



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SYNOPSIS:

Under existing law, the minimum amount for contracts subject to competitive bid for city and county boards of education is \$15,000.

This bill would increase the minimum threshold amount and would authorize that threshold to be increased in the future based on increases in the Consumer Price Index.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.



29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56

A BILL  
TO BE ENTITLED  
AN ACT

To amend Sections 16-13B-1, 16-13B-4, and 16-13B-5, Code of Alabama 1975, relating to competitive bidding on contracts of city and county boards of education; to increase the minimum amount for contracts subject to competitive bid from \$15,000 to \$40,000; to provide a legislative process for increasing the threshold dollar amount in the future based on increases in the Consumer Price Index; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-13B-1, 16-13B-4, and 16-13B-5 of the Code of Alabama 1975, are amended to read as follows:

"§16-13B-1

(a) (1) This chapter shall apply to county boards of education and city boards of education, or any combination of city and county boards of education as herein provided for the competitive bidding of certain contracts. With the exception of contracts for public works whose competitive bidding requirements are governed exclusively by Title 39, all



57 expenditure of funds of whatever nature for labor, services,  
58 work, or for the purchase of materials, equipment, supplies,  
59 or other personal property involving ~~fifteen thousand dollars~~  
60 ~~(\$15,000)~~ forty thousand dollars (\$40,000) or more, and the  
61 lease of materials, equipment, supplies, or other personal  
62 property where the lessee is, or becomes legally and  
63 contractually, bound under the terms of the lease, to pay a  
64 total amount of ~~fifteen thousand dollars (\$15,000)~~ forty  
65 thousand dollars (\$40,000) or more, made by or on behalf of  
66 any city or county board of education, except as hereinafter  
67 provided, shall be made under contractual agreement entered  
68 into by free and open competitive bidding, on sealed bids, to  
69 the lowest responsible bidder.

70 (2) Beginning October 1, 2027, and every three years  
71 thereafter, all minimum dollar amounts used in this chapter  
72 shall be subject to a cost adjustment based on the following  
73 procedure: The Chief Examiner of the Department of Examiners  
74 of Public Accounts may submit to the Chair of the Legislative  
75 Council a recommendation that the amount be increased based on  
76 the percentage increase in the Consumer Price Index for the  
77 immediately preceding three-year period, rounded down to the  
78 nearest thousand dollars. The recommendation shall be subject  
79 to the approval of the Legislative Council. In the event the  
80 recommendation is not disapproved by the Legislative Council  
81 by the end of April following the submission of the  
82 recommendation, the recommendation shall be deemed to be  
83 approved. Upon approval, the Chief Examiner shall notify the  
84 public of the adjusted dollar amounts by July 1 before the



85 fiscal year in which the changes are to take effect. The  
86 increase may not exceed three percent.

87 (b) Prior to advertising for bids for an item of  
88 personal property, where a city or county board of education,  
89 thereof is the awarding authority, the awarding authority may  
90 establish a local preference zone consisting of either the  
91 legal boundaries or jurisdiction of the awarding authority, or  
92 the boundaries of the county in which the awarding authority  
93 is located, or the boundaries of the core based statistical  
94 area (CBSA) in which the awarding authority is located. If no  
95 such action is taken by the awarding authority, the boundaries  
96 of the local preference zone shall be deemed to be the same as  
97 the legal boundaries or jurisdiction of the awarding  
98 authority. In the event a bid is received for an item of  
99 personal property to be purchased or contracted for from a  
100 person, firm, or corporation deemed to be a responsible  
101 bidder, having a place of business within the local preference  
102 zone where a city or county board of education, thereof is the  
103 awarding authority, and the bid is no more than three percent  
104 greater than the bid of the lowest responsible bidder, the  
105 awarding authority may award the contract to the resident  
106 responsible bidder. In the event only one bidder responds to  
107 the invitation to bid, the awarding authority may reject the  
108 bid and negotiate the purchase or contract, providing the  
109 negotiated price is lower than the bid price.

110 (c) The governing bodies of two or more city or county  
111 boards of education, or any combination of two or more city or  
112 county boards of education, counties, municipalities, or



113 instrumentalities thereof, may provide, by joint agreement,  
114 for the purchase of labor, services, or work, or for the  
115 purchase or lease of materials, equipment, supplies, or other  
116 personal property for use by their respective agencies. The  
117 agreement shall be entered into by official actions of the  
118 contracting agencies adopted by each of the participating  
119 governing bodies which shall set forth the categories of  
120 labor, services, or work, or for the purchase or lease of  
121 materials, equipment, supplies, or other personal property to  
122 be purchased, the manner of advertising for bids and the  
123 awarding of contracts, the method of payment by each  
124 participating contracting agency, and other matters deemed  
125 necessary to carry out the purposes of the agreement. Each  
126 contracting agency's share of expenditures for purchases under  
127 any agreement shall be appropriated and paid in the manner set  
128 forth in the agreement and in the same manner as for other  
129 expenses of the contracting agency. The contracting agencies  
130 entering into a joint agreement, as herein permitted, may  
131 designate a joint purchasing or bidding agent, and the agent  
132 shall comply with this chapter. Purchases, contracts, or  
133 agreements made pursuant to a joint purchasing or bidding  
134 agreement shall be subject to all terms and conditions of this  
135 chapter. Any participation by counties and municipalities  
136 authorized in this section shall be subject to the provisions  
137 of subsection (b) of Section 41-16-50. In the event that  
138 utility services are no longer exempt from competitive bidding  
139 under this chapter, non-adjointing boards of education may not  
140 purchase utility services by joint agreement under authority



141 granted by this subsection.

