

1 HB53
2 179244-3
3 By Representative Beech
4 RFD: Agriculture and Forestry
5 First Read: 07-FEB-17
6 PFD: 01/25/2017

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ENROLLED, An Act,

To amend Section 16-1-46, Code of Alabama 1975, and Section 16-13B-2, Code of Alabama 1975, as last amended by Act 2016-298, 2016 Regular Session, relating to the farm to school program for the purchase of unprocessed agricultural products; to specify that federal funds for school nutrition may be used in the program pursuant to the federal simplified acquisition threshold and that the exception to the competitive bid process for local boards of education would be equal to or less than the federal simplified acquisition threshold.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 16-1-46, Code of Alabama 1975, and Section 16-13B-2, Code of Alabama 1975, as last amended by Act 2016-298, 2016 Regular Session, are amended to read as follows:

"§16-1-46.

"(a) This section shall be known and may be cited as the Farm-To-School Procurement Act.

"(b) For the purposes of this section, unprocessed agricultural products means only those agricultural products that retain their inherent character. The effects of any of the following handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different inherent character: Cooling,

1 refrigerating, freezing; size adjustment through size
2 reduction made by peeling, slicing, dicing, cutting, chopping,
3 shucking, and grinding; drying or dehydration, or both;
4 washing; the application of high water pressure or cold
5 pasteurization; packaging, such as placing eggs in cartons,
6 and vacuum packing and bagging, such as placing vegetables in
7 bags; butchering livestock, fish, and poultry; and the
8 pasteurization of milk.

9 "(c) (1) The Alabama Department of Agriculture and
10 Industries and the State Department of Education shall
11 collaborate and cooperate by means of a memorandum of
12 understanding executed between the departments in order to
13 implement this section.

14 "(2) As part of the collaboration, the State
15 Department of Education shall do all of the following:

16 "a. Investigate the potential of various procurement
17 procedures and tools for school food authorities to purchase
18 local farm products and abide by federal regulations
19 including, but not limited to, the small purchase threshold.

20 "b. Educate food service directors on the small
21 purchase threshold and tools to promote their use for
22 farm-to-school initiatives.

23 "c. Implement food preparation training for food
24 service staff to accommodate sourcing fresh and local foods.

1 "d. Encourage school food service directors to
2 include local farmers, processors, and suppliers when
3 procuring farm products that fall under the small purchase
4 threshold.

5 "e. Encourage all new school construction projects
6 to consider kitchen facilities capable of producing fresh and
7 healthy school meals and opportunities for hands-on learning.

8 "(3) As part of the collaboration, the Alabama
9 Department of Agriculture and Industries shall do all of the
10 following:

11 "a. House a farm-to-school point person to
12 coordinate efforts between the Alabama Department of
13 Agriculture and Industries, the State Department of Education,
14 and the Alabama Department of Public Health, who shall be
15 responsible for identifying local farmers, processors, and
16 suppliers and shall work with the State Department of
17 Education to make that information available to school food
18 service directors and for creating and disseminating
19 information on the school food procurement process to help
20 farmers, processors, and suppliers learn more about the
21 process.

22 "b. Identify, target, and promote job creation
23 around farm-to-school initiatives.

24 "c. In cooperation with commodity groups and
25 growers' associations, utilize existing web-based market

1 development tools or adopt a voluntary web-based directory of
2 farmers searchable by location. The directory shall be
3 routinely updated and consistently maintained and usable by
4 anyone interested in locating farmers and Alabama farm
5 products.

6 "d. Investigate opportunities for farmers to supply
7 their products to commercial distributors.

8 "(d) The State Department of Education and the
9 Alabama Department of Agriculture and Industries may accept
10 funds from any federal, state, or private source to implement
11 this section. Any federal funds received for school nutrition
12 programs may be used for purchases pursuant to subdivision
13 (14) of Section 16-13B-2.

14 "(e) At least 10 percent of the local farmers,
15 processors, and suppliers utilized in providing unprocessed
16 agricultural products pursuant to this section may be minority
17 producers.

18 "§16-13B-2.

