

1 HB53
2 179244-1
3 By Representative Beech
4 RFD: Agriculture and Forestry
5 First Read: 07-FEB-17
6 PFD: 01/25/2017

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8 SYNOPSIS: Under existing law, a farm to school program
9 for the purchase of unprocessed agricultural
10 products has been adopted, but has not been fully
11 implemented.

12 This bill would specify that federal funds
13 for school nutrition may be used for the purchase
14 of farm products pursuant to federal law and would
15 specify that the exception to the competitive bid
16 process for local boards of education for the
17 purchase of unprocessed agricultural products for
18 school lunchrooms would be based on the federal
19 small purchase threshold in 41 U.S.C. §403(11).
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21 A BILL

22 TO BE ENTITLED

23 AN ACT
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25 To amend Section 16-1-46, Code of Alabama 1975, and
26 Section 16-13B-2, Code of Alabama 1975, as last amended by Act
27 2016-298, 2016 Regular Session, relating to the farm to school

1 program for the purchase of unprocessed agricultural products;
2 to specify that federal funds for school nutrition may be used
3 in the program pursuant to the federal small purchase
4 threshold and that the exception to the competitive bid
5 process for local boards of education would be equal to or
6 less than the federal small purchase threshold.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 16-1-46, Code of Alabama 1975,
9 and Section 16-13B-2, Code of Alabama 1975, as last amended by
10 Act 2016-298, 2016 Regular Session, are amended to read as
11 follows:

12 "§16-1-46.

13 "(a) This section shall be known and may be cited as
14 the Farm-To-School Procurement Act.

15 "(b) For the purposes of this section, unprocessed
16 agricultural products means only those agricultural products
17 that retain their inherent character. The effects of any of
18 the following handling and preservation techniques shall not
19 be considered as changing an agricultural product into a
20 product of a different inherent character: Cooling,
21 refrigerating, freezing; size adjustment through size
22 reduction made by peeling, slicing, dicing, cutting, chopping,
23 shucking, and grinding; drying or dehydration, or both;
24 washing; the application of high water pressure or cold
25 pasteurization; packaging, such as placing eggs in cartons,
26 and vacuum packing and bagging, such as placing vegetables in

1 bags; butchering livestock, fish, and poultry; and the
2 pasteurization of milk.

3 "(c) (1) The Alabama Department of Agriculture and
4 Industries and the State Department of Education shall
5 collaborate and cooperate by means of a memorandum of
6 understanding executed between the departments in order to
7 implement this section.

8 "(2) As part of the collaboration, the State
9 Department of Education shall do all of the following:

10 "a. Investigate the potential of various procurement
11 procedures and tools for school food authorities to purchase
12 local farm products and abide by federal regulations
13 including, but not limited to, the small purchase threshold.

14 "b. Educate food service directors on the small
15 purchase threshold and tools to promote their use for
16 farm-to-school initiatives.

17 "c. Implement food preparation training for food
18 service staff to accommodate sourcing fresh and local foods.

19 "d. Encourage school food service directors to
20 include local farmers, processors, and suppliers when
21 procuring farm products that fall under the small purchase
22 threshold.

23 "e. Encourage all new school construction projects
24 to consider kitchen facilities capable of producing fresh and
25 healthy school meals and opportunities for hands-on learning.

1 "(3) As part of the collaboration, the Alabama
2 Department of Agriculture and Industries shall do all of the
3 following:

4 "a. House a farm-to-school point person to
5 coordinate efforts between the Alabama Department of
6 Agriculture and Industries, the State Department of Education,
7 and the Alabama Department of Public Health, who shall be
8 responsible for identifying local farmers, processors, and
9 suppliers and shall work with the State Department of
10 Education to make that information available to school food
11 service directors and for creating and disseminating
12 information on the school food procurement process to help
13 farmers, processors, and suppliers learn more about the
14 process.

15 "b. Identify, target, and promote job creation
16 around farm-to-school initiatives.

17 "c. In cooperation with commodity groups and
18 growers' associations, utilize existing web-based market
19 development tools or adopt a voluntary web-based directory of
20 farmers searchable by location. The directory shall be
21 routinely updated and consistently maintained and usable by
22 anyone interested in locating farmers and Alabama farm
23 products.

