

1 SB271  
2 149497-1  
3 By Senator Dial  
4 RFD: Finance and Taxation Education  
5 First Read: 28-FEB-13

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8 SYNOPSIS: Currently, pursuant to the state competitive  
9 bidding law, contracts for the purchase of personal  
10 property or contractual services shall be let for  
11 periods not greater than three years.

12 This bill would provide that contracts for  
13 the purchase of personal property or contractual  
14 services shall be let for periods not greater than  
15 five years.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
20

21 To amend Section 16-13B-7, Code of Alabama 1975,  
22 relating to competitive bidding; to provide that contracts for  
23 the purchase of personal property or contractual services  
24 shall be let for periods of not greater than five years.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 16-13B-7, Code of Alabama 1975,  
27 is amended to read as follows:

1                   "§16-13B-7.

2                   "(a) When purchases are required to be made through  
3 competitive bidding, awards shall be made to the lowest  
4 responsible bidder taking into consideration the qualities of  
5 the commodities proposed to be supplied, their conformity with  
6 specifications, the purposes for which required, the terms of  
7 delivery, transportation charges, and the dates of delivery.  
8 If at any time after the award has been made the lowest  
9 responsible bidder notifies the awarding authority in writing  
10 that the bidder will no longer comply with the terms of the  
11 award to provide the goods or services to the awarding  
12 authority under the terms and conditions of the original  
13 award, or the awarding authority documents that the lowest  
14 responsible bidder defaults under the terms of the original  
15 award, the awarding authority may terminate the award to the  
16 defaulting bidder and make an award to the second lowest  
17 responsible bidder for the remainder of the award period  
18 without rebidding, provided the award to the second lowest  
19 responsible bidder is in all respects made under the terms and  
20 conditions contained in the original bid specifications and is  
21 for the same or a lower price than the bid originally  
22 submitted to the awarding authority by the second lowest  
23 responsible bidder.

24                   "(b) The awarding authority in the purchase of or  
25 contract for personal property or contractual services shall  
26 give preference, provided there is no sacrifice or loss in  
27 price or quality, to commodities produced in Alabama or sold

1 by Alabama persons, firms, or corporations. Notwithstanding  
2 the foregoing, no county or city board of education charged  
3 with the letting of contracts or purchase of materials for the  
4 construction, modification, alteration, or repair of any  
5 publicly owned facility may specify the use of materials or  
6 systems by a sole source, unless:

7 "(1) The board of education can document to the  
8 satisfaction of the State Building Commission that the sole  
9 source product or service is of an indispensable nature, all  
10 other viable alternatives have been explored, and it has been  
11 determined that only this product or service will fulfill the  
12 function for which the product is needed. Frivolous features  
13 will not be considered.

14 "(2) The sole source specification has been  
15 recommended by the architect or engineer of record who also  
16 documents that there is no other product available and that  
17 the use of the requirement is of an indispensable nature and  
18 why.

19 "(3) All information substantiating the use of a  
20 sole source specification is documented in writing and is  
21 filed into the project file.

22 "(c) (1) For purchases of personal property in  
23 instances where the awarding authority determines that the  
24 total cost of ownership over the expected life of the item or  
25 items, including acquisition costs plus sustaining costs or  
26 life cycle costs, can be reasonably ascertained from industry  
27 recognized and accepted sources, the lowest responsible bid

1 may be determined to be the bid offering the lowest life cycle  
2 costs and otherwise meeting all of the conditions and  
3 specifications contained in the invitation to bid. To utilize  
4 this subdivision to determine the lowest responsible bidder,  
5 the awarding authority shall include a notice in the  
6 invitation to bid that the lowest responsible bid may be  
7 determined by using life cycle costs and identify the industry  
8 recognized and accepted sources that will be applicable to  
9 such an evaluation.

10 "(2) The Department of Examiners of Public Accounts  
11 shall establish procedures for the use of life cycle costs,  
12 which shall be distributed to all contracting agencies and  
13 shall be used in conducting any audits of the purchasing  
14 agency.

15 "(d) The awarding authority or requisitioning agency  
16 may reject any bid if the price is deemed excessive or quality  
17 of product inferior.

18 "(e) Each record, with the successful bid indicated  
19 thereon, and with the reasons for the award if not awarded to  
20 the lowest bidder, shall, after award of the order or  
21 contract, be open to public inspection.

22 "(f) Contracts for the purchase of personal property  
23 or contractual services shall be let for periods not greater  
24 than ~~three~~ five years. Lease-purchase contracts for capital  
25 improvements and repairs to real property shall be let for  
26 periods not greater than 10 years and all other lease-purchase  
27 contracts shall be let for periods not greater than 10 years."

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