

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

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8 SYNOPSIS: Under existing law, a county or municipality
9 may award a competitive bid to a responsible bidder
10 having a place of business within a local
11 preference zone if that bid is no more than three
12 percent greater than the bid of the lowest
13 responsible bidder.

14 This bill would allow a county or
15 municipality to award a competitive bid to a
16 responsible bidder having a place of business
17 within a local preference zone if that bid is no
18 more than 10 percent greater than the bid of the
19 lowest responsible bidder and the lowest
20 responsible bidder is a business entity that does
21 not have a place of business in the state.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
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1 Relating to competitive bidding; to amend Section
2 41-16-50, Code of Alabama 1975, by allowing a county or
3 municipality to award a competitive bid to a responsible
4 bidder having a place of business within a local preference
5 zone if that bid is no more than 10 percent greater than the
6 bid of the lowest responsible bidder and the lowest
7 responsible bidder is a business entity that does not have a
8 place of business in the state.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

12 "§41-16-50.

13 "(a) With the exception of contracts for public
14 works whose competitive bidding requirements are governed
15 exclusively by Title 39, all expenditure of funds of whatever
16 nature for labor, services, work, or for the purchase of
17 materials, equipment, supplies, or other personal property
18 involving fifteen thousand dollars (\$15,000) or more, and the
19 lease of materials, equipment, supplies, or other personal
20 property where the lessee is, or becomes legally and
21 contractually, bound under the terms of the lease, to pay a
22 total amount of fifteen thousand dollars (\$15,000) or more,
23 made by or on behalf of any state trade school, state junior
24 college, state college, or university under the supervision
25 and control of the State Board of Education, the district
26 boards of education of independent school districts, the
27 county commissions, the governing bodies of the municipalities

1 of the state, and the governing boards of instrumentalities of
2 counties and municipalities, including waterworks boards,
3 sewer boards, gas boards, and other like utility boards and
4 commissions, except as hereinafter provided, shall be made
5 under contractual agreement entered into by free and open
6 competitive bidding, on sealed bids, to the lowest responsible
7 bidder. Prior to advertising for bids for an item of personal
8 property, where a county, a municipality, or an
9 instrumentality thereof is the awarding authority, the
10 awarding authority may establish a local preference zone
11 consisting of either the legal boundaries or jurisdiction of
12 the awarding authority, or the boundaries of the county in
13 which the awarding authority is located, or the boundaries of
14 the Core Based Statistical Area (CBSA) in which the awarding
15 authority is located. If no such action is taken by the
16 awarding authority, the boundaries of the local preference
17 zone shall be deemed to be the same as the legal boundaries or
18 jurisdiction of the awarding authority. In the event a bid is
19 received for an item of personal property to be purchased or
20 contracted for from a person, firm, or corporation deemed to
21 be a responsible bidder, having a place of business within the
22 local preference zone where the county, a municipality, or an
23 instrumentality thereof is the awarding authority, and the bid
24 is no more than three percent greater than the bid of the
25 lowest responsible bidder, the awarding authority may award
26 the contract to the resident responsible bidder. In the event
27 only one bidder responds to the invitation to bid, the

1 awarding authority may reject the bid and negotiate the
2 purchase or contract, providing the negotiated price is lower
3 than the bid price.

4 "(b) The governing bodies of two or more contracting
5 agencies, as enumerated in subsection (a), or the governing
6 bodies of two or more counties, or the governing bodies of two
7 or more city or county boards of education, may provide, by
8 joint agreement, for the purchase of labor, services, or work,
9 or for the purchase or lease of materials, equipment,
10 supplies, or other personal property for use by their
11 respective agencies. The agreement shall be entered into by
12 similar ordinances, in the case of municipalities, or
13 resolutions, in the case of other contracting agencies,
14 adopted by each of the participating governing bodies, which
15 shall set forth the categories of labor, services, or work, or
16 for the purchase or lease of materials, equipment, supplies,
17 or other personal property to be purchased, the manner of
18 advertising for bids and the awarding of contracts, the method
19 of payment by each participating contracting agency, and other
20 matters deemed necessary to carry out the purposes of the
21 agreement. Each contracting agency's share of expenditures for
22 purchases under any agreement shall be appropriated and paid
23 in the manner set forth in the agreement and in the same
24 manner as for other expenses of the contracting agency. The
25 contracting agencies entering into a joint agreement, as
26 herein permitted, may designate a joint purchasing or bidding
27 agent, and the agent shall comply with this article.

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

4 In the event that utility services are no longer
5 exempt from competitive bidding under this article,
6 non-adjointing counties may not purchase utility services by
7 joint agreement under authority granted by this subsection.

8 "(c) The awarding authority may require bidders to
9 furnish a bid bond for a particular bid solicitation if the
10 bonding requirement applies to all bidders, is included in the
11 written bid specifications, and if bonding is available for
12 the services, equipment, or materials.

13 "(d) Notwithstanding subsection (a), in the event
14 the lowest bid for an item of personal property to be
15 purchased or contracted for is received from a foreign entity,
16 where the county, a municipality, or an instrumentality
17 thereof is the awarding authority, the awarding authority may
18 award the contract to a responsible bidder having a place of
19 business within the local preference zone if that bid is no
20 more than 10 percent greater than the bid of the foreign
21 entity. For purposes of this subsection, "foreign entity"
22 means a business entity that does not have a place of business
23 within the state."

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