19 "(a) Competitive bids shall not be required for
20 utility services for county or city boards of education, the
21 rates for which are fixed by law, regulation, or ordinance,
22 and the competitive bidding requirements of this chapter shall
23 not apply to:

24 "(1) The purchase of insurance.

1 "(2) Contracts for securing services of attorneys,
2 physicians, architects, teachers, superintendents of
3 construction, artists, appraisers, engineers, consultants,
4 certified public accountants, public accountants, or other
5 individuals possessing a high degree of professional skill
6 where the personality of the individual plays a decisive part.

7 "(3) Contracts of employment in the regular civil
8 service.

9 "(4) Contracts for fiscal or financial advice or
10 services.

11 "(5) Purchases of products made or manufactured by
12 the blind or visually handicapped under the direction or
13 supervision of the Alabama Institute for Deaf and Blind in
14 accordance with Sections 21-2-1 to 21-2-4, inclusive.

15 "(6) Purchases of maps or photographs from any
16 federal agency.

17 "(7) Purchases of manuscripts, books, maps,
18 pamphlets, or periodicals.

19 "(8) The selection of paying agents and trustees for
20 any security issued by a public body.

21 "(9) Existing contracts up for renewal for
22 sanitation or solid waste collection, recycling, or disposal
23 and those providing the service.

24 "(10) Purchases of computer and word processing
25 hardware when the hardware is the only type that is compatible

1 with hardware already owned by the entity taking bids and
 2 custom software.

3 "(11) Contractual services and purchases of
 4 commodities for which there is only one vendor or supplier and
 5 contractual services and purchases of personal property which
 6 by their very nature are impossible to award by competitive
 7 bidding.

8 "(12) Contractual services and purchases of products
 9 related to, or having an impact upon, security plans,
 10 procedures, assessments, measures, or systems, or the security
 11 or safety of persons, structures, facilities, or
 12 infrastructures.

13 "(13) Purchases of goods or services, other than
 14 voice or data wireless communication services, made as a part
 15 of any purchasing cooperative sponsored by the National
 16 Association of Counties, its successor organization, or any
 17 other national or regional governmental cooperative purchasing
 18 program. Such purchases may only be made if all of the
 19 following occur:

20 "a. The goods or services being purchased are
 21 available as a result of a competitive bid process approved by
 22 the Department of Examiners of Public Accounts for each bid.

23 "b. The goods or services are either not at the time
 24 available to local boards of education on the state purchasing

1 program or are available at a price equal to or less than that
2 on the state purchasing program.

3 "c. The purchase is made through a participating
4 Alabama vendor holding an Alabama business license if such a
5 vendor exists.

6 "(14) Purchases of unprocessed agricultural products
7 as defined in subsection (b) of Section 16-1-46 and the cost
8 of the food is purchased with a cost of one hundred thousand
9 dollars (\$100,000) or less is equal to or less than the
10 federal small purchase simplified acquisition threshold set in
11 41 U.S.C. §403(11) 2 C.F.R. §200.88.

12 "(15) Purchase of goods or services, other than
13 voice or data wireless communication services, from vendors
14 that have been awarded a current and valid general services
15 administration contract. Prices paid for the goods or services
16 may not exceed the lowest competitively bid price for these
17 goods or services, other than voice or data wireless
18 communication services, and may not exceed the price on an
19 existing state purchasing program.

20 "(b) This chapter shall not apply to:

21 "(1) Any purchases of products where the price of
22 the products is already regulated and established by state
23 law.

24 "(2) Purchases made by individual schools of the
25 county or municipal public school systems from moneys other

1 than those raised by taxation or received through
2 appropriations from state or county sources.

3 "(c) The city and county boards of education shall
4 establish and maintain such purchasing facilities and
5 procedures as may be necessary to carry out the intent and
6 purpose of this chapter by complying with the requirements for
7 competitive bidding in the operation and management of each
8 city and county board of education.

9 "(d) Contracts entered into in violation of this
10 chapter shall be void, and anyone who violates this chapter
11 shall be guilty of a Class C felony."

12 Section 2. This act shall become effective
13 immediately following its passage and approval by the
14 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 21-FEB-17, as amended.

Jeff Woodard
Clerk

Senate

17-MAY-17

Passed