

1 HB264
2 165615-6
3 By Representative McMillan
4 RFD: County and Municipal Government
5 First Read: 12-MAR-15

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ENROLLED, An Act,

Relating to competitive bidding; to amend Section 41-16-50, Code of Alabama 1975; to authorize a county or municipality to award a competitive bid to a responsible bidder having a place of business within a local preference zone if that bid is no more than five percent greater than the bid of the lowest responsible bidder; and to allow a county or municipality to award a competitive bid to a responsible bidder whose bid is no more than 10 percent greater than the lowest bid if the responsible bidder has a place of business within the local preference zone or is a responsible bidder from a business within the state that is a woman-owned enterprise, and enterprise of small business, a minority-owned business enterprise, a veteran-owned business enterprise, or a disadvantaged-owned business enterprise, and if the lowest bid was made by a business entity that does not have a place of business in the state.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 41-16-50, Code of Alabama 1975, is amended to read as follows:

"§41-16-50.

"(a) With the exception of contracts for public works whose competitive bidding requirements are governed exclusively by Title 39, all expenditure of funds of whatever

1 nature for labor, services, work, or for the purchase of
2 materials, equipment, supplies, or other personal property
3 involving fifteen thousand dollars (\$15,000) or more, and the
4 lease of materials, equipment, supplies, or other personal
5 property where the lessee is, or becomes legally and
6 contractually, bound under the terms of the lease, to pay a
7 total amount of fifteen thousand dollars (\$15,000) or more,
8 made by or on behalf of any state trade school, state junior
9 college, state college, or university under the supervision
10 and control of the State Board of Education, the district
11 boards of education of independent school districts, the
12 county commissions, the governing bodies of the municipalities
13 of the state, and the governing boards of instrumentalities of
14 counties and municipalities, including waterworks boards,
15 sewer boards, gas boards, and other like utility boards and
16 commissions, except as hereinafter provided, shall be made
17 under contractual agreement entered into by free and open
18 competitive bidding, on sealed bids, to the lowest responsible
19 bidder. Prior to advertising for bids for an item of personal
20 property or services, where a county, a municipality, or an
21 instrumentality thereof is the awarding authority, the
22 awarding authority may establish a local preference zone
23 consisting of either the legal boundaries or jurisdiction of
24 the awarding authority, or the boundaries of the county in
25 which the awarding authority is located, or the boundaries of

1 the Core Based Statistical Area (CBSA) in which the awarding
2 authority is located. If no such action is taken by the
3 awarding authority, the boundaries of the local preference
4 zone shall be deemed to be the same as the legal boundaries or
5 jurisdiction of the awarding authority. In the event a bid is
6 received for an item of personal property or services to be
7 purchased or contracted for from a person, firm, or
8 corporation deemed to be a responsible bidder, having a place
9 of business within the local preference zone where the county,
10 a municipality, or an instrumentality thereof is the awarding
11 authority, and the bid is no more than ~~three~~ five percent
12 greater than the bid of the lowest responsible bidder, the
13 awarding authority may award the contract to the resident
14 responsible bidder. In the event only one bidder responds to
15 the invitation to bid, the awarding authority may reject the
16 bid and negotiate the purchase or contract, providing the
17 negotiated price is lower than the bid price.

18 "(b) The governing bodies of two or more contracting
19 agencies, as enumerated in subsection (a), or the governing
20 bodies of two or more counties, or the governing bodies of two
21 or more city or county boards of education, may provide, by
22 joint agreement, for the purchase of labor, services, or work,
23 or for the purchase or lease of materials, equipment,
24 supplies, or other personal property for use by their
25 respective agencies. The agreement shall be entered into by

1 similar ordinances, in the case of municipalities, or
2 resolutions, in the case of other contracting agencies,
3 adopted by each of the participating governing bodies, which
4 shall set forth the categories of labor, services, or work, or
5 for the purchase or lease of materials, equipment, supplies,
6 or other personal property to be purchased, the manner of
7 advertising for bids and the awarding of contracts, the method
8 of payment by each participating contracting agency, and other
9 matters deemed necessary to carry out the purposes of the
10 agreement. Each contracting agency's share of expenditures for
11 purchases under any agreement shall be appropriated and paid
12 in the manner set forth in the agreement and in the same
13 manner as for other expenses of the contracting agency. The
14 contracting agencies entering into a joint agreement, as
15 herein permitted, may designate a joint purchasing or bidding
16 agent, and the agent shall comply with this article.

17 Purchases, contracts, or agreements made pursuant to a joint
18 purchasing or bidding agreement shall be subject to all terms
19 and conditions of this article.

20 In the event that utility services are no longer
21 exempt from competitive bidding under this article,
22 non-adjointing counties may not purchase utility services by
23 joint agreement under authority granted by this subsection.

24 "(c) The awarding authority may require bidders to
25 furnish a bid bond for a particular bid solicitation if the

1 bonding requirement applies to all bidders, is included in the
2 written bid specifications, and if bonding is available for
3 the services, equipment, or materials.

4 "(d) Notwithstanding subsection (a), in the event
5 the lowest bid for an item of personal property or services to
6 be purchased or contracted for is received from a foreign
7 entity, where the county, a municipality, or an
8 instrumentality thereof is the awarding authority, the
9 awarding authority may award the contract to a responsible
10 bidder having a place of business within the local preference
11 zone if that bid is no more than 10 percent greater than the
12 bid of the foreign entity or to a responsible bidder from a
13 woman-owned enterprise, enterprise of small business, as
14 defined in Section 25-10-3, minority-owned business
15 enterprise, or disadvantaged-owned business enterprise. For
16 purposes of this award the contract to responsible bidder
17 whose bid is no more than 10 percent greater than the foreign
18 entity if the bidder has a place of business within the local
19 preference zone or is a responsible bidder from a business
20 within the state that is a woman-owned enterprise, an
21 enterprise of small business, as defined in Section 25-10-3, a
22 minority-owned business enterprise, a veteran-owned business
23 enterprise, or a disadvantaged-owned business enterprise. For
24 the purposes of this subsection, "foreign entity" means a

1 business entity that does not have a place of business within
2 the state."

3 Section 2. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 09-APR-15, as amended.

Jeff Woodard
Clerk

Senate	<hr/> 21-MAY-15 <hr/>	Amended and Passed
House	<hr/> 26-MAY-15 <hr/>	Concurred in Senate Amendment