiscal Responsibility and Economic Development
4 First Read: 03-May-23
5 2023 Regular Session



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1 Enrolled, An Act,

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3 Relating to public contracts; to amend Section
4 41-16-51, Code of Alabama 1975, to further provide for
5 contracts for which competitive bidding is not required; and
6 in connection therewith would have as its purpose or effect
7 the requirement of a new or increased expenditure of local
8 funds within the meaning of Section 111.05 of the Constitution
9 of Alabama of 2022.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 41-16-51, Code of Alabama 1975, is
12 amended to read as follows:

13 "§41-16-51

14 (a) Competitive bids for entities subject to this
15 article shall not be required for utility services, the rates
16 for which are fixed by law, regulation, or ordinance, and the
17 competitive bidding requirements of this article shall not
18 apply to:

19 (1) The purchase of insurance.

20 (2) The purchase of ballots and supplies for conducting
21 any primary, general, special, or municipal election.

22 (3) Contracts for securing services of attorneys,
23 physicians, architects, teachers, superintendents of
24 construction, artists, appraisers, engineers, consultants,
25 certified public accountants, public accountants, or other
26 individuals possessing a high degree of professional skill
27 where the personality of the individual plays a decisive part.

28 (4) Contracts of employment in the regular civil



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29 service.

30 (5) Contracts for fiscal or financial advice or
31 services.

32 (6) Purchases of products made or manufactured by blind
33 or visually impaired individuals under the direction or
34 supervision of the Alabama Institute for Deaf and Blind in
35 accordance with Sections 21-2-1 to 21-2-4, inclusive.

36 (7) Purchases of maps or photographs from any federal
37 agency.

38 (8) Purchases of computer programs, software
39 applications, manuscripts, books, maps, pamphlets,
40 periodicals, and ~~library/research~~ library or research
41 electronic data bases of manuscripts, books, maps, pamphlets,
42 or periodicals.

43 (9) The selection of paying agents and trustees for any
44 security issued by a public body.

45 (10) Existing contracts up for renewal for sanitation
46 or solid waste collection, recycling, and disposal between
47 municipalities or counties, or both, and those providing the
48 service.

49 (11) Purchases of computer and word processing hardware
50 when the hardware is the only type that is compatible with
51 hardware already owned by the entity taking bids and custom
52 software.

53 (12) Professional services contracts for codification
54 and publication of the laws and ordinances of municipalities
55 and counties.

56 (13) Contractual services and purchases of commodities



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57 for which there is only one vendor or supplier and contractual
58 services and purchases of personal property which by their
59 very nature are impossible to award by competitive bidding.

60 (14) Purchases of dirt, sand, or gravel by a county
61 governing body from in-county property owners in order to
62 supply a county road or bridge project in which the materials
63 will be used. The material shall be delivered to the project
64 site by county employees and equipment used only on projects
65 conducted exclusively by county employees.

66 (15) Contractual services and purchases of products
67 related to, or having an impact upon, security plans,
68 procedures, assessments, measures, or systems, or the security
69 or safety of ~~persons~~individuals, structures, facilities, or
70 infrastructures.

71 (16) Subject to the limitations in this subdivision,
72 purchases, leases, or lease/purchases of goods or services,
73 other than voice or data wireless communication services, made
74 as a part of the purchasing cooperative sponsored by the
75 National Association of Counties, its successor organization,
76 or any other national or regional governmental cooperative
77 purchasing program. The purchases, leases, or lease/purchases
78 may only be made if all of the following occur:

79 a. The goods or services being purchased, including
80 those purchased through a lease/purchase agreement, or leased
81 are available as a result of a competitive bid process
82 conducted by a governmental entity and approved by the ~~Alabama~~
83 Department of Examiners of Public Accounts for each bid.

84 b. The goods or services are either not at the time



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85 available to counties on the state purchasing program or are
86 available at a price equal to or less than that on the state
87 purchasing program.

88 c. The purchase, lease, or lease/purchase is made
89 through a participating Alabama vendor holding an Alabama
90 business license if such a vendor exists.

91 d. The entity purchasing, leasing, or lease/purchasing
92 goods or services under this subdivision has been notified by
93 the Department of Examiners of Public Accounts that the
94 competitive bid process utilized by the cooperative program
95 offering the goods complies with this subdivision. In
96 addition, upon request, a vendor shall provide the entity
97 purchasing, leasing, or lease/purchasing items that exceed
98 fifteen thousand dollars (\$15,000) made under this exception
99 during the previous 12 months a report of the sales, leases,
100 and lease/purchases which includes a general description of
101 the goods or services; the number of units sold, leased, and
102 leased/purchased per entity; and the price of units purchased,
103 leased, or leased/purchased.

