

SB234 ENGROSSED



1 SB234

2 672XZZ1-2

3 By Senators Givhan, Livingston, Orr, Butler, Kitchens, Kelley,

4 Carnley, Beasley, Elliott, Gudger, Weaver, Sessions, Allen

5 RFD: County and Municipal Government

6 First Read: 19-Mar-24



SB234 Engrossed

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A BILL
TO BE ENTITLED
AN ACT

Relating to public contracts; to amend Section 41-16-51, Code of Alabama 1975, as last amended by Act 2023-544, 2023 Regular Session, to further provide for an exemption to the competitive bidding requirements, to include certain county public building authorities within the exemption.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 41-16-51, Code of Alabama 1975, as last amended by Act 2023-544, 2023 Regular Session, is amended to read as follows:

"§41-16-51

(a) Competitive bids for entities subject to this article shall not be required for utility services, the rates for which are fixed by law, regulation, or ordinance, and the competitive bidding requirements of this article shall not apply to any of the following:

- (1) The purchase of insurance.
- (2) The purchase of ballots and supplies for conducting any primary, general, special, or municipal election.
- (3) Contracts for securing services of attorneys,



SB234 Engrossed

29 physicians, architects, teachers, superintendents of
30 construction, artists, appraisers, engineers, consultants,
31 certified public accountants, public accountants, or other
32 individuals possessing a high degree of professional skill
33 where the personality of the individual plays a decisive part.

34 (4) Contracts of employment in the regular civil
35 service.

36 (5) Contracts for fiscal or financial advice or
37 services.

38 (6) Purchases of products made or manufactured by blind
39 or visually impaired individuals under the direction or
40 supervision of the Alabama Institute for Deaf and Blind in
41 accordance with Chapter 2 of Title 21.

42 (7) Purchases of maps or photographs from any federal
43 agency.

44 (8) Purchases of computer programs, software
45 applications, manuscripts, books, maps, pamphlets,
46 periodicals, and library or research electronic databases of
47 manuscripts, books, maps, pamphlets, or periodicals.

48 (9) The selection of paying agents and trustees for any
49 security issued by a public body.

50 (10) Existing contracts up for renewal for sanitation
51 or solid waste collection, recycling, and disposal between
52 municipalities or counties, or both, and those providing the
53 service.

54 (11) Purchases of computer and word processing hardware
55 when the hardware is the only type that is compatible with
56 hardware already owned by the entity taking bids and custom



SB234 Engrossed

57 software.

58 (12) Professional services contracts for codification
59 and publication of the laws and ordinances of municipalities
60 and counties.

61 (13) Contractual services and purchases of commodities
62 for which there is only one vendor or supplier and contractual
63 services and purchases of personal property which by their
64 very nature are impossible to award by competitive bidding.

65 (14) Purchases of dirt, sand, or gravel by a county
66 governing body from in-county property owners in order to
67 supply a county project in which the materials will be used.
68 The material shall be delivered to the project site by county
69 employees and equipment used only on project components
70 conducted exclusively by county employees.

71 (15) Contractual services and purchases of products
72 related to, or having an impact upon, security plans,
73 procedures, assessments, measures, or systems, or the security
74 or safety of individuals, structures, facilities, or
75 infrastructures.

76 (16) Subject to the limitations in this subdivision,
77 purchases, leases, or lease/purchases of goods or services,
78 other than voice or data wireless communication services, made
79 as a part of the purchasing cooperative sponsored by the
80 National Association of Counties, its successor organization,
81 or any other national or regional governmental cooperative
82 purchasing program. The purchases, leases, or lease/purchases
83 may only be made if all of the following occur:

84 a. The goods or services being purchased, including



SB234 Engrossed

85 those purchased through a lease/purchase agreement, or leased
86 are available as a result of a competitive bid process
87 conducted by a governmental entity and approved by the
88 Department of Examiners of Public Accounts for each bid.

89 b. The goods or services are either not at the time
90 available to counties on the state purchasing program or are
91 available at a price equal to or less than that on the state
92 purchasing program.

93 c. The purchase, lease, or lease/purchase is made
94 through a participating Alabama vendor holding an Alabama
95 business license if such a vendor exists.

96 d. The entity purchasing, leasing, or lease/purchasing
97 goods or services under this subdivision has been notified by
98 the Department of Examiners of Public Accounts that the
99 competitive bid process utilized by the cooperative program
100 offering the goods complies with this subdivision. In
101 addition, upon request, a vendor shall provide the entity
102 purchasing, leasing, or lease/purchasing goods or services
103 equaling thirty thousand dollars (\$30,000) or more which are
104 made under this subdivision during the previous 12 months a
105 report of the sales, leases, and lease/purchases. The report
106 shall include a general description of the goods or services;
107 the number of units sold, leased, and leased/purchased per
108 entity; and the price of units purchased, leased, or
109 leased/purchased.

