

**SB75 INTRODUCED**



1 SB75  
2 YMXV422-1  
3 By Senator  
4 RFD: Education Policy  
5 First Read: 13-Jan-26



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SYNOPSIS:

Under existing law, an awarding authority desiring to enter into a contract for a public works involving an amount in excess of \$100,000 is required to advertise for sealed bids and generally follow the requirements of the public works law for the award of the contract.

Existing law allows certain contracts to be awarded without following the public works competitive bidding requirements.

This bill would expand the current exception to allow an awarding authority to make purchases of materials or equipment pursuant to a cooperative purchasing agreement, the requirements for which are regulated by existing law.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to public works contracts; to amend Section 39-2-2, Code of Alabama 1975, as last amended by Act 2025-383, 2025 Regular Session, to provide an exception to the public works law for the purchase of certain materials and equipment



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29 made pursuant to a cooperative purchasing agreement.

30 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

31 Section 1. Sections 39-2-2, Code of Alabama 1975, as  
32 last amended by Act 2025-383, 2025 Regular Session, is amended  
33 to read as follows:

34 "§39-2-2

35 (a) (1) Before entering into any contract for a public  
36 works involving an amount in excess of one hundred thousand  
37 dollars (\$100,000), the awarding authority shall advertise for  
38 sealed bids, except as provided in subsection (k).

39 (2)a. If the awarding authority is the state, a county,  
40 or an instrumentality thereof, it shall advertise for sealed  
41 bids at least once each week for three consecutive weeks in a  
42 newspaper of general circulation in the county or counties in  
43 which the improvement, or some part thereof, is to be made.

44 b.1. If the awarding authority is a municipality, or an  
45 instrumentality thereof, it shall advertise for sealed bids at  
46 least once in a newspaper of general circulation published in  
47 the municipality where the awarding authority is located.

48 2. If no newspaper is published in the municipality,  
49 the awarding authority shall advertise by posting notice  
50 thereof on a bulletin board maintained outside the purchasing  
51 office and in any other manner and for the length of time as  
52 may be determined. In addition to bulletin board notice, the  
53 awarding authority shall also send the notice by U.S. mail or  
54 electronic mail to the Department of Finance for publication  
55 of the advertisement on the centralized website maintained by  
56 the department as further described in subsection (c).



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57           (3) The advertisements shall briefly describe the  
58 improvement, state that plans and specifications for the  
59 improvement are on file for examination in a designated office  
60 of the awarding authority, state the procedure for obtaining  
61 plans and specifications, state the time and place in which  
62 bids shall be received and opened, and identify whether  
63 prequalification is required and where all written  
64 prequalification information is available for review.

65           (4) All bids shall be opened publicly at the advertised  
66 time and place.

67           (5) No public work involving a sum in excess of one  
68 hundred thousand dollars (\$100,000) shall be split into parts  
69 involving sums of one hundred thousand dollars (\$100,000) or  
70 less for the purpose of evading the requirements of this  
71 section.

72           (b) (1) An awarding authority may let contracts for  
73 public works involving one hundred thousand dollars (\$100,000)  
74 or less with or without advertising or sealed bids.

75           (2) Notwithstanding the advertising requirements of  
76 subdivision (a) (2), an awarding authority may enter into a  
77 contract for public works if: (i) the awarding authority  
78 submitted the advertisement for sealed bids for the contract  
79 in accordance with subdivision (a) (2); and (ii) the  
80 advertisement was published for at least three weeks, or if  
81 the awarding authority is a municipality or instrumentality  
82 thereof for at least seven consecutive calendar days, on a  
83 centralized website maintained by the Department of Finance as  
84 further described in subsection (c).



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85           (3) If the awarding authority under subdivision (2) is  
86 the Department of Transportation, the Department of Finance  
87 may alternatively satisfy the requirements of subdivision  
88 (2)(ii) by publishing the advertisement on its publicly  
89 accessible website for at least three weeks.

