SB234

672XZZ1-1

By Senators Givhan, Livingston, Orr, Butler, Kitchens, Kelley, Carnley, Beasley, Elliott, Gudger, Weaver, Sessions, Allen

RFD: County and Municipal Government

First Read: 19-Mar-24

SYNOPSIS:

Under existing law, public contracts of $30,000 or more for the purchase of goods or services are generally required to be awarded through a competitive bidding process established by law. However, the competitive bidding requirements do not apply to certain types of contracts.

Under existing law, the competitive bidding requirements do not apply to contracts by certain municipal public building authorities that contract for the purchase or construction of certain plants, buildings, or other facilities designed for industrial development.

This bill would include county public building authorities that contract for the purchase or construction of certain plants, buildings, or other facilities designed for industrial development within the existing exemption.

A BILL

TO BE ENTITLED

AN ACT

Relating to public contracts; to amend Section

41-16-51, Code of Alabama 1975, as last amended by Act 2023-544, 2023 Regular Session, to further provide for an exemption to the competitive bidding requirements, to include certain county public building authorities within the exemption.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 41-16-51, Code of Alabama 1975, as last amended by Act 2023-544, 2023 Regular Session, is amended to read as follows:

"§41-16-51

(a) Competitive bids for entities subject to this article shall not be required for utility services, the rates for which are fixed by law, regulation, or ordinance, and the competitive bidding requirements of this article shall not apply to any of the following:

(1) The purchase of insurance.

(2) The purchase of ballots and supplies for conducting any primary, general, special, or municipal election.

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

(4) Contracts of employment in the regular civil service.

(5) Contracts for fiscal or financial advice or services.

(6) Purchases of products made or manufactured by blind or visually impaired individuals under the direction or supervision of the Alabama Institute for Deaf and Blind in accordance with Chapter 2 of Title 21.

(7) Purchases of maps or photographs from any federal agency.

(8) Purchases of computer programs, software applications, manuscripts, books, maps, pamphlets, periodicals, and library or research electronic databases of manuscripts, books, maps, pamphlets, or periodicals.

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

(10) Existing contracts up for renewal for sanitation or solid waste collection, recycling, and disposal between municipalities or counties, or both, and those providing the service.

(11) Purchases of computer and word processing hardware when the hardware is the only type that is compatible with hardware already owned by the entity taking bids and custom software.

(12) Professional services contracts for codification and publication of the laws and ordinances of municipalities and counties.

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

(14) Purchases of dirt, sand, or gravel by a county

governing body from in-county property owners in order to supply a county project in which the materials will be used. The material shall be delivered to the project site by county employees and equipment used only on project components conducted exclusively by county employees.

(15) Contractual services and purchases of products related to, or having an impact upon, security plans, procedures, assessments, measures, or systems, or the security or safety of individuals, structures, facilities, or infrastructures.

(16) Subject to the limitations in this subdivision, purchases, leases, or lease/purchases of goods or services, other than voice or data wireless communication services, made as a part of the purchasing cooperative sponsored by the National Association of Counties, its successor organization, or any other national or regional governmental cooperative purchasing program. The purchases, leases, or lease/purchases may only be made if all of the following occur:

a. The goods or services being purchased, including those purchased through a lease/purchase agreement, or leased are available as a result of a competitive bid process conducted by a governmental entity and approved by the Department of Examiners of Public Accounts for each bid.

b. The goods or services are either not at the time available to counties on the state purchasing program or are available at a price equal to or less than that on the state purchasing program.

c. The purchase, lease, or lease/purchase is made

through a participating Alabama vendor holding an Alabama business license if such a vendor exists.

d. The entity purchasing, leasing, or lease/purchasing goods or services under this subdivision has been notified by the Department of Examiners of Public Accounts that the competitive bid process utilized by the cooperative program offering the goods complies with this subdivision. In addition, upon request, a vendor shall provide the entity purchasing, leasing, or lease/purchasing goods or services equaling thirty thousand dollars ($30,000) or more which are made under this subdivision during the previous 12 months a report of the sales, leases, and lease/purchases. The report shall include a general description of the goods or services; the number of units sold, leased, and leased/purchased per entity; and the price of units purchased, leased, or leased/purchased.

(17) Purchases of goods or services, other than wireless communication services, whether voice or data, from vendors that have been awarded a current and valid Government Services Administration contract. Any purchase made pursuant to this subdivision shall be under the same terms and conditions as provided in the Government Services Administration contract. Prices paid for the goods and services, other than wireless communication services, whether voice or data, may not exceed the amount provided in the Government Services Administration contract.

(18) Purchases of goods or services from vendors that have been awarded a current and valid statewide contract

listed on the Alabama Buys e-procurement system. Any purchase made pursuant to this subdivision shall be under the same terms and conditions as provided in the statewide contract. Prices paid for the goods and services may not exceed the amount provided in the statewide contract.

(19) Purchases of goods or services between governmental entities of the state, as authorized by Section 11-1-10.

(b) This article shall not apply to:

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

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

(3) The purchase, lease, sale, construction, installation, acquisition, improvement, enlargement, or expansion of any building or structure or other facility designed or intended for lease or sale by a medical clinic board organized under Chapter 58 of Title 11.

(4) The purchase, lease, or other acquisition of machinery, equipment, supplies, and other personal property or services by a medical clinic board organized under Chapter 58 of Title 11.

(5) Purchases for public hospitals and nursing homes operated by the governing boards of instrumentalities of the state, counties, and municipalities.

(6) Contracts for the purchase, lease, sale,

construction, installation, acquisition, improvement, enlargement, or extension of any plant, building, structure, or other facility or any machinery, equipment, furniture, or furnishings therefor designed or intended for lease or sale for industrial development, other than public utilities, under Division 1 of Article 4 of Chapter 54 of Title 11, or Article 2 of Chapter 54 of Title 11, or any other law or amendment to the Constitution of Alabama of 2022, authorizing the construction of plants or other facilities for industrial development or for the construction and equipment of buildings for public building authorities under Chapter 15 of Title 11 or Chapter 56 of Title 11.

(7) The purchase of equipment, supplies, or materials needed, used, and consumed in the normal and routine operation of any waterworks system, sanitary sewer system, gas system, or electric system, or any two or more thereof, that are owned by municipalities, counties, or public corporations, boards, or authorities that are agencies, departments, or instrumentalities of municipalities or counties and no part of the operating expenses of which system or systems, during the then current fiscal year, have been paid from revenues derived from taxes or from appropriations of the state, a county, or a municipality.

(8) Purchases made by local housing authorities, organized and existing under Chapter 1 of Title 24, from monies other than those raised by state, county, or city taxation or received through appropriations from state, county, or city sources.

(9) The purchase of services to aid in the prevention and detection of criminal activity by law enforcement agencies and community-oriented policing programs.

(c) The state trade schools, state junior colleges, state colleges, and universities under the supervision and control of the State Board of Education, the district boards of education of independent school districts, the county commissions, and the governing bodies of the municipalities of the state shall establish and maintain purchasing facilities and procedures as may be necessary to carry out the intent and purpose of this article by complying with the requirements for competitive bidding in the operation and management of each state trade school, state junior college, state college, or university under the supervision and control of the State Board of Education, the district boards of education of independent school districts, the county commissions, and the governing bodies of the municipalities of the state and the governing boards of instrumentalities of counties and municipalities, including waterworks boards, sewer boards, gas boards, and other like utility boards and commissions.

(d) Contracts entered into in violation of this article shall be void and any individual who violates this article shall be guilty of a Class C felony."

Section 2. This act shall become effective on June 1, 2024.