



IY7HZW-1 : 5/25/2023 : CMH
AMENDMENT TO SB291, AS ENGROSSED
1ST STATE GOVERNMENT AMENDMENT TO SB291
OFFERED BY REPRESENTATIVE SHAW

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Remove lines 3 through 19 on page 1

Replace line 28 on page 1 with the following:

contracts for which competitive bidding is not required; to amend Section 41-4-126, Code of Alabama 1975, to further provide for which contracts are exempt from the procurement code requirements; and

After line 209 on page 8, insert the following new section and renumber the remaining sections accordingly:

Section 2. Section 41-4-126, Code of Alabama 1975, is amended to read as follows:

"§41-4-126

(a) Unless otherwise ordered by rule, with approval of the Governor, the following supplies and services need not be procured through the Office of the Chief Procurement Officer and are exempt from the competitive requirements of this article:

(1) Works of art for museum and public display.



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25 (2) Published books in any format such as
26 digital, audio, or hardcopy; maps; periodicals; and
27 technical pamphlets.

28 (3) Utility services where no competition
29 exists or where rates are fixed by law.

30 (4) Purchases of alcoholic beverages by the
31 Alcoholic Beverage Control Board.

32 (5) Purchases of products made or manufactured
33 by the blind or visually handicapped under the
34 direction or supervision of the Alabama Institute for
35 Deaf and Blind in accordance with Sections 21-2-1 to
36 21-2-4, inclusive.

37 (6) Photographs purchased from a federal
38 agency.

39 (7) Barter transactions by the Department of
40 Corrections.

41 (8) The purchase of insurance and supplies or
42 services related to the purchase of insurance.

43 (9) Computer programs, software applications,
44 manuscripts, books, maps, pamphlets, periodicals, and
45 library or research electronic databases of
46 manuscripts, books, maps, pamphlets, or periodicals.

47 (10) Services to aid in the prevention and
48 detection of criminal activity by law enforcement



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49 agencies and community-oriented policing programs.

50 (b) Any state department or agency whose
51 principal business is honorariums is exempted from
52 this chapter on purchases and contracts for services
53 made by that department or agency.

54 (c) Nothing in this article is intended to
55 repeal or limit any provision of Section 23-1-40 or
56 Sections 23-2-140 through 23-2-175, relating to the
57 procurement authority of the State Department of
58 Transportation and the Alabama Toll Road, Bridge and
59 Tunnel Authority. To the extent any provision
60 contained in this article conflicts with Section
61 23-1-40 or Sections 23-2-140 through 23-2-175, the
62 latter governs.

63 (d) Nothing in this article repeals or limits
64 any provision of Section 41-4-400, relating to the
65 procurement authority of the Division of Construction
66 Management. To the extent any provision contained in
67 this article conflicts with Section 41-4-400, the
68 latter governs.

69 (e) Nothing in this article repeals or limits
70 any provision of Section 14-7-8, relating to the
71 procurement authority of Alabama Correctional
72 Industries. To the extent any provision contained in



73 this article conflicts with Section 14-7-8, the latter
74 governs.

75 (f) This article does not apply to any state
76 authority, board, or other entity with respect to
77 contracts relating to the issuance of debt that is
78 required to be repaid from sources other than state
79 funds.

80 (g) This article does not apply to direct
81 health care services provided by the Alabama
82 Department of Public Health.

83 (h) Nothing in this article applies to the
84 administration of health benefit plans by a
85 governmental body and supplies or services related
86 thereto.

87 (i) Except for capital equipment, this article
88 does not apply to the purchase by a public hospital of
89 medical products, medical supplies, medical devices,
90 services, implants, pharmaceuticals, fluids, gases, or
91 any other medical products which are used in the
92 course of treating patients, or to support the
93 treatment of patients.

94 (j) (1) Except as provided in subdivision (2),
95 the purchase of supplies or services negotiated on
96 behalf of two-year and four-year colleges and



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97 universities may be awarded without competitive
98 bidding, provided that no state revenues,
99 appropriations, or other state funds are expended or
100 committed and when it is determined by the respective
101 board that financial benefits will accrue to the
102 institution.

103 (2) When an Alabama business entity organized
104 under the laws of this state is available to supply
105 the product or service purchased or negotiated under
106 subdivision (1), the Alabama business entity shall
107 have preference unless the product or service supplied
108 by a foreign corporation is substantially different or
109 superior to the product or service supplied by the
110 Alabama business entity.

111 (3) Public notice shall be provided by the
112 purchasing agency within 10 days of the execution of a
113 contract under this subsection. The public notice
114 shall include, at a minimum, the terms and conditions
115 of any of the supplies or services that are contracted
116 through negotiation without being competitively bid
117 and the name and address of the recipient of the
118 contract.

119 (k) This article does not apply to purchases
120 and contracts for the repair of equipment used in the



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121 construction and maintenance of highways by the
122 Department of Transportation.

123 (l) This article does not apply to public works
124 projects governed by Title 39.

125 (m) This article does not apply to the purchase
126 by the Department of Transportation of road building
127 materials for transportation infrastructure in the
128 state. Road building materials may be purchased from
129 private land owners or commercial providers from the
130 nearest or most cost-effective source available for
131 the particular application. Road building materials
132 include dirt, gravel, stone, slag, or borrow
133 materials, in natural state or processed by crushing,
134 grading, or screening processes.

135 (n) This article does not apply to purchases of
136 supplies and services for the maintenance and
137 operation of highway infrastructure and right-of-way
138 by the Department of Transportation.

139 (o) Nothing in this article is intended to
140 repeal or limit any provision of Article 2, Chapter 1,
141 Title 23, relating to the powers and authority of the
142 Department of Transportation. To the extent any
143 provision contained in this article conflicts with
144 Article 2, Chapter 1, Title 23, the latter governs.



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145 (p) Governmental bodies may purchase supplies
146 from any vendor that offers the item at a price at
147 least ten percent below the price established on a
148 statewide contract by the Office of the Chief
149 Procurement Officer for the same item, provided that
150 each purchase, whether for a single item or multiple
151 items, does not exceed an amount established by rules
152 of the Chief Procurement Officer. The Office of the
153 Chief Procurement Officer shall confirm that the terms
154 and conditions of the purchases are substantially
155 similar to those of the statewide contract for the
156 same item prior to the approval of any purchase under
157 this subsection. Any purchase that would be directly
158 connected to any information technology network used
159 by the state shall require prior approval by the
160 Secretary of Information Technology. If the purchaser
161 is to take possession of the purchased supplies at the
162 vendor's physical location, any acquisition of
163 supplies under this subsection may be purchased only
164 from vendors physically located within the state. The
165 price of any supplies purchased under this subsection
166 shall be the market price readily available to the
167 public at large. The acquisition of supplies under
168 this subsection is subject to the supervision and



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169 administration of the Office of the Chief Procurement
170 Officer.

171 (q) Nothing in this article is intended to
172 repeal or limit any provision of Chapter 61E of Title
173 16, relating to the powers and authority of the
174 Department of Education to enter into joint purchasing
175 agreements on behalf of educational institutions. To
176 the extent any provision contained in this article
177 conflicts with Chapter 61E of Title 16, the latter
178 governs.

179 (r) Nothing in this article shall be construed
180 as repealing Section 9-2-106 or Section 9-2-107.

181 (s) This article does not apply to purchases by
182 the Alabama Department of Rehabilitation Services of
183 supplies and services for the Alabama Department of
184 Rehabilitation Services consumers."