

1 SB213  
2 217412-1  
3 By Senator Smitherman  
4 RFD: Governmental Affairs  
5 First Read: 15-FEB-22

SYNOPSIS: Under existing law, certain public contracts are exempt from the state competitive bidding requirements.

This bill would include computer hardware, computer programs, software applications, and automotive parts within the exemption.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to public contracts; to amend Section 41-16-51, Code of Alabama 1975, to further provide for exemptions to the competitive bidding requirements.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§41-16-51.

"(a) Competitive bids for entities subject to this article shall not be required for utility services, the rates

1 for which are fixed by law, regulation, or ordinance, and the  
2 competitive bidding requirements of this article shall not  
3 apply to:

4 "(1) The purchase of insurance.

5 "(2) The purchase of ballots and supplies for  
6 conducting any primary, general, special, or municipal  
7 election.

8 "(3) Contracts for securing services of attorneys,  
9 physicians, architects, teachers, superintendents of  
10 construction, artists, appraisers, engineers, consultants,  
11 certified public accountants, public accountants, or other  
12 individuals possessing a high degree of professional skill  
13 where the personality of the individual plays a decisive part.

14 "(4) Contracts of employment in the regular civil  
15 service.

16 "(5) Contracts for fiscal or financial advice or  
17 services.

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

22 "(7) Purchases of maps or photographs from any  
23 federal agency.

24 "(8) Purchases of manuscripts, books, maps,  
25 pamphlets, periodicals, and library/research electronic data  
26 bases of manuscripts, books, maps, pamphlets, or periodicals.

1           "(9) The selection of paying agents and trustees for  
2 any security issued by a public body.

3           "(10) Existing contracts up for renewal for  
4 sanitation or solid waste collection, recycling, and disposal  
5 between municipalities or counties, or both, and those  
6 providing the service.

7           "(11) Purchases of computer and word processing  
8 hardware, ~~when the hardware is the only type that is~~  
9 ~~compatible with hardware already owned by the entity taking~~  
10 ~~bids and custom software~~ computer programs, and other software  
11 applications.

12           "(12) Professional services contracts for  
13 codification and publication of the laws and ordinances of  
14 municipalities and counties.

15           "(13) Contractual services and purchases of  
16 commodities for which there is only one vendor or supplier and  
17 contractual services and purchases of personal property which  
18 by their very nature are impossible to award by competitive  
19 bidding.

20           "(14) Purchases of dirt, sand, or gravel by a county  
21 governing body from in-county property owners in order to  
22 supply a county road or bridge project in which the materials  
23 will be used. The material shall be delivered to the project  
24 site by county employees and equipment used only on projects  
25 conducted exclusively by county employees.

26           "(15) Contractual services and purchases of products  
27 related to, or having an impact upon, security plans,

1 procedures, assessments, measures, or systems, or the security  
2 or safety of persons, structures, facilities, or  
3 infrastructures.

4 "(16) Subject to the limitations in this  
5 subdivision, purchases, leases, or lease/purchases of goods or  
6 services, other than voice or data wireless communication  
7 services, made as a part of the purchasing cooperative  
8 sponsored by the National Association of Counties, its  
9 successor organization, or any other national or regional  
10 governmental cooperative purchasing program. The purchases,  
11 leases, or lease/purchases may only be made if all of the  
12 following occur:

13 "a. The goods or services being purchased, including  
14 those purchased through a lease/purchase agreement, or leased  
15 are available as a result of a competitive bid process  
16 conducted by a governmental entity and approved by the Alabama  
17 Department of Examiners of Public Accounts for each bid.

18 "b. The goods or services are either not at the time  
19 available to counties on the state purchasing program or are  
20 available at a price equal to or less than that on the state  
21 purchasing program.

22 "c. The purchase, lease, or lease/purchase is made  
23 through a participating Alabama vendor holding an Alabama  
24 business license if such a vendor exists.

