

**SB220 ENGROSSED**



1 SB220  
2 WIITEEE-2  
3 By Senators Roberts, Orr, Jones, Shelnett  
4 RFD: County and Municipal Government  
5 First Read: 19-Mar-24



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A BILL  
TO BE ENTITLED  
AN ACT

Public contracts; to prohibit certain business entities from entering into public contracts with a public awarding authority; to provide criminal and civil penalties for a violation; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature finds and declares the following:

(1) The Chinese Communist Party's (CCP) authoritarian governance over the People's Republic of China (PRC) includes extensive efforts to destroy any meaningful distinction between the CCP, the PRC state, and commercial entities in the PRC.

(2) Dealings with PRC commercial entities tend to be less commercially sound because the entities are unusually likely to be acting on noncommercial motivations and carry increased political risk, including the risk of federal



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29 sanctions from the United States government.

30 (3) While no PRC commercial entity is beyond the reach  
31 of the CCP, PRC state-owned entities present heightened  
32 concerns and threaten the State of Alabama's security,  
33 including by making accessible to the CCP and PRC government  
34 information about the structure, operations, resources, and  
35 infrastructure of the government of this state.

36 (4) Business transactions with PRC commercial entities,  
37 especially PRC state-owned entities, threaten the privacy and  
38 security of the residents of this state, especially when the  
39 personal information of the residents of this state is  
40 involved in the business transactions.

41 Section 2. (a) As used in this act, the following terms  
42 have the following meanings:

43 (1) COMPANY. Any sole proprietorship, organization,  
44 association, corporation, partnership, joint venture, limited  
45 partnership, limited liability partnership, limited liability  
46 company, or other entity or business association, including  
47 all wholly owned subsidiaries, majority owned subsidiaries,  
48 parent companies, or affiliates of such entities or business  
49 associations, that exist for the purpose of making profit.

50 (2) INFORMATION OR COMMUNICATIONS TECHNOLOGIES.  
51 Includes any equipment used in fixed and mobile networks that  
52 provides high-speed, switched, broadband telecommunications  
53 capability, provided the equipment includes or uses electronic  
54 components.

55 (3) OWNED. Includes an ownership interest in whole or  
56 in part. For purposes of a publicly traded company, the term



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57 means any share of ownership that includes the ability to  
58 direct or influence the operations of the company, the ability  
59 to appoint or discharge any board member, officer, or  
60 director, or any other rights beyond those available to a  
61 retail investor holding an equivalent share of ownership.

62 (4) PUBLIC ENTITY. The state or any department, agency,  
63 commission, or other body of the state, including publicly  
64 funded institutions of higher education, and any local  
65 governing body, political subdivision, or school district, and  
66 any other public or private agency, person, partnership,  
67 corporation, or business entity acting on behalf of any public  
68 entity.

69 (5) SCRUTINIZED COMPANY. A company to which either of  
70 the following applies:

71 a. Is a company on the Federal Communications  
72 Commission's Covered List, as provided in 47 C.F.R § 1.50002,  
73 or Section 1260H of the National Defense Authorization Act for  
74 Fiscal Year 2021, which provides communications equipment or  
75 services that are deemed to pose an unacceptable risk to the  
76 national security of the United States or the security and  
77 safety of persons in the United States.

78 b. Any subsidiary or parent company of any company  
79 described in this subdivision.

80 (b) A scrutinized company shall be ineligible to, and  
81 shall not bid on, submit a proposal for, or enter into,  
82 directly or indirectly through a third party, any contract or  
83 contract renewal with any public awarding authority for any  
84 information or communications technologies.



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85 (c) No public awarding authority shall enter into any  
86 contract or contract renewal that would result in any public  
87 funds being transferred under either of the following  
88 circumstances:

89 (1) To a scrutinized company in connection with any  
90 information or communications technologies.

91 (2) To any company in connection with any information  
92 or communications technologies that originate with a  
93 scrutinized company.

94 (d) A public awarding authority shall require a company  
95 that submits a bid or proposal with respect to a contract for  
96 goods or services or that enters into any contract or contract  
97 renewal with any public awarding authority for any information  
98 or communications technologies to certify all of the  
99 following:

100 (1) The company is not a scrutinized company.

101 (2) The company will not subcontract with any  
102 scrutinized company for any aspect of its performance of the  
103 contract.

104 (3) That any information or communications technologies  
105 that are to be provided pursuant to the contract do not  
106 originate with a scrutinized company.

107 (e) Any contract determined by the Chief Procurement  
108 Officer to be in violation of this act shall be void ab  
109 initio.

110 (f) Any person who knowingly violates this act shall be  
111 guilty of a Class C felony.

112 (g) In addition to the penalties provided in subsection



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113 (f), the person who knowingly violates this act shall be  
114 subject to both of the following:

115 (1) Liable for a civil penalty in an amount that is  
116 equal to the greater of: (i) two hundred fifty thousand  
117 dollars (\$250,000); (ii) twice the amount of the contract for  
118 which a bid or proposal was submitted; or (iii) the amount of  
119 any losses suffered by the public awarding authority or the  
120 state as a result of the violation.

121 (2) Ineligible to enter into any contract with any  
122 public awarding authority in the state for a period of 10  
123 years.

124 (h) The Attorney General may bring an action in any  
125 court of competent jurisdiction against any person that  
126 violates this act.

127 (i) The Chief Procurement Officer shall adopt rules to  
128 implement this section. The rules shall include a procedure  
129 for a public awarding authority to challenge a company's  
130 certification under this section and a procedure to obtain a  
131 determination from the Chief Procurement Officer that a  
132 potential contract complies with the requirements of this  
133 section. The rules shall not amend the definition of  
134 "scrutinized company" as defined under this section.

135 Section 3. Although this bill would have as its purpose  
136 or effect the requirement of a new or increased expenditure of  
137 local funds, the bill is excluded from further requirements  
138 and application under Section 111.05 of the Constitution of  
139 Alabama of 2022, because the bill defines a new crime or  
140 amends the definition of an existing crime.



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141                   Section 4. This act shall become effective on October  
142    1, 2024.

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145 Senate

146 Read for the first time and referred .....19-Mar-24  
147 to the Senate committee on County  
148 and Municipal Government  
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150 Read for the second time and placed .....21-Mar-24  
151 on the calendar:  
152 0 amendments  
153  
154 Read for the third time and passed .....09-Apr-24  
155 as amended  
156 Yeas 34  
157 Nays 0  
158 Abstains 0  
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Patrick Harris,  
Secretary.

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