24 "d. Investigate opportunities for farmers to supply
25 their products to commercial distributors.

26 "(d) The State Department of Education and the
27 Alabama Department of Agriculture and Industries may accept

1 funds from any federal, state, or private source to implement
2 this section. Any federal funds received for school nutrition
3 programs may be used for purchases pursuant to subdivision
4 (14) of Section 16-13B-2.

5 "(e) At least 10 percent of the local farmers,
6 processors, and suppliers utilized in providing unprocessed
7 agricultural products pursuant to this section may be minority
8 producers.

9 "§16-13B-2.

10 "(a) Competitive bids shall not be required for
11 utility services for county or city boards of education, the
12 rates for which are fixed by law, regulation, or ordinance,
13 and the competitive bidding requirements of this chapter shall
14 not apply to:

15 "(1) The purchase of insurance.

16 "(2) Contracts for securing services of attorneys,
17 physicians, architects, teachers, superintendents of
18 construction, artists, appraisers, engineers, consultants,
19 certified public accountants, public accountants, or other
20 individuals possessing a high degree of professional skill
21 where the personality of the individual plays a decisive part.

22 "(3) Contracts of employment in the regular civil
23 service.

24 "(4) Contracts for fiscal or financial advice or
25 services.

26 "(5) Purchases of products made or manufactured by
27 the blind or visually handicapped under the direction or

1 supervision of the Alabama Institute for Deaf and Blind in
2 accordance with Sections 21-2-1 to 21-2-4, inclusive.

3 "(6) Purchases of maps or photographs from any
4 federal agency.

5 "(7) Purchases of manuscripts, books, maps,
6 pamphlets, or periodicals.

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

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

12 "(10) Purchases of computer and word processing
13 hardware when the hardware is the only type that is compatible
14 with hardware already owned by the entity taking bids and
15 custom software.

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

21 "(12) Contractual services and purchases of products
22 related to, or having an impact upon, security plans,
23 procedures, assessments, measures, or systems, or the security
24 or safety of persons, structures, facilities, or
25 infrastructures.

26 "(13) Purchases of goods or services, other than
27 voice or data wireless communication services, made as a part

1 of any purchasing cooperative sponsored by the National
2 Association of Counties, its successor organization, or any
3 other national or regional governmental cooperative purchasing
4 program. Such purchases may only be made if all of the
5 following occur:

6 "a. The goods or services being purchased are
7 available as a result of a competitive bid process approved by
8 the Department of Examiners of Public Accounts for each bid.

9 "b. The goods or services are either not at the time
10 available to local boards of education on the state purchasing
11 program or are available at a price equal to or less than that
12 on the state purchasing program.

13 "c. The purchase is made through a participating
14 Alabama vendor holding an Alabama business license if such a
15 vendor exists.

16 "(14) Purchases of unprocessed agricultural products
17 as defined in subsection (b) of Section 16-1-46 and the cost
18 of the food is purchased with a cost of one hundred thousand
19 dollars (\$100,000) or less is equal to or less than the
20 federal small purchase threshold set in 41 U.S.C. §403(11).

21 "(15) Purchase of goods or services, other than
22 voice or data wireless communication services, from vendors
23 that have been awarded a current and valid general services
24 administration contract. Prices paid for the goods or services
25 may not exceed the lowest competitively bid price for these
26 goods or services, other than voice or data wireless

1 communication services, and may not exceed the price on an
2 existing state purchasing program.

3 "(b) This chapter shall not apply to:

4 "(1) Any purchases of products where the price of
5 the products is already regulated and established by state
6 law.

7 "(2) Purchases made by individual schools of the
8 county or municipal public school systems from moneys other
9 than those raised by taxation or received through
10 appropriations from state or county sources.

11 "(c) The city and county boards of education shall
12 establish and maintain such purchasing facilities and
13 procedures as may be necessary to carry out the intent and
14 purpose of this chapter by complying with the requirements for
15 competitive bidding in the operation and management of each
16 city and county board of education.

17 "(d) Contracts entered into in violation of this
18 chapter shall be void, and anyone who violates this chapter
19 shall be guilty of a Class C felony."

20 Section 2. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.