90           (4) If the awarding authority under subdivision (2) is  
91 a county or instrumentality thereof, the county or  
92 instrumentality may alternatively satisfy the requirements of  
93 subdivision (2)(ii) by publishing the advertisement in  
94 accordance with the procedures submitted by the Association of  
95 County Engineers of Alabama and approved by the Department of  
96 Examiners of Public Accounts as authorized by general law.

97           (c) The Department of Finance shall establish and  
98 maintain a centralized website or digital platform to provide  
99 publicly accessible notice of advertisements for sealed bids  
100 pursuant to this section. The department may further provide  
101 for the administration and operations related thereto by the  
102 adoption of administrative rules, including, but not limited  
103 to, the assessment of fees to awarding authorities for the  
104 posting of advertisements to cover the implementation and  
105 maintenance cost of the website or digital platform.

106           (d) All contracts for public works entered into in  
107 violation of this title shall be void and violative of public  
108 policy. Anyone who willfully violates this chapter concerning  
109 public works shall be guilty of a Class C felony.

110           (e) (1) Excluded from the operation of this title shall  
111 be contracts with persons who shall perform only  
112 architectural, engineering, construction management, program



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113 management, or project management services in support of the  
114 public works and who shall not engage in actual construction,  
115 repair, renovation, or maintenance of the public works with  
116 their own forces, by contract, subcontract, purchase order,  
117 lease, or otherwise.

118 (2)a. Excluded from operation of the bidding  
119 requirements in this title are contracts for the purchase of  
120 any heating or air conditioning units or systems by any  
121 awarding authority subject to Chapter 13B of Title 16, Article  
122 3, commencing with Section 41-16-50 of Chapter 16 of Title 41,  
123 or Article 5, commencing with Section 41-4-110 of Chapter 4 of  
124 Title 41, provided the contract is entered into with an  
125 Alabama vendor who has been granted approved vendor status for  
126 the sale of heating or air conditioning units or systems as a  
127 part of a purchasing cooperative, and each of the following  
128 occur:

129 1. The heating or air conditioning unit or system being  
130 purchased is available as a result of a competitive bid  
131 process conducted by a governmental entity which has been  
132 approved by the Department of Examiners of Public Accounts.

133 2. The purchase of the heating or air conditioning unit  
134 or system is not available on the state purchasing program at  
135 the time or the purchase under the purchasing cooperative is  
136 available at a price that is equal to or less than that  
137 available through the state purchasing program.

138 3. The entity entering into the contract for the  
139 purchase of the heating or air conditioning unit or system has  
140 been notified by the Department of Examiners of Public



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141 Accounts that the competitive bid process utilized by the  
142 cooperative program offering the goods complies with this  
143 subdivision.

144 4. Upon request, the vendor has provided the purchasing  
145 entity with a report of sales made under this subdivision  
146 during the previous 12-month period, to include a general  
147 description of the heating or air conditioning units and  
148 systems sold, the number of units sold per entity, and the  
149 purchase price of the units.

150 b. The exemption from the requirement to use sealed  
151 bids for the purchase of heating or air conditioning units or  
152 systems authorized by this section shall not serve to exempt  
153 any public works project from the remaining provisions of this  
154 chapter, including, but not limited to, design, installation,  
155 and review requirements, compliance with all applicable codes,  
156 laws, specifications, and standards, and the compensation of  
157 engineers, architects, or others as mandated by state law or  
158 rule.

159 (f) (1) In case of an emergency for which a delay in  
160 remedying would cause immediate harm to a person or public  
161 property, contracts may be let to the extent necessary to meet  
162 the emergency without public advertisement or bidding.

163 (2) In case of an emergency affecting public health,  
164 safety, or convenience, as declared in writing by the awarding  
165 authority, setting forth the nature of the danger to the  
166 public health, safety, or convenience which would result from  
167 delay, contracts may be let to the extent necessary to meet  
168 the emergency without public advertisement.



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169 (3) Any action taken under subdivision (1) or (2), and  
170 the reasons for the action taken, shall immediately be made  
171 public by the awarding authority and published in writing.