110 (17) Purchases of goods or services, other than
111 wireless communication services, whether voice or data, from
112 vendors that have been awarded a current and valid Government



SB234 Engrossed

113 Services Administration contract. Any purchase made pursuant
114 to this subdivision shall be under the same terms and
115 conditions as provided in the Government Services
116 Administration contract. Prices paid for the goods and
117 services, other than wireless communication services, whether
118 voice or data, may not exceed the amount provided in the
119 Government Services Administration contract.

120 (18) Purchases of goods or services from vendors that
121 have been awarded a current and valid statewide contract
122 listed on the Alabama Buys e-procurement system. Any purchase
123 made pursuant to this subdivision shall be under the same
124 terms and conditions as provided in the statewide contract.
125 Prices paid for the goods and services may not exceed the
126 amount provided in the statewide contract.

127 (19) Purchases of goods or services between
128 governmental entities of the state, as authorized by Section
129 11-1-10.

130 (20) Purchases of goods or services between a
131 municipality and a governmental entity, as defined in Section
132 8-38-2.

133 (b) This article shall not apply to:

134 (1) Any purchases of products where the price of the
135 products is already regulated and established by state law.

136 (2) Purchases made by individual schools of the county
137 or municipal public school systems from monies other than
138 those raised by taxation or received through appropriations
139 from state or county sources.

140 (3) The purchase, lease, sale, construction,



SB234 Engrossed

141 installation, acquisition, improvement, enlargement, or
142 expansion of any building or structure or other facility
143 designed or intended for lease or sale by a medical clinic
144 board organized under Chapter 58 of Title 11.

145 (4) The purchase, lease, or other acquisition of
146 machinery, equipment, supplies, and other personal property or
147 services by a medical clinic board organized under Chapter 58
148 of Title 11.

149 (5) Purchases for public hospitals and nursing homes
150 operated by the governing boards of instrumentalities of the
151 state, counties, and municipalities.

152 (6) Contracts for the purchase, lease, sale,
153 construction, installation, acquisition, improvement,
154 enlargement, or extension of any plant, building, structure,
155 or other facility or any machinery, equipment, furniture, or
156 furnishings therefor designed or intended for lease or sale
157 for industrial development, other than public utilities, under
158 Division 1 of Article 4 of Chapter 54 of Title 11, or Article
159 2 of Chapter 54 of Title 11, or any other law or amendment to
160 the Constitution of Alabama of 2022, authorizing the
161 construction of plants or other facilities for industrial
162 development or for the construction and equipment of buildings
163 for public building authorities under Chapter 15 of Title 11
164 or Chapter 56 of Title 11.

165 (7) The purchase of equipment, supplies, or materials
166 needed, used, and consumed in the normal and routine operation
167 of any waterworks system, sanitary sewer system, gas system,
168 or electric system, or any two or more thereof, that are owned



SB234 Engrossed

169 by municipalities, counties, or public corporations, boards,
170 or authorities that are agencies, departments, or
171 instrumentalities of municipalities or counties and no part of
172 the operating expenses of which system or systems, during the
173 then current fiscal year, have been paid from revenues derived
174 from taxes or from appropriations of the state, a county, or a
175 municipality.

176 (8) Purchases made by local housing authorities,
177 organized and existing under Chapter 1 of Title 24, from
178 monies other than those raised by state, county, or city
179 taxation or received through appropriations from state,
180 county, or city sources.

181 (9) The purchase of services to aid in the prevention
182 and detection of criminal activity by law enforcement agencies
183 and community-oriented policing programs.

184 (c) The state trade schools, state junior colleges,
185 state colleges, and universities under the supervision and
186 control of the State Board of Education, the district boards
187 of education of independent school districts, the county
188 commissions, and the governing bodies of the municipalities of
189 the state shall establish and maintain purchasing facilities
190 and procedures as may be necessary to carry out the intent and
191 purpose of this article by complying with the requirements for
192 competitive bidding in the operation and management of each
193 state trade school, state junior college, state college, or
194 university under the supervision and control of the State
195 Board of Education, the district boards of education of
196 independent school districts, the county commissions, and the



SB234 Engrossed

197 governing bodies of the municipalities of the state and the
198 governing boards of instrumentalities of counties and
199 municipalities, including waterworks boards, sewer boards, gas
200 boards, and other like utility boards and commissions.

201 (d) Contracts entered into in violation of this article
202 shall be void and any individual who violates this article
203 shall be guilty of a Class C felony."

204 Section 2. This act shall become effective on June 1,
205 2024.



SB234 Engrossed

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208 Senate

209 Read for the first time and referred19-Mar-24
210 to the Senate committee on County
211 and Municipal Government
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213 Read for the second time and placed20-Mar-24
214 on the calendar:
215 0 amendments
216
217 Read for the third time and passed09-Apr-24
218 as amended
219 Yeas 34
220 Nays 0
221 Abstains 0
222
223

224 Patrick Harris,
225 Secretary.
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