

1 HB35  
2 187752-3  
3 By Representative Crawford  
4 RFD: Ways and Means General Fund  
5 First Read: 09-JAN-18  
6 PFD: 11/28/2017

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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,  
14 districts, boards, and systems under the definition  
15 of a governmental 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 districts, 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, district, system, or  
9 board that is sales and use tax exempt. A governmental entity  
10 shall also include an educational institution of any of the  
11 foregoing Alabama political subdivisions including a public  
12 college or university, a county or city board of education,  
13 and the State Board of Education.

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

17           "(2) The Department of Revenue shall grant a  
18 certificate of exemption from state and local sales and use  
19 taxes to any contractor licensed by the State Licensing Board  
20 for General Contractors, or any subcontractor working under  
21 the same contract, for the purchase of building materials,  
22 construction materials and supplies, and other tangible  
23 personal property that becomes part of the structure that is  
24 the subject of a written contract for the construction of a  
25 building or other project, not to include any contract for the  
26 construction of any highway, road, or bridge, for and on

1       behalf of a governmental entity which is exempt from the  
2       payment of sales and use taxes.

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

12              "(d) A contractor who has an exemption from sales  
13      and use tax for the purchase of materials to use on a  
14      government project shall file, in a manner as prescribed by  
15      the department, reports of all exempt purchases. The reports  
16      shall be filed as a prerequisite to renewal of a certificate  
17      of exemption.

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

22              "(2) Any contractor or subcontractor who  
23      intentionally uses a certificate of exemption in violation of  
24      this section shall, in addition to the actual sales or use tax  
25      liability due, be subject to a civil penalty levied by the  
26      department in the amount of not less than a minimum of two  
27      thousand dollars (\$2,000) or two times any state and local

1 sales or use tax due for the property and, based on the  
2 contractor's or subcontractor's willful misuse of the  
3 certificate of exemption, may be barred from the use of any  
4 certificate of exemption on any project for up to two years.

5 "(f) The department may adopt rules to implement  
6 this section in order to effectuate the purposes of this  
7 section and to provide for accurate accounting and enforcement  
8 of this section.

9 "(g) In bidding the work on a tax exempt project,  
10 the bid form shall provide for an accounting for the tax  
11 savings.

12 "(h) The intent of this section is to lower the  
13 administrative cost for the governmental entity, contractor,  
14 and subcontractor for public works projects. It is not the  
15 intent of this section to change the basis for determining  
16 professional services from fair market value, which may  
17 include sales and use taxes.

18 "(i) This section shall be operative for contracts  
19 entered into with governmental entities as defined in  
20 subsection (a), not including public water or sewer  
21 authorities, districts, systems, or boards that are sales and  
22 use tax exempt, on January 1, 2014, or thereafter, and shall  
23 not apply to any contract entered into prior to January 1,  
24 2014. This section shall be operative for contracts entered  
25 into with public water or sewer authorities, districts,  
26 systems, or boards that are sales and use tax exempt on  
27 January 1, 2019, and thereafter, and shall not apply to any

1 contract entered into with such entities prior to January 1,  
2 2019. In addition, this section shall not apply to any  
3 contract change orders or contract extensions, including  
4 revised, renegotiated, or altered contracts, when the original  
5 contract was entered into prior to January 1, 2014, with a  
6 governmental entity. Nor shall this section apply to any  
7 contract change orders or contract extensions, including  
8 revised, renegotiated, or altered contracts with any public  
9 water or sewer authority, district, system, or board that is  
10 sales and use tax exempt, when the original contract was  
11 entered into prior to January 1, 2019. The Department of  
12 Revenue may adopt rules to implement this section ~~after~~  
13 ~~October 1, 2013.~~"

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