

HB417 INTRODUCED



1 HB417
2 L5NSFWW-1
3 By Representative Shaw
4 RFD: County and Municipal Government
5 First Read: 10-Feb-26



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4 SYNOPSIS:

5 Under existing law, contracts for public works
6 in excess of \$100,000 are subject to the public works
7 law and must be competitively bid pursuant to the
8 requirements of that law.

9 This bill would exempt contracts for the
10 purchase of playground equipment from the public works
11 law and would provide that such contracts must be bid
12 pursuant to the applicable competitive bidding law.

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15 A BILL

16 TO BE ENTITLED

17 AN ACT

18

19 Relating to competitive bidding; to amend Section
20 39-2-2, Code of Alabama 1975, as last amended by Act 2025-383;
21 to exempt from the public works law the purchase and
22 installation of playground equipment on public property.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 39-2-2, Code of Alabama 1975, as
25 last amended by Act 2025-383, is amended to read as follows:

26 "§39-2-2

27 (a) (1) Before entering into any contract for a public
28 works involving an amount in excess of one hundred thousand



29 dollars (\$100,000), the awarding authority shall advertise for
30 sealed bids, except as provided in subsection (k).

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

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

40 2. If no newspaper is published in the municipality,
41 the awarding authority shall advertise by posting notice
42 thereof on a bulletin board maintained outside the purchasing
43 office and in any other manner and for the length of time as
44 may be determined. In addition to bulletin board notice, the
45 awarding authority shall also send the notice by U.S. mail or
46 electronic mail to the Department of Finance for publication
47 of the advertisement on the centralized website maintained by
48 the department as further described in subsection (c).

49 (3) The advertisements shall briefly describe the
50 improvement, state that plans and specifications for the
51 improvement are on file for examination in a designated office
52 of the awarding authority, state the procedure for obtaining
53 plans and specifications, state the time and place in which
54 bids shall be received and opened, and identify whether
55 prequalification is required and where all written
56 prequalification information is available for review.



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

59 (5) No public work involving a sum in excess of one
60 hundred thousand dollars (\$100,000) shall be split into parts
61 involving sums of one hundred thousand dollars (\$100,000) or
62 less for the purpose of evading the requirements of this
63 section.

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



85 subdivision (2) (ii) by publishing the advertisement in
86 accordance with the procedures submitted by the Association of
87 County Engineers of Alabama and approved by the Department of
88 Examiners of Public Accounts as authorized by general law.

89 (c) The Department of Finance shall establish and
90 maintain a centralized website or digital platform to provide
91 publicly accessible notice of advertisements for sealed bids
92 pursuant to this section. The department may further provide
93 for the administration and operations related thereto by the
94 adoption of administrative rules, including, but not limited
95 to, the assessment of fees to awarding authorities for the
96 posting of advertisements to cover the implementation and
97 maintenance cost of the website or digital platform.

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

102 (e) (1) Excluded from the operation of this title shall
103 be contracts with persons who shall perform only
104 architectural, engineering, construction management, program
105 management, or project management services in support of the
106 public works and who shall not engage in actual construction,
107 repair, renovation, or maintenance of the public works with
108 their own forces, by contract, subcontract, purchase order,
109 lease, or otherwise.

110 (2) a. Excluded from operation of the bidding
111 requirements in this title are contracts for the purchase of
112 any heating or air conditioning units or systems by any



113 awarding authority subject to Chapter 13B of Title 16, Article
114 3, commencing with Section 41-16-50 of Chapter 16 of Title 41,
115 or Article 5, commencing with Section 41-4-110 of Chapter 4 of
116 Title 41, provided the contract is entered into with an
117 Alabama vendor who has been granted approved vendor status for
118 the sale of heating or air conditioning units or systems as a
119 part of a purchasing cooperative, and each of the following
120 occur:

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

125 2. The purchase of the heating or air conditioning unit
126 or system is not available on the state purchasing program at
127 the time or the purchase under the purchasing cooperative is
128 available at a price that is equal to or less than that
129 available through the state purchasing program.

