

SB234 INTRODUCED



1 SB234
2 672XZZ1-1
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



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SYNOPSIS:

Under existing law, public contracts of \$30,000 or more for the purchase of goods or services are generally required to be awarded through a competitive bidding process established by law. However, the competitive bidding requirements do not apply to certain types of contracts.

Under existing law, the competitive bidding requirements do not apply to contracts by certain municipal public building authorities that contract for the purchase or construction of certain plants, buildings, or other facilities designed for industrial development.

This bill would include county public building authorities that contract for the purchase or construction of certain plants, buildings, or other facilities designed for industrial development within the existing exemption.

A BILL
TO BE ENTITLED
AN ACT

Relating to public contracts; to amend Section



SB234 INTRODUCED

29 41-16-51, Code of Alabama 1975, as last amended by Act
30 2023-544, 2023 Regular Session, to further provide for an
31 exemption to the competitive bidding requirements, to include
32 certain county public building authorities within the
33 exemption.

34 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

38 "§41-16-51

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

44 (1) The purchase of insurance.

45 (2) The purchase of ballots and supplies for conducting
46 any primary, general, special, or municipal election.

47 (3) Contracts for securing services of attorneys,
48 physicians, architects, teachers, superintendents of
49 construction, artists, appraisers, engineers, consultants,
50 certified public accountants, public accountants, or other
51 individuals possessing a high degree of professional skill
52 where the personality of the individual plays a decisive part.

53 (4) Contracts of employment in the regular civil
54 service.

55 (5) Contracts for fiscal or financial advice or
56 services.



SB234 INTRODUCED

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

61 (7) Purchases of maps or photographs from any federal
62 agency.

63 (8) Purchases of computer programs, software
64 applications, manuscripts, books, maps, pamphlets,
65 periodicals, and library or research electronic databases of
66 manuscripts, books, maps, pamphlets, or periodicals.

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

69 (10) Existing contracts up for renewal for sanitation
70 or solid waste collection, recycling, and disposal between
71 municipalities or counties, or both, and those providing the
72 service.

73 (11) Purchases of computer and word processing hardware
74 when the hardware is the only type that is compatible with
75 hardware already owned by the entity taking bids and custom
76 software.

77 (12) Professional services contracts for codification
78 and publication of the laws and ordinances of municipalities
79 and counties.

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

84 (14) Purchases of dirt, sand, or gravel by a county



SB234 INTRODUCED

85 governing body from in-county property owners in order to
86 supply a county project in which the materials will be used.
87 The material shall be delivered to the project site by county
88 employees and equipment used only on project components
89 conducted exclusively by county employees.

90 (15) Contractual services and purchases of products
91 related to, or having an impact upon, security plans,
92 procedures, assessments, measures, or systems, or the security
93 or safety of individuals, structures, facilities, or
94 infrastructures.

95 (16) Subject to the limitations in this subdivision,
96 purchases, leases, or lease/purchases of goods or services,
97 other than voice or data wireless communication services, made
98 as a part of the purchasing cooperative sponsored by the
99 National Association of Counties, its successor organization,
100 or any other national or regional governmental cooperative
101 purchasing program. The purchases, leases, or lease/purchases
102 may only be made if all of the following occur:

103 a. The goods or services being purchased, including
104 those purchased through a lease/purchase agreement, or leased
105 are available as a result of a competitive bid process
106 conducted by a governmental entity and approved by the
107 Department of Examiners of Public Accounts for each bid.

108 b. The goods or services are either not at the time
109 available to counties on the state purchasing program or are
110 available at a price equal to or less than that on the state
111 purchasing program.

112 c. The purchase, lease, or lease/purchase is made



SB234 INTRODUCED

113 through a participating Alabama vendor holding an Alabama
114 business license if such a vendor exists.

115 d. The entity purchasing, leasing, or lease/purchasing
116 goods or services under this subdivision has been notified by
117 the Department of Examiners of Public Accounts that the
118 competitive bid process utilized by the cooperative program
119 offering the goods complies with this subdivision. In
120 addition, upon request, a vendor shall provide the entity
121 purchasing, leasing, or lease/purchasing goods or services
122 equaling thirty thousand dollars (\$30,000) or more which are
123 made under this subdivision during the previous 12 months a
124 report of the sales, leases, and lease/purchases. The report
125 shall include a general description of the goods or services;
126 the number of units sold, leased, and leased/purchased per
127 entity; and the price of units purchased, leased, or
128 leased/purchased.

