

SB291 ENGROSSED



1 2B4VKS-2
2 By Senator Coleman
3 RFD: Fiscal Responsibility and Economic Development
4 First Read: 03-May-23
5 2023 Regular Session



SB291 Engrossed

1
2
3 Section 111.05 of the Constitution of Alabama of
4 2022, prohibits a general law whose purpose or effect
5 would be to require a new or increased expenditure of
6 local funds from becoming effective with regard to a
7 local governmental entity without enactment by a 2/3
8 vote unless: it comes within one of a number of
9 specified exceptions; it is approved by the affected
10 entity; or the Legislature appropriates funds, or
11 provides a local source of revenue, to the entity for
12 the purpose.

13 The purpose or effect of this bill would be to
14 require a new or increased expenditure of local funds
15 within the meaning of the amendment. However, the bill
16 does not require approval of a local governmental
17 entity or enactment by a 2/3 vote to become effective
18 because it comes within one of the specified exceptions
19 contained in the amendment.
20

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT
25

26 Relating to public contracts; to amend Section
27 41-16-51, Code of Alabama 1975, to further provide for
28 contracts for which competitive bidding is not required; and



SB291 Engrossed

29 in connection therewith would have as its purpose or effect
30 the requirement of a new or increased expenditure of local
31 funds within the meaning of Section 111.05 of the Constitution
32 of Alabama of 2022.

33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

34 Section 1. Section 41-16-51, Code of Alabama 1975, is
35 amended to read as follows:

36 "§41-16-51

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

42 (1) The purchase of insurance.

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

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

51 (4) Contracts of employment in the regular civil
52 service.

53 (5) Contracts for fiscal or financial advice or
54 services.

55 (6) Purchases of products made or manufactured by blind
56 or visually impaired individuals under the direction or



SB291 Engrossed

57 supervision of the Alabama Institute for Deaf and Blind in
58 accordance with Sections 21-2-1 to 21-2-4, inclusive.

59 (7) Purchases of maps or photographs from any federal
60 agency.

61 (8) Purchases of computer programs, software
62 applications, manuscripts, books, maps, pamphlets,
63 periodicals, and ~~library/research~~ library or research
64 electronic data bases of manuscripts, books, maps, pamphlets,
65 or periodicals.

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

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

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

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

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

83 (14) Purchases of dirt, sand, or gravel by a county
84 governing body from in-county property owners in order to



SB291 Engrossed

85 supply a county road or bridge project in which the materials
86 will be used. The material shall be delivered to the project
87 site by county employees and equipment used only on projects
88 conducted exclusively by county employees.

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

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

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

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

111 c. The purchase, lease, or lease/purchase is made
112 through a participating Alabama vendor holding an Alabama



SB291 Engrossed

113 business license if such a vendor exists.

114 d. The entity purchasing, leasing, or lease/purchasing
115 goods or services under this subdivision has been notified by
116 the Department of Examiners of Public Accounts that the
117 competitive bid process utilized by the cooperative program
118 offering the goods complies with this subdivision. In
119 addition, upon request, a vendor shall provide the entity
120 purchasing, leasing, or lease/purchasing items that exceed
121 fifteen thousand dollars (\$15,000) made under this exception
122 during the previous 12 months a report of the sales, leases,
123 and lease/purchases which includes a general description of
124 the goods or services; the number of units sold, leased, and
125 leased/purchased per entity; and the price of units purchased,
126 leased, or leased/purchased.

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

137 (b) This article shall not apply to:

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

140 (2) Purchases made by individual schools of the county



SB291 Engrossed

141 or municipal public school systems from monies other than
142 those raised by taxation or received through appropriations
143 from state or county sources.

144 (3) The purchase, lease, sale, construction,
145 installation, acquisition, improvement, enlargement, or
146 expansion of any building or structure or other facility
147 designed or intended for lease or sale by a medical clinic
148 board organized under Sections 11-58-1 to 11-58-14, inclusive.

149 (4) The purchase, lease, or other acquisition of
150 machinery, equipment, supplies, and other personal property or
151 services by a medical clinic board organized under Sections
152 11-58-1 to 11-58-14, inclusive.

153 (5) Purchases for public hospitals and nursing homes
154 operated by the governing boards of instrumentalities of the
155 state, counties, and municipalities.

156 (6) Contracts for the purchase, lease, sale,
157 construction, installation, acquisition, improvement,
158 enlargement, or extension of any plant, building, structure,
159 or other facility or any machinery, equipment, furniture, or
160 furnishings therefor designed or intended for lease or sale
161 for industrial development, other than public utilities, under
162 Sections 11-54-80 to 11-54-99, inclusive, or Sections 11-54-20
163 to 11-54-28, inclusive, or any other law or amendment to the
164 Constitution of Alabama [of 2022](#) authorizing the construction
165 of plants or other facilities for industrial development or
166 for the construction and equipment of buildings for public
167 building authorities under Sections 11-56-1 to 11-56-22,
168 inclusive.



SB291 Engrossed

169 (7) The purchase of equipment, supplies, or materials
170 needed, used, and consumed in the normal and routine operation
171 of any waterworks system, sanitary sewer system, gas system,
172 or electric system, or any two or more thereof, that are owned
173 by municipalities, counties, or public corporations, boards,
174 or authorities that are agencies, departments, or
175 instrumentalities of municipalities or counties and no part of
176 the operating expenses of which system or systems, during the
177 then current fiscal year, have been paid from revenues derived
178 from taxes or from appropriations of the state, a county, or a
179 municipality.

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

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

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



SB291 Engrossed

197 management of each state trade school, state junior college,
198 state college, or university under the supervision and control
199 of the State Board of Education, the district boards of
200 education of independent school districts, the county
201 commissions, and the governing bodies of the municipalities of
202 the state and the governing boards of instrumentalities of
203 counties and municipalities, including waterworks boards,
204 sewer boards, gas boards, and other like utility boards and
205 commissions.

206 (d) Contracts entered into in violation of this article
207 shall be void and any ~~person~~individual who violates ~~the~~
208 ~~provisions of~~ this article shall be guilty of a Class C
209 felony."

210 Section 2. Although this bill would have as its purpose
211 or effect the requirement of a new or increased expenditure of
212 local funds, the bill is excluded from further requirements
213 and application under Section 111.05 of the Constitution of
214 Alabama of 2022, because the bill defines a new crime or
215 amends the definition of an existing crime.

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



SB291 Engrossed

219
220
221 Senate

222 Read for the first time and referred03-May-23
223 to the Senate committee on Fiscal
224 Responsibility and Economic
225 Development
226
227 Read for the second time and placed10-May-23
228 on the calendar:
229 0 amendments
230
231 Read for the third time and passed24-May-23
232 as amended
233 Yeas 33
234 Nays 0
235 Abstains 0
236
237

238 Patrick Harris,
239 Secretary.
240