172 (g) No awarding authority may specify in the plans and  
173 specifications for the improvement the use of materials,  
174 products, systems, or services by a sole source unless all of  
175 the following requirements are met:

176 (1) Except for contracts involving the construction,  
177 reconstruction, renovation, or replacement of public roads,  
178 bridges, and water and sewer facilities, the awarding  
179 authority can document to the satisfaction of the Division of  
180 Real Property Management of the Department of Finance, or in  
181 the case of an educational institution or state educational  
182 institution as provided pursuant to Sections 41-4-353 and  
183 41-4-400, to the satisfaction of its governing board, that the  
184 sole source product, material, system, or service is of an  
185 indispensable nature for the improvement, that there are no  
186 other viable alternatives, and that only this particular  
187 product, material, system, or service fulfills the function  
188 for which it is needed.

189 (2) The sole source specification has been recommended  
190 by the architect or engineer of record as an indispensable  
191 item for which there is no other viable alternative.

192 (3) All information substantiating the use of a sole  
193 source specification, including the recommendation of the  
194 architect or engineer of record, shall be documented and made  
195 available for examination in the office of the awarding  
196 authority at the time of advertisement for sealed bids.



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197           (h) If a proposed public works project is acknowledged  
198 in writing by the Alabama Homeland Security Department as: (i)  
199 having a direct impact on the security or safety of persons or  
200 facilities; and (ii) requiring confidential handling for the  
201 protection of such persons or facilities, contracts may be let  
202 without public advertisement but with the taking of informal  
203 bids otherwise consistent with the requirements of this title  
204 and the requirements of maintaining confidentiality. Records  
205 of bidding and award shall not be disclosed to the public and  
206 shall remain confidential.

207           (i) If a pre-bid meeting is held, the pre-bid meeting  
208 shall be held at least seven days prior to the bid opening  
209 except when the project has been declared an emergency in  
210 accordance with subsection (f).

211           (j) The awarding authority may not offer a contract for  
212 bidding unless confirmation of any applicable grant has been  
213 received and any required matching funds have been secured by  
214 or are available to the awarding authority.

215           (k) Notwithstanding subsection (a), the Department of  
216 Transportation may enter into contracts for road construction  
217 or road maintenance projects that do not involve more than two  
218 hundred fifty thousand dollars (\$250,000) without advertising  
219 for sealed bids, provided the project is listed on the  
220 publicly accessible website of the department for at least  
221 seven calendar days before entering into the contract. The  
222 total cost of all projects not subject to advertising and  
223 sealed bids pursuant to this subsection may not exceed one  
224 million dollars (\$1,000,000) in the aggregate per year.



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225 (1) For the purposes of this chapter, sealed bids may  
226 also be solicited and submitted through electronic means  
227 including, but not limited to, electrical, digital, magnetic,  
228 optical, electromagnetic, or any other similar technology,  
229 provided that the awarding authority adopts rules and policies  
230 to ensure that all electronic submissions are transmitted  
231 securely and bids ~~remained~~remain sealed until bid opening.

232 (m)(1) Notwithstanding any other provision of law, any  
233 entity subject to this chapter ~~that~~which is an awarding  
234 authority of a contract for public works, by resolution or  
235 board action, may purchase materials or equipment pursuant to  
236 a cooperative purchasing agreement under Division 7 of Article  
237 5 of Chapter 4 of Title 41, or pursuant to the requirements of  
238 Section 41-16-51(a) (14), (16), (17), (18), or (19), as  
239 applicable, even when those materials or equipment are  
240 otherwise part of the contract for public works subject to the  
241 requirements of this title.

242 (2) Except for those materials or equipment described  
243 in subdivision (1), the remaining portion of the public works  
244 project shall be subject to the requirements of this title,  
245 even if the remaining portion would involve an amount less  
246 than one hundred thousand dollars (\$100,000) as a result of  
247 the exclusion of the purchase of the materials or equipment as  
248 described in subdivision (1)."

249 Section 2. This act shall become effective on October  
250 1, 2026.