

1 HB38
2 203809-1
3 By Representative Collins
4 RFD: State Government
5 First Read: 04-FEB-20
6 PFD: 01/23/2020

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8 SYNOPSIS: Under existing law, city and county boards
9 of education are required to competitively bid
10 certain contracts.

11 This bill would permit leases of certain
12 goods or services pursuant to a competitive bid
13 nationwide cooperative purchasing program by
14 exempting certain leases of goods or services from
15 the competitive bid law.

16 Amendment 621 of the Constitution of Alabama
17 of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, prohibits a general
20 law whose purpose or effect would be to require a
21 new or increased expenditure of local funds from
22 becoming effective with regard to a local
23 governmental entity without enactment by a 2/3 vote
24 unless: it comes within one of a number of
25 specified exceptions; it is approved by the
26 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Section 16-13B-2, Code of Alabama 1975,
16 relating to competitive bidding for certain contracts by local
17 boards of education; to exempt certain leases of goods or
18 services from the competitive bid law; and in connection
19 therewith would have as its purpose or effect the requirement
20 of a new or increased expenditure of local funds within the
21 meaning of Amendment 621 of the Constitution of Alabama of
22 1901, now appearing as Section 111.05 of the Official
23 Recompilation of the Constitution of Alabama of 1901, as
24 amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 16-13B-2 of the Code of Alabama
27 1975, is amended to read as follows:

1 "§16-13B-2.

2 "(a) Competitive bids shall not be required for
3 utility services for county or city boards of education, the
4 rates for which are fixed by law, regulation, or ordinance,
5 and the competitive bidding requirements of this chapter shall
6 not apply to:

7 "(1) The purchase of insurance.

8 "(2) 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 "(3) Contracts of employment in the regular civil
15 service.

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

18 "(5) Purchases of products made or manufactured by
19 the blind or visually handicapped 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 "(6) Purchases of maps or photographs from any
23 federal agency.

24 "(7) Purchases of manuscripts, books, maps,
25 pamphlets, or periodicals.

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

1 "(9) Existing contracts up for renewal for
2 sanitation or solid waste collection, recycling, or disposal
3 and those providing the service.

4 "(10) Purchases of computer and word processing
5 hardware when the hardware is the only type that is compatible
6 with hardware already owned by the entity taking bids and
7 custom software.

8 "(11) Contractual services and purchases of
9 commodities for which there is only one vendor or supplier and
10 contractual services and purchases of personal property which
11 by their very nature are impossible to award by competitive
12 bidding.

13 "(12) Contractual services and purchases of products
14 related to, or having an impact upon, security plans,
15 procedures, assessments, measures, or systems, or the security
16 or safety of persons, structures, facilities, or
17 infrastructures.

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

25 "a. The goods or services being purchased or leased
26 are available as a result of a competitive bid process

1 approved by the Department of Examiners of Public Accounts for
2 each bid.

3 "b. The goods or services are either not at the time
4 available to local boards of education on the state purchasing
5 program or are available at a price equal to or less than that
6 on the state purchasing program.

7 "c. The purchase or lease is made through a
8 participating Alabama vendor holding an Alabama business
9 license if such a vendor exists.

10 "(14) Purchases of unprocessed agricultural products
11 as defined in subsection (b) of Section 16-1-46 and the cost
12 of the food purchased is equal to or less than the federal
13 simplified acquisition threshold set in 2 C.F.R. §200.88.

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

22 "(b) This chapter 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 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. Although this bill would have as its
13 purpose or effect the requirement of a new or increased
14 expenditure of local funds, the bill is excluded from further
15 requirements and application under Amendment 621, now
16 appearing as Section 111.05 of the Official Recompilation of
17 the Constitution of Alabama of 1901, as amended, because the
18 bill defines a new crime or amends the definition of an
19 existing crime.

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