

1 HB335
2 209292-4
3 By Representatives Baker, Jones (S) and Faulkner
4 RFD: County and Municipal Government
5 First Read: 04-FEB-21

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, counties and
9 municipalities that enter into solid waste
10 collection and disposal services contracts must
11 comply with the state competitive bidding
12 requirements. Public contracts for services under
13 the competitive bid laws permit a contract term of
14 not greater than three years.

15 This bill would permit public contracts for
16 residential solid waste collection and disposal to
17 have a contract term of not greater than five
18 years.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 Relating to competitive bidding; to amend Section
25 41-16-57, Code of Alabama 1975; to change the term of public
26 contracts for residential solid waste collection and disposal.
27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 41-16-57, Code of Alabama 1975,
2 is amended to read as follows:

3 "§41-16-57.

4 "(a) When purchases are required to be made through
5 competitive bidding, awards shall be made to the lowest
6 responsible bidder taking into consideration the qualities of
7 the commodities proposed to be supplied, their conformity with
8 specifications, the purposes for which required, the terms of
9 delivery, transportation charges, and the dates of delivery.
10 If at any time after the award has been made the lowest
11 responsible bidder notifies the awarding authority in writing
12 that the bidder will no longer comply with the terms of the
13 award to provide the goods or services to the awarding
14 authority under the terms and conditions of the original
15 award, or the awarding authority documents that the lowest
16 responsible bidder defaults under the terms of the original
17 award, the awarding authority may terminate the award to the
18 defaulting bidder and make an award to the second lowest
19 responsible bidder for the remainder of the award period
20 without rebidding, provided the award to the second lowest
21 responsible bidder is in all respects made under the terms and
22 conditions contained in the original bid specifications and is
23 for the same or a lower price than the bid originally
24 submitted to the awarding authority by the second lowest
25 responsible bidder.

26 "(b) The awarding authority in the purchase of or
27 contract for goods or services shall give preference, provided

1 there is no sacrifice or loss in price or quality, to
2 commodities produced in Alabama or sold by Alabama persons,
3 firms, or corporations. Notwithstanding the foregoing, no
4 county official, county commission, city council or city
5 councilmen, or other public official charged with the letting
6 of contracts or purchase of goods or services may specify the
7 use of materials or systems by a sole source, unless:

8 "(1) The governmental body can document that the
9 sole source goods or services are of an indispensable nature,
10 all other viable alternatives have been explored, and it has
11 been determined that only these goods or services will fulfill
12 the function for which the product is needed. Frivolous
13 features will not be considered.

14 "(2) No other vendor offers substantially equivalent
15 goods or services that can accomplish the purpose for which
16 the goods or services are required.

17 "(3) All information substantiating the use of a
18 sole source specification is documented in writing and is
19 filed into the project file.

20 "(c) (1) Beginning January 1, 2009, for purchases of
21 personal property, including on or after June 9, 2011, goods
22 which are, or are to become, fixtures, in instances where the
23 awarding authority determines that the total cost of ownership
24 over the expected life of the item or items, including
25 acquisition costs plus sustaining costs or life cycle costs,
26 can be reasonably ascertained from industry recognized and
27 accepted sources, the lowest responsible bid may be determined

1 to be the bid offering the lowest life cycle costs and
2 otherwise meeting all of the conditions and specifications
3 contained in the invitation to bid. To utilize this
4 subdivision to determine the lowest responsible bidder, the
5 awarding authority shall include a notice in the invitation to
6 bid that the lowest responsible bid may be determined by using
7 life cycle costs and identify the industry recognized and
8 accepted sources that will be applicable to such an
9 evaluation.

10 "(2) No later than November 30, 2008, the Department
11 of Examiners of Public Accounts shall establish procedures for
12 the use of life cycle costs, which shall be distributed to all
13 contracting agencies and shall be used in conducting any
14 audits of the purchasing agency.

15 "(d) The awarding authority or requisitioning agency
16 may reject any bid if the price is deemed excessive or quality
17 of product inferior.

18 "(e) Each record, with the successful bid indicated
19 thereon, and with the reasons for the award if not awarded to
20 the lowest bidder, ~~shall~~, after award of the order or
21 contract, shall be open to public inspection.

22 "(f) Contracts for the purchase of personal property
23 or contractual services shall be let for periods not greater
24 than three years. Contracts for the collection and disposal of
25 residential solid waste shall be let for periods not greater
26 than five years. Contracts for the leasing of motor vehicles
27 by local governing bodies shall be let for periods not greater

1 than five years. Lease-purchase contracts for capital
2 improvements and repairs to real property shall be let for
3 periods not greater than 10 years and all other lease-purchase
4 contracts shall be let for periods not greater than 10 years."

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