25 "d. The entity purchasing, leasing, or  
26 lease/purchasing goods or services under this subdivision has  
27 been notified by the Department of Examiners of Public

1 Accounts that the competitive bid process utilized by the  
2 cooperative program offering the goods complies with this  
3 subdivision. In addition, upon request, a vendor shall provide  
4 the entity purchasing, leasing, or lease/purchasing items that  
5 exceed fifteen thousand dollars (\$15,000) made under this  
6 exception during the previous 12 months a report of the sales,  
7 leases, and lease/purchases which includes a general  
8 description of the goods or services; the number of units  
9 sold, leased, and leased/purchased per entity; and the price  
10 of units purchased, leased, or leased/purchased.

11 "(17) Purchase of goods or services, other than  
12 wireless communication services, whether voice or data, from  
13 vendors that have been awarded a current and valid Government  
14 Services Administration contract. Any purchase made pursuant  
15 to this subdivision shall be under the same terms and  
16 conditions as provided in the Government Services  
17 Administration contract. Prices paid for such goods and  
18 services, other than wireless communication services, whether  
19 voice or data, may not exceed the amount provided in the  
20 Government Services Administration contract.

21 "(18) Purchases of automotive parts.

22 "(b) This article shall not apply to:

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

26 "(2) Purchases made by individual schools of the  
27 county or municipal public school systems from monies other

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

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

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

12 "(5) Purchases for public hospitals and nursing  
13 homes operated by the governing boards of instrumentalities of  
14 the state, counties, and municipalities.

15 "(6) Contracts for the purchase, lease, sale,  
16 construction, installation, acquisition, improvement,  
17 enlargement, or extension of any plant, building, structure,  
18 or other facility or any machinery, equipment, furniture, or  
19 furnishings therefor designed or intended for lease or sale  
20 for industrial development, other than public utilities, under  
21 Sections 11-54-80 to 11-54-99, inclusive, or Sections 11-54-20  
22 to 11-54-28, inclusive, or any other law or amendment to the  
23 Constitution of Alabama authorizing the construction of plants  
24 or other facilities for industrial development or for the  
25 construction and equipment of buildings for public building  
26 authorities under Sections 11-56-1 to 11-56-22, inclusive.

1           "(7) The purchase of equipment, supplies, or  
2 materials needed, used, and consumed in the normal and routine  
3 operation of any waterworks system, sanitary sewer system, gas  
4 system, or electric system, or any two or more thereof, that  
5 are owned by municipalities, counties, or public corporations,  
6 boards, or authorities that are agencies, departments, or  
7 instrumentalities of municipalities or counties and no part of  
8 the operating expenses of which system or systems, during the  
9 then current fiscal year, have been paid from revenues derived  
10 from taxes or from appropriations of the state, a county, or a  
11 municipality.

12           "(8) Purchases made by local housing authorities,  
13 organized and existing under Chapter 1 of Title 24, from  
14 monies other than those raised by state, county, or city  
15 taxation or received through appropriations from state,  
16 county, or city sources.

17           "(c) The state trade schools, state junior colleges,  
18 state colleges, and universities under the supervision and  
19 control of the State Board of Education, the district boards  
20 of education of independent school districts, the county  
21 commissions, and the governing bodies of the municipalities of  
22 the state shall establish and maintain such purchasing  
23 facilities and procedures as may be necessary to carry out the  
24 intent and purpose of this article by complying with the  
25 requirements for competitive bidding in the operation and  
26 management of each state trade school, state junior college,  
27 state college, or university under the supervision and control



1 of the State Board of Education, the district boards of  
2 education of independent school districts, the county  
3 commissions, and the governing bodies of the municipalities of  
4 the state and the governing boards of instrumentalities of  
5 counties and municipalities, including waterworks boards,  
6 sewer boards, gas boards, and other like utility boards and  
7 commissions.

8 "(d) Contracts entered into in violation of this  
9 article shall be void and any person who violates the  
10 provisions of this article shall be guilty of a Class C  
11 felony."

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