129 (17) Purchases of goods or services, other than
130 wireless communication services, whether voice or data, from
131 vendors that have been awarded a current and valid Government
132 Services Administration contract. Any purchase made pursuant
133 to this subdivision shall be under the same terms and
134 conditions as provided in the Government Services
135 Administration contract. Prices paid for the goods and
136 services, other than wireless communication services, whether
137 voice or data, may not exceed the amount provided in the
138 Government Services Administration contract.

139 (18) Purchases of goods or services from vendors that
140 have been awarded a current and valid statewide contract



SB234 INTRODUCED

141 listed on the Alabama Buys e-procurement system. Any purchase
142 made pursuant to this subdivision shall be under the same
143 terms and conditions as provided in the statewide contract.
144 Prices paid for the goods and services may not exceed the
145 amount provided in the statewide contract.

146 (19) Purchases of goods or services between
147 governmental entities of the state, as authorized by Section
148 11-1-10.

149 (b) This article shall not apply to:

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

152 (2) Purchases made by individual schools of the county
153 or municipal public school systems from monies other than
154 those raised by taxation or received through appropriations
155 from state or county sources.

156 (3) The purchase, lease, sale, construction,
157 installation, acquisition, improvement, enlargement, or
158 expansion of any building or structure or other facility
159 designed or intended for lease or sale by a medical clinic
160 board organized under Chapter 58 of Title 11.

161 (4) The purchase, lease, or other acquisition of
162 machinery, equipment, supplies, and other personal property or
163 services by a medical clinic board organized under Chapter 58
164 of Title 11.

165 (5) Purchases for public hospitals and nursing homes
166 operated by the governing boards of instrumentalities of the
167 state, counties, and municipalities.

168 (6) Contracts for the purchase, lease, sale,



SB234 INTRODUCED

169 construction, installation, acquisition, improvement,
170 enlargement, or extension of any plant, building, structure,
171 or other facility or any machinery, equipment, furniture, or
172 furnishings therefor designed or intended for lease or sale
173 for industrial development, other than public utilities, under
174 Division 1 of Article 4 of Chapter 54 of Title 11, or Article
175 2 of Chapter 54 of Title 11, or any other law or amendment to
176 the Constitution of Alabama of 2022, authorizing the
177 construction of plants or other facilities for industrial
178 development or for the construction and equipment of buildings
179 for public building authorities under [Chapter 15 of Title 11](#)
180 [or](#) Chapter 56 of Title 11.

181 (7) The purchase of equipment, supplies, or materials
182 needed, used, and consumed in the normal and routine operation
183 of any waterworks system, sanitary sewer system, gas system,
184 or electric system, or any two or more thereof, that are owned
185 by municipalities, counties, or public corporations, boards,
186 or authorities that are agencies, departments, or
187 instrumentalities of municipalities or counties and no part of
188 the operating expenses of which system or systems, during the
189 then current fiscal year, have been paid from revenues derived
190 from taxes or from appropriations of the state, a county, or a
191 municipality.

192 (8) Purchases made by local housing authorities,
193 organized and existing under Chapter 1 of Title 24, from
194 monies other than those raised by state, county, or city
195 taxation or received through appropriations from state,
196 county, or city sources.



SB234 INTRODUCED

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

200 (c) The state trade schools, state junior colleges,
201 state colleges, and universities under the supervision and
202 control of the State Board of Education, the district boards
203 of education of independent school districts, the county
204 commissions, and the governing bodies of the municipalities of
205 the state shall establish and maintain purchasing facilities
206 and procedures as may be necessary to carry out the intent and
207 purpose of this article by complying with the requirements for
208 competitive bidding in the operation and management of each
209 state trade school, state junior college, state college, or
210 university under the supervision and control of the State
211 Board of Education, the district boards of education of
212 independent school districts, the county commissions, and the
213 governing bodies of the municipalities of the state and the
214 governing boards of instrumentalities of counties and
215 municipalities, including waterworks boards, sewer boards, gas
216 boards, and other like utility boards and commissions.

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

220 Section 2. This act shall become effective on June 1,
221 2024.