130 3. The entity entering into the contract for the
131 purchase of the heating or air conditioning unit or system has
132 been notified by the Department of Examiners of Public
133 Accounts that the competitive bid process utilized by the
134 cooperative program offering the goods complies with this
135 subdivision.

136 4. Upon request, the vendor has provided the purchasing
137 entity with a report of sales made under this subdivision
138 during the previous 12-month period, to include a general
139 description of the heating or air conditioning units and
140 systems sold, the number of units sold per entity, and the



141 purchase price of the units.

142 b. The exemption from the requirement to use sealed
143 bids for the purchase of heating or air conditioning units or
144 systems authorized by this section shall not serve to exempt
145 any public works project from the remaining provisions of this
146 chapter, including, but not limited to, design, installation,
147 and review requirements, compliance with all applicable codes,
148 laws, specifications, and standards, and the compensation of
149 engineers, architects, or others as mandated by state law or
150 rule.

151 (3)a. Excluded from the operation of this title are
152 contracts for the purchase, design, and installation of
153 playground equipment. Such contracts shall be procured as
154 otherwise required for the procurement of goods and services,
155 including, but not limited to, Chapter 13B of Title 16;
156 Article 3 of Chapter 16 of Title 41; and Article 5 of Chapter
157 4 of Title 41.

158 b. For purposes of this subdivision, "playground
159 equipment" means any structure or apparatus intended for
160 children's recreational use and play in a public area,
161 including a public park, public school, or other public
162 property. The term includes slides, swings, climbing
163 equipment, seesaws, and splash pads. The term also includes
164 purchases ancillary to the use of a playground, including
165 safety surfacing, fencing, signage, and shade structures.

166 (f) (1) In case of an emergency for which a delay in
167 remedying would cause immediate harm to a person or public
168 property, contracts may be let to the extent necessary to meet



169 the emergency without public advertisement or bidding.

170 (2) In case of an emergency affecting public health,
171 safety, or convenience, as declared in writing by the awarding
172 authority, setting forth the nature of the danger to the
173 public health, safety, or convenience which would result from
174 delay, contracts may be let to the extent necessary to meet
175 the emergency without public advertisement.

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

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

183 (1) Except for contracts involving the construction,
184 reconstruction, renovation, or replacement of public roads,
185 bridges, and water and sewer facilities, the awarding
186 authority can document to the satisfaction of the Division of
187 Real Property Management of the Department of Finance, or in
188 the case of an educational institution or state educational
189 institution as provided pursuant to Sections 41-4-353 and
190 41-4-400, to the satisfaction of its governing board, that the
191 sole source product, material, system, or service is of an
192 indispensable nature for the improvement, that there are no
193 other viable alternatives, and that only this particular
194 product, material, system, or service fulfills the function
195 for which it is needed.

196 (2) The sole source specification has been recommended



197 by the architect or engineer of record as an indispensable
198 item for which there is no other viable alternative.

199 (3) All information substantiating the use of a sole
200 source specification, including the recommendation of the
201 architect or engineer of record, shall be documented and made
202 available for examination in the office of the awarding
203 authority at the time of advertisement for sealed bids.

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

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

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

222 (k) Notwithstanding subsection (a), the Department of
223 Transportation may enter into contracts for road construction
224 or road maintenance projects that do not involve more than two



225 hundred fifty thousand dollars (\$250,000) without advertising
226 for sealed bids, provided the project is listed on the
227 publicly accessible website of the department for at least
228 seven calendar days before entering into the contract. The
229 total cost of all projects not subject to advertising and
230 sealed bids pursuant to this subsection may not exceed one
231 million dollars (\$1,000,000) in the aggregate per year.

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

239 (m) (1) Notwithstanding any other provision of law, any
240 entity subject to this chapter that is an awarding authority
241 of a contract for public works, by resolution or board action,
242 may purchase materials or equipment pursuant to Section
243 41-16-51(a) (14), (16), (17), (18), or (19), even when those
244 materials or equipment are otherwise part of the contract for
245 public works subject to the requirements of this title.

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



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253 Section 2. This act shall become effective on June 1,
254 2026.