

1 HB337
2 183010-2
3 By Representatives Crawford, Williams (JW), Martin,
4 Holmes (M), Brown, Gaston, Whorton (R), Fincher, Lovvorn,
5 Hanes and Mooney
6 RFD: Ways and Means Education
7 First Read: 02-MAR-17

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8 SYNOPSIS: Under existing law, the Department of
9 Revenue may issue certificates of exemption from
10 state and local sales and use taxes to certain
11 governmental entities.

12 This bill would include certain specific tax
13 exempt public water or sewer authorities, systems,
14 or boards under the definition of a governmental
15 entity.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

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21 To amend Section 40-9-14.1, Code of Alabama 1975,
22 relating to taxation; to include as governmental entities
23 eligible to receive certificates of exemption from state and
24 local sales and use taxes from the Department of Revenue
25 certain specific tax exempt public water or sewer authorities,
26 boards, and systems.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 40-9-14.1 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§40-9-14.1.

4 "(a) For the purposes of this section, the term
5 governmental entity means the State of Alabama and its
6 political subdivisions, including a county, a municipality,
7 ~~and an industrial or economic development board or authority,~~
8 and any public water or sewer authority, system, or board that
9 is tax exempt including, but not limited to, those organized
10 under Article 1, commencing with Section 11-50-1, of Chapter
11 50, Title 11; Division 1, commencing with Section 11-50-230,
12 of Article 8, Chapter 50, Title 11; Article 9, commencing with
13 Section 11-50-310, of Chapter 50, Title 11; Article 10,
14 commencing with Section 11-50-340, of Chapter 50, Title 11; or
15 Article 1, commencing with Section 11-88-1, of Chapter 88,
16 Title 11. A governmental entity shall also include an
17 educational institution of any of the foregoing Alabama
18 political subdivisions including a public college or
19 university, a county or city board of education, and the State
20 Board of Education.

21 "(b) (1) The Department of Revenue shall issue a
22 certificate of exemption to the governmental entity for each
23 tax exempt project.

24 "(2) The Department of Revenue shall grant a
25 certificate of exemption from state and local sales and use
26 taxes to any contractor licensed by the State Licensing Board
27 for General Contractors, or any subcontractor working under

1 the same contract, for the purchase of building materials,
2 construction materials and supplies, and other tangible
3 personal property that becomes part of the structure that is
4 the subject of a written contract for the construction of a
5 building or other project, not to include any contract for the
6 construction of any highway, road, or bridge, for and on
7 behalf of a governmental entity which is exempt from the
8 payment of sales and use taxes.

9 "(c) The use of a certificate of exemption for the
10 purchase of tangible personal property pursuant to this
11 section shall include only tangible personal property that
12 becomes part of the structure that is the subject of the
13 construction contract. Any contractor or subcontractor
14 purchasing any tangible personal property pursuant to a
15 certificate of exemption shall maintain an accurate cost
16 accounting of the purchase and use of the property in the
17 construction of the project.

18 "(d) A contractor who has an exemption from sales
19 and use tax for the purchase of materials to use on a
20 government project shall file, in a manner as prescribed by
21 the department, reports of all exempt purchases. The reports
22 shall be filed as a prerequisite to renewal of a certificate
23 of exemption.

24 "(e) (1) The department may assess any contractor or
25 subcontractor with state and local sales or use taxes on any
26 item purchased with a certificate of exemption not properly
27 accounted for and reported as required.

1 "(2) Any contractor or subcontractor who
2 intentionally uses a certificate of exemption in violation of
3 this section shall, in addition to the actual sales or use tax
4 liability due, be subject to a civil penalty levied by the
5 department in the amount of not less than a minimum of two
6 thousand dollars (\$2,000) or two times any state and local
7 sales or use tax due for the property and, based on the
8 contractor's or subcontractor's willful misuse of the
9 certificate of exemption, may be barred from the use of any
10 certificate of exemption on any project for up to two years.

11 "(f) The department may adopt rules to implement
12 this section in order to effectuate the purposes of this
13 section and to provide for accurate accounting and enforcement
14 of this section.

15 "(g) In bidding the work on a tax exempt project,
16 the bid form shall provide for an accounting for the tax
17 savings.

18 "(h) The intent of this section is to lower the
19 administrative cost for the governmental entity, contractor,
20 and subcontractor for public works projects. It is not the
21 intent of this section to change the basis for determining
22 professional services from fair market value, which may
23 include sales and use taxes.

24 "(i) This section shall be operative for contracts
25 entered into January 1, 2014, or thereafter, and shall not
26 apply to any contract entered into prior to January 1, 2014.
27 In addition, this section shall not apply to any contract

1 change orders or contract extensions, including revised,
2 renegotiated, or altered contracts, when the original contract
3 was entered into prior to January 1, 2014. The Department of
4 Revenue may adopt rules to implement this section after
5 October 1, 2013."

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