

1 HB264
2 165615-3
3 By Representative McMillan
4 RFD: County and Municipal Government
5 First Read: 12-MAR-15

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 Relating to competitive bidding; to amend Section
9 41-16-50, Code of Alabama 1975; to authorize a county or
10 municipality to award a competitive bid to a responsible
11 bidder having a place of business within a local preference
12 zone if that bid is no more than five percent greater than the
13 bid of the lowest responsible bidder; and to allow a county or
14 municipality to award a competitive bid to a responsible
15 bidder having a place of business within a local preference
16 zone if that bid is no more than 10 percent greater than the
17 bid of the lowest responsible bidder and the lowest
18 responsible bidder is a business entity that does not have a
19 place of business in the state.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Section 41-16-50, Code of Alabama 1975,
22 is amended to read as follows:

23 "§41-16-50.

24 "(a) With the exception of contracts for public
25 works whose competitive bidding requirements are governed
26 exclusively by Title 39, all expenditure of funds of whatever
27 nature for labor, services, work, or for the purchase of

1 materials, equipment, supplies, or other personal property
2 involving fifteen thousand dollars (\$15,000) or more, and the
3 lease of materials, equipment, supplies, or other personal
4 property where the lessee is, or becomes legally and
5 contractually, bound under the terms of the lease, to pay a
6 total amount of fifteen thousand dollars (\$15,000) or more,
7 made by or on behalf of any state trade school, state junior
8 college, state college, or university under the supervision
9 and control of the State Board of Education, the district
10 boards of education of independent school districts, the
11 county commissions, the governing bodies of the municipalities
12 of the state, and the governing boards of instrumentalities of
13 counties and municipalities, including waterworks boards,
14 sewer boards, gas boards, and other like utility boards and
15 commissions, except as hereinafter provided, shall be made
16 under contractual agreement entered into by free and open
17 competitive bidding, on sealed bids, to the lowest responsible
18 bidder. Prior to advertising for bids for an item of personal
19 property, where a county, a municipality, or an
20 instrumentality thereof is the awarding authority, the
21 awarding authority may establish a local preference zone
22 consisting of either the legal boundaries or jurisdiction of
23 the awarding authority, or the boundaries of the county in
24 which the awarding authority is located, or the boundaries of
25 the Core Based Statistical Area (CBSA) in which the awarding
26 authority is located. If no such action is taken by the
27 awarding authority, the boundaries of the local preference

1 zone shall be deemed to be the same as the legal boundaries or
2 jurisdiction of the awarding authority. In the event a bid is
3 received for an item of personal property to be purchased or
4 contracted for from a person, firm, or corporation deemed to
5 be a responsible bidder, having a place of business within the
6 local preference zone where the county, a municipality, or an
7 instrumentality thereof is the awarding authority, and the bid
8 is no more than ~~three~~ five percent greater than the bid of the
9 lowest responsible bidder, the awarding authority may award
10 the contract to the resident responsible bidder. In the event
11 only one bidder responds to the invitation to bid, the
12 awarding authority may reject the bid and negotiate the
13 purchase or contract, providing the negotiated price is lower
14 than the bid price.

15 "(b) The governing bodies of two or more contracting
16 agencies, as enumerated in subsection (a), or the governing
17 bodies of two or more counties, or the governing bodies of two
18 or more city or county boards of education, may provide, by
19 joint agreement, for the purchase of labor, services, or work,
20 or for the purchase or lease of materials, equipment,
21 supplies, or other personal property for use by their
22 respective agencies. The agreement shall be entered into by
23 similar ordinances, in the case of municipalities, or
24 resolutions, in the case of other contracting agencies,
25 adopted by each of the participating governing bodies, which
26 shall set forth the categories of labor, services, or work, or
27 for the purchase or lease of materials, equipment, supplies,

1 or other personal property to be purchased, the manner of
2 advertising for bids and the awarding of contracts, the method
3 of payment by each participating contracting agency, and other
4 matters deemed necessary to carry out the purposes of the
5 agreement. Each contracting agency's share of expenditures for
6 purchases under any agreement shall be appropriated and paid
7 in the manner set forth in the agreement and in the same
8 manner as for other expenses of the contracting agency. The
9 contracting agencies entering into a joint agreement, as
10 herein permitted, may designate a joint purchasing or bidding
11 agent, and the agent shall comply with this article.

12 Purchases, contracts, or agreements made pursuant to a joint
13 purchasing or bidding agreement shall be subject to all terms
14 and conditions of this article.

15 In the event that utility services are no longer
16 exempt from competitive bidding under this article,
17 non-adjointing counties may not purchase utility services by
18 joint agreement under authority granted by this subsection.

19 "(c) The awarding authority may require bidders to
20 furnish a bid bond for a particular bid solicitation if the
21 bonding requirement applies to all bidders, is included in the
22 written bid specifications, and if bonding is available for
23 the services, equipment, or materials.

24 "(d) Notwithstanding subsection (a), in the event
25 the lowest bid for an item of personal property to be
26 purchased or contracted for is received from a foreign entity,
27 where the county, a municipality, or an instrumentality

1 thereof is the awarding authority, the awarding authority may
2 award the contract to a responsible bidder having a place of
3 business within the local preference zone if that bid is no
4 more than 10 percent greater than the bid of the foreign
5 entity or to a responsible bidder from a woman-owned
6 enterprise, enterprise of small business, as defined in
7 Section 25-10-3, minority-owned business enterprise, or
8 disadvantaged-owned business enterprise. For purposes of this
9 subsection, "foreign entity" means a business entity that does
10 not have a place of business within the state."

11 Section 2. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on County and Mu-
nicipal Government..... 12-MAR-15

Read for the second time and placed
on the calendar 1 amendment 02-APR-15

Read for the third time and passed
as amended..... 09-APR-15

Yeas 91, Nays 6, Abstains 2

Jeff Woodard
Clerk