142 (d) The awarding authority may require bidders to  
143 furnish a bid bond for a particular bid solicitation if the  
144 bonding requirement applies to all bidders, is included in the  
145 written bid specifications, and if bonding is available for  
146 the services, equipment, or materials."

147 "§16-13B-4

148 (a) All proposed purchases in excess of ~~fifteen~~  
149 ~~thousand dollars (\$15,000)~~ forty thousand dollars (\$40,000)  
150 shall be advertised by posting notice thereof on a bulletin  
151 board maintained outside the purchasing office and in any  
152 other manner and for any length of time as may be determined.  
153 Sealed bids or bids to be submitted by a reverse auction  
154 procedure shall also be solicited by sending notice by mail or  
155 other electronic means to all persons, firms, or corporations  
156 who have filed a request in writing that they be listed for  
157 solicitation on bids for the particular items that are set  
158 forth in the request. If any person, firm, or corporation  
159 whose name is listed fails to respond to any solicitation for  
160 bids after the receipt of three solicitations, the listing may  
161 be cancelled.

162 (b) Except as provided in subsection (c), all bids  
163 shall be sealed when received and shall be opened in public at  
164 the hour stated in the notice.

165 (c) The awarding authority may make purchases or  
166 contracts through a reverse auction procedure; provided,  
167 however, that a reverse auction shall only be allowed where  
168 the item to be purchased at a reverse auction is either not at



169 the time available on the state purchasing program under the  
170 same terms and conditions or, if available, the lowest price  
171 offered in the reverse auction is equal to or less than the  
172 price for which the item is available on the state purchasing  
173 program under the same terms and conditions. All of the  
174 purchases shall be subject to audit by the Department of  
175 Examiners of Public Accounts. For purposes of this chapter, a  
176 reverse auction procedure includes either of the following:

177 (1) A real-time bidding process usually lasting less  
178 than one hour and taking place at a previously scheduled time  
179 and Internet location, in which multiple anonymous suppliers  
180 submit bids to provide the designated goods or services.

181 (2) a. A bidding process usually lasting less than two  
182 weeks and taking place during a previously scheduled period  
183 and at a previously scheduled Internet location, in which  
184 multiple anonymous suppliers submit bids to provide the  
185 designated goods or services.

186 b. The Department of Examiners of Public Accounts shall  
187 establish procedures for the use of reverse auction, which  
188 shall be distributed to all contracting agencies and shall be  
189 used in conducting any audits of the purchasing agency.

190 (d) All original bids together with all documents  
191 pertaining to the award of the contract shall be retained in  
192 accordance with a retention period of at least seven years  
193 established by the Local Government Records Commission and  
194 shall be open to public inspection.

195 (e) No purchase or contract involving professional  
196 services shall be subject to the requirements of this chapter



197 and no purchase or contract involving an amount in excess of  
198 ~~fifteen thousand dollars (\$15,000)~~ forty thousand dollars  
199 (\$40,000) shall be divided into parts involving amounts of  
200 ~~fifteen thousand dollars (\$15,000)~~ forty thousand dollars  
201 (\$40,000) or less for the purpose of avoiding the requirements  
202 of this chapter. All ~~such~~ partial contracts involving ~~fifteen~~  
203 ~~thousand dollars (\$15,000)~~ forty thousand dollars (\$40,000) or  
204 less shall be void."

205 "§16-13B-5

206 (a) Any agreement or collusion among bidders or  
207 prospective bidders in restraint of freedom of competition, by  
208 agreement, to bid at a fixed price or to refrain from bidding  
209 or otherwise shall render the bids of such bidders void and  
210 shall cause such bidders to be disqualified from submitting  
211 further bids to the awarding authority on future purchases.

212 (b) Whoever knowingly participates in a collusive  
213 agreement in violation of this section involving a bid or bids  
214 of ~~fifteen thousand dollars (\$15,000)~~ forty thousand dollars  
215 (\$40,000) and under shall be guilty of a Class A misdemeanor  
216 and, upon conviction, shall be punished as prescribed by law.

217 (c) Whoever knowingly and intentionally participates in  
218 a collusive agreement in violation of this section involving a  
219 bid or bids of over ~~fifteen thousand dollars (\$15,000)~~ forty  
220 thousand dollars (\$40,000) shall be guilty of a Class C  
221 felony, and upon conviction shall be punished as prescribed by  
222 law."

223 Section 2. Although this bill would have as its purpose  
224 or effect the requirement of a new or increased expenditure of





225 local funds, the bill is excluded from further requirements  
226 and application under Section 111.05 of the Constitution of  
227 Alabama of 2022, because the bill defines a new crime or  
228 amends the definition of an existing crime.

229 Section 3. This act shall become effective on the first  
230 day of the third month following its passage and approval by  
231 the Governor, or its otherwise becoming law.