

1 HB112
2 115721-1
3 By Representative Buskey
4 RFD: Government Operations
5 First Read: 12-JAN-10
6 PFD: 01/06/2010

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8 SYNOPSIS: Under existing law, certain public
9 contracts are exempt from the competitive bid
10 process.

11 This bill would exempt from the requirement
12 of competitive bidding purchases from health
13 industry joint purchasing organization contracts
14 within or without the State of Alabama by any
15 hospital or campus medical facility operated by a
16 state educational institution or an educational
17 institution receiving state funds, including
18 pharmacies and pharmacy clinics, veterinary clinics
19 and hospitals, medical teaching clinics and health
20 care clinics, and services operated for the state
21 provided that opportunity is given minority-owned
22 businesses.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Section 41-16-21, Code of Alabama 1975,
2 which relates to public contracts for which competitive
3 bidding is not required, to exempt from the requirement of
4 competitive bidding purchases from health industry joint
5 purchasing organization contracts within or without the State
6 of Alabama by any hospital or campus medical facility operated
7 by a state educational institution or an educational
8 institution receiving state funds, including pharmacies and
9 pharmacy clinics, veterinary clinics and hospitals, medical
10 teaching clinics and health care clinics, and services
11 operated for the state provided that opportunity is given
12 minority-owned businesses.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 41-16-21, Code of Alabama 1975,
15 is amended to read as follows:

16 "§41-16-21.

17 "(a) Competitive bids shall not be required for
18 utility services where no competition exists or where rates
19 are fixed by law or ordinance, and the competitive bidding
20 requirements of this article shall not apply to: The purchase
21 of insurance by the state; contracts for the securing of
22 services of attorneys, physicians, architects, teachers,
23 artists, appraisers, engineers, or other individuals
24 possessing a high degree of professional skill where the
25 personality of the individual plays a decisive part; contracts
26 of employment in the regular civil service of the state;
27 purchases of alcoholic beverages only by the Alcoholic

1 Beverage Control Board; purchases and contracts for repair of
2 equipment used in the construction and maintenance of highways
3 by the State Department of Transportation; purchases from
4 joint purchasing organization contracts within or without the
5 State of Alabama by any hospital or campus medical facility
6 operated by a state educational institution or an educational
7 institution receiving state funds, including pharmacies and
8 pharmacy clinics, veterinary clinics and hospitals, medical
9 teaching clinics and health care clinics, and services
10 operated for the state provided that this exemption shall not
11 apply to contracts associated with wireless communications
12 equipment or services, or both, and further provided that
13 opportunity is given minority-owned businesses; purchases of
14 products made or manufactured by the blind or visually
15 handicapped under the direction or supervision of the Alabama
16 Institute for Deaf and Blind in accordance with Sections
17 21-2-1 through 21-2-4; purchases of maps or photographs
18 purchased from any federal agency; contractual services and
19 purchases of personal property, which by their very nature are
20 impossible of award by competitive bidding; barter
21 transactions by the Department of Corrections; and purchases,
22 contracts, or repairs by the Alabama State Port Authority when
23 it is deemed by the Director of the Alabama State Port
24 Authority and the Secretary-Treasurer of the Alabama State
25 Port Authority that the purchases, contracts, or repairs are
26 impractical of award by competitive bidding due to the
27 exigencies of time or interference with the flow of commerce.

1 The Director of the Alabama State Port Authority and the
2 Secretary-Treasurer of the Alabama State Port Authority shall
3 place a sworn statement in writing in the permanent file or
4 records setting out the emergency or exigency relied upon and
5 the necessity for negotiation instead of proceeding by
6 competitive bidding in that particular instance, and the sworn
7 statement shall be open to public inspection. A copy of the
8 sworn statement shall be furnished forthwith to the Governor
9 and Attorney General.

10 "(b) All educational and eleemosynary institutions
11 governed by a board of trustees or other similar governing
12 body and the Alabama State Port Authority shall be exempt from
13 this article which relate to the powers, duties, authority,
14 restrictions, and limitations conferred or imposed upon the
15 Department of Finance, Division of Purchasing. The educational
16 and eleemosynary institutions, the Alabama State Port
17 Authority, and the other state agencies exempted from this
18 article shall let by free and open competitive bidding on
19 sealed bids to the lowest responsible bidder all contracts of
20 whatever nature for labor, services or work or for the
21 purchase or lease of materials, equipment, supplies, or other
22 personal property involving seven thousand five hundred
23 dollars (\$7,500) or more. The institutions, departments, and
24 agencies shall establish and maintain purchasing facilities as
25 may be necessary to carry out the intent and purpose of this
26 article by complying with the requirements for competitive

1 bidding in the operation and management of each institution,
2 department, or agency.

3 "(c) Contracts entered into in violation of this
4 article shall be void.

5 "(d) Nothing in this section shall be construed as
6 repealing Sections 9-2-106 and 9-2-107."

7 Section 2. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law.