

1           HB284  
2        126175-3  
3        By Representative Wood  
4        RFD: Ways and Means Education  
5        First Read: 22-MAR-11

8 SYNOPSIS: Under existing law, the State of Alabama, a  
9 county, or a municipality, a local board of  
10 education, a state or local industrial development  
11 board or authority and other governmental entities  
12 and political subdivisions of these entities are  
13 generally exempt from the payment of sales and use  
14 taxes on the purchase of building materials and  
15 construction materials to be included in  
16 construction projects of the governmental entity.  
17 Under existing law, the governmental entity is  
18 required to actually purchase, store, and pay for  
19 construction materials to be used in a construction  
20 project of the governmental entity in order for the  
21 governmental entity to recognize the cost savings  
22 on the tax exempt purchases. Under existing law, a  
23 governmental entity normally requires bidders for  
24 government construction projects to include the  
25 costs of purchases as tax exempt purchases in bids  
26 submitted on a project.

1                   This bill would provide for the Department  
2                   of Revenue to grant certificates of exemption from  
3                   sales and use taxes to contractors and  
4                   subcontractors licensed by the State Licensing  
5                   Board for General Contractors for the purchase of  
6                   building materials and construction materials to be  
7                   used in the construction of a building or other  
8                   project for a governmental entity which is exempt  
9                   from the payment of sales and use taxes. The bill  
10                  would provide for the accounting of purchases and  
11                  for the enforcement of this bill.

12

13                   A BILL

14                   TO BE ENTITLED

15                   AN ACT

16

17                   Relating to construction projects of the State of  
18                   Alabama, counties, municipalities, local boards of education,  
19                   industrial development boards, and other governmental entities  
20                  which are exempt from the payment of sales and use taxes on  
21                  the purchase of building materials and construction materials  
22                  to be included in construction projects of the governmental  
23                  entity; to provide for the Department of Revenue to grant  
24                  certificates of exemption from sales and use taxes to  
25                  contractors and subcontractors licensed by the State Licensing  
26                  Board for General Contractors for the purchase of building  
27                  materials and construction materials to be used in the

1 construction of a building or other project for the  
2 governmental entity; to provide for accounting and enforcement  
3 of this act; and to authorize the Department of Revenue to  
4 adopt rules to implement this act.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6                             Section 1. (a) For the purposes of this act, the  
7 term "governmental entity" means any governmental entity or a  
8 political subdivision, department, or agency of a governmental  
9 entity or a board, commission, or authority of a governmental  
10 entity which is tax exempt from sales and use taxes by virtue  
11 of its governmental status, including, but not limited to, all  
12 of the following: The State of Alabama, a county, a  
13 municipality, an industrial or economic development board or  
14 authority, and an educational institution of any of the  
15 foregoing including a public college or university, a county  
16 or city board of education, and the State Board of Education.

17                             (b) The Department of Revenue shall grant a  
18 certificate of exemption from sales and use taxes to any  
19 contractor or subcontractor licensed by the State Licensing  
20 Board for General Contractors for the purchase of building  
21 materials, construction materials and supplies, and other  
22 tangible personal property to be used or included pursuant to  
23 a written contract in the construction of a building or other  
24 project for and on behalf of a governmental entity which is  
25 exempt from the payment of sales and use taxes.

26                             (c) The use of a certificate of exemption for the  
27 purchase of tangible personal property pursuant to this

1 section shall include only tangible personal property which is  
2 directly used in the construction project. Any contractor or  
3 subcontractor purchasing any tangible personal property  
4 pursuant to a certificate of exemption shall maintain an  
5 accurate cost accounting of the purchase and use of the  
6 property in the construction of the project.

7 (d) (1) The department may assess any contractor or  
8 subcontractor with sales or use taxes on any item purchased  
9 with a certificate of exemption not properly accounted for.

10 (2) Any contractor or subcontractor who  
11 intentionally uses a certificate of exemption in violation of  
12 this act shall be subject to a civil penalty levied by the  
13 department in the amount of two times any sale or use tax due  
14 of the property and, based on the severity of the violation,  
15 may be barred from the use of any certificate of exemption on  
16 any project for up to two years.

17 (e) The department may adopt rules to implement this  
18 act in order to effectuate the purposes of this act and to  
19 provide for accurate accounting and enforcement of this act.

20 Section 2. This act shall be operative October 1,  
21 2011. The Department of Revenue may adopt rules to implement  
22 this act after the effective date of this act.

23 Section 3. All laws or parts of laws which conflict  
24 with this act are repealed.

25 Section 4. This act shall become effective  
26 immediately following its passage and approval by the  
27 Governor, or its otherwise becoming law.