104 (17) ~~Purchase~~ The purchase of goods or services, other
105 than wireless communication services, whether voice or data,
106 from vendors that have been awarded a current and valid
107 Government Services Administration contract. Any purchase made
108 pursuant to this subdivision shall be under the same terms and
109 conditions as provided in the Government Services
110 Administration contract. Prices paid for such goods and
111 services, other than wireless communication services, whether
112 voice or data, may not exceed the amount provided in the



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113 Government Services Administration contract.

114 (b) This article shall not apply to:

115 (1) Any purchases of products where the price of the
116 products is already regulated and established by state law.

117 (2) Purchases made by individual schools of the county
118 or municipal public school systems from monies other than
119 those raised by taxation or received through appropriations
120 from state or county sources.

121 (3) The purchase, lease, sale, construction,
122 installation, acquisition, improvement, enlargement, or
123 expansion of any building or structure or other facility
124 designed or intended for lease or sale by a medical clinic
125 board organized under Sections 11-58-1 to 11-58-14, inclusive.

126 (4) The purchase, lease, or other acquisition of
127 machinery, equipment, supplies, and other personal property or
128 services by a medical clinic board organized under Sections
129 11-58-1 to 11-58-14, inclusive.

130 (5) Purchases for public hospitals and nursing homes
131 operated by the governing boards of instrumentalities of the
132 state, counties, and municipalities.

133 (6) Contracts for the purchase, lease, sale,
134 construction, installation, acquisition, improvement,
135 enlargement, or extension of any plant, building, structure,
136 or other facility or any machinery, equipment, furniture, or
137 furnishings therefor designed or intended for lease or sale
138 for industrial development, other than public utilities, under
139 Sections 11-54-80 to 11-54-99, inclusive, or Sections 11-54-20
140 to 11-54-28, inclusive, or any other law or amendment to the



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141 Constitution of Alabama [of 2022](#) authorizing the construction
142 of plants or other facilities for industrial development or
143 for the construction and equipment of buildings for public
144 building authorities under Sections 11-56-1 to 11-56-22,
145 inclusive.

146 (7) The purchase of equipment, supplies, or materials
147 needed, used, and consumed in the normal and routine operation
148 of any waterworks system, sanitary sewer system, gas system,
149 or electric system, or any two or more thereof, that are owned
150 by municipalities, counties, or public corporations, boards,
151 or authorities that are agencies, departments, or
152 instrumentalities of municipalities or counties and no part of
153 the operating expenses of which system or systems, during the
154 then current fiscal year, have been paid from revenues derived
155 from taxes or from appropriations of the state, a county, or a
156 municipality.

157 (8) Purchases made by local housing authorities,
158 organized and existing under Chapter 1 of Title 24, from
159 monies other than those raised by state, county, or city
160 taxation or received through appropriations from state,
161 county, or city sources.

162 [\(9\) The purchase of services to aid in the prevention](#)
163 [and detection of criminal activity by law enforcement agencies](#)
164 [and community-oriented policing programs.](#)

165 (c) The state trade schools, state junior colleges,
166 state colleges, and universities under the supervision and
167 control of the State Board of Education, the district boards
168 of education of independent school districts, the county



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169 commissions, and the governing bodies of the municipalities of
170 the state shall establish and maintain ~~such~~ purchasing
171 facilities and procedures as may be necessary to carry out the
172 intent and purpose of this article by complying with the
173 requirements for competitive bidding in the operation and
174 management of each state trade school, state junior college,
175 state college, or university under the supervision and control
176 of the State Board of Education, the district boards of
177 education of independent school districts, the county
178 commissions, and the governing bodies of the municipalities of
179 the state and the governing boards of instrumentalities of
180 counties and municipalities, including waterworks boards,
181 sewer boards, gas boards, and other like utility boards and
182 commissions.

183 (d) Contracts entered into in violation of this article
184 shall be void and any ~~person~~individual who violates ~~the~~
185 ~~provisions of~~ this article shall be guilty of a Class C
186 felony."

187 Section 2. Although this bill would have as its purpose
188 or effect the requirement of a new or increased expenditure of
189 local funds, the bill is excluded from further requirements
190 and application under Section 111.05 of the Constitution of
191 Alabama of 2022, because the bill defines a new crime or
192 amends the definition of an existing crime.

193 Section 3. This act shall become effective on the first
194 day of the third month following its passage and approval by
195 the Governor, or its otherwise becoming law.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB291
Senate 24-May-23
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 06-Jun-23

By: Senator Coleman