

ACT# 2009-760

1 SB418
2 110107-3
3 By Senators Preuitt, Means, Little (Z), French, Denton,
4 Butler, and Orr
5 RFD: Finance and Taxation Education
6 First Read: 19-FEB-09



1 SB418

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4 ENROLLED, An Act,

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To add Chapter 13B to Title 16, consisting of Sections 16-13B-1 to 16-13B-11, inclusive, to the Code of Alabama 1975, relating to competitive bid laws for city and county boards of education; to amend Sections 41-16-50 and 41-16-51, Code of Alabama 1975, relating to competitive bid laws; to remove the city and county boards of education from the competitive bid laws in Title 41 and provide substantially the same provisions in Title 16; to provide penalties for certain violations; 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 Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. A new Chapter 13B, consisting of Sections 16-13B-1 to 16-13B-11, inclusive, is added to the Code of Alabama 1975, to read as follows:

Chapter 13B, Competitive Bidding for Certain Contracts of County and City Boards of Education.

§16-13B-1.

1 (a) This chapter shall apply to county boards of
2 education and city boards of education, or any combination of
3 city and county boards of education as herein provided for the
4 competitive bidding of certain contracts. With the exception
5 of contracts for public works whose competitive bidding
6 requirements are governed exclusively by Title 39, all
7 expenditure of funds of whatever nature for labor, services,
8 work, or for the purchase of materials, equipment, supplies,
9 or other personal property involving fifteen thousand dollars
10 (\$15,000) or more, and the lease of materials, equipment,
11 supplies, or other personal property where the lessee is, or
12 becomes legally and contractually, bound under the terms of
13 the lease, to pay a total amount of fifteen thousand dollars
14 (\$15,000) or more, made by or on behalf of any city or county
15 board of education, except as hereinafter provided, shall be
16 made under contractual agreement entered into by free and open
17 competitive bidding, on sealed bids, to the lowest responsible
18 bidder. Prior to advertising for bids for an item of personal
19 property, where a city or county board of education, thereof
20 is the awarding authority, the awarding authority may
21 establish a local preference zone consisting of either the
22 legal boundaries or jurisdiction of the awarding authority, or
23 the boundaries of the county in which the awarding authority
24 is located, or the boundaries of the Core Based Statistical
25 Area (CBSA) in which the awarding authority is located. If no

1 such action is taken by the awarding authority, the boundaries
2 of the local preference zone shall be deemed to be the same as
3 the legal boundaries or jurisdiction of the awarding
4 authority. In the event a bid is received for an item of
5 personal property to be purchased or contracted for from a
6 person, firm, or corporation deemed to be a responsible
7 bidder, having a place of business within the local preference
8 zone where a city or county board of education, thereof is the
9 awarding authority, and the bid is no more than three percent
10 greater than the bid of the lowest responsible bidder, the
11 awarding authority may award the contract to the resident
12 responsible bidder. In the event only one bidder responds to
13 the invitation to bid, the awarding authority may reject the
14 bid and negotiate the purchase or contract, providing the
15 negotiated price is lower than the bid price.

16 (b) The governing bodies of two or more city or
17 county boards of education, or any combination of two or more
18 city or county boards of education, counties, municipalities,
19 or instrumentalities thereof, may provide, by joint agreement,
20 for the purchase of labor, services, or work, or for the
21 purchase or lease of materials, equipment, supplies, or other
22 personal property for use by their respective agencies. The
23 agreement shall be entered into by official actions of the
24 contracting agencies adopted by each of the participating
25 governing bodies which shall set forth the categories of

1 labor, services, or work, or for the purchase or lease of
2 materials, equipment, supplies, or other personal property to
3 be purchased, the manner of advertising for bids and the
4 awarding of contracts, the method of payment by each
5 participating contracting agency, and other matters deemed
6 necessary to carry out the purposes of the agreement. Each
7 contracting agency's share of expenditures for purchases under
8 any agreement shall be appropriated and paid in the manner set
9 forth in the agreement and in the same manner as for other
10 expenses of the contracting agency. The contracting agencies
11 entering into a joint agreement, as herein permitted, may
12 designate a joint purchasing or bidding agent, and the agent
13 shall comply with this chapter. Purchases, contracts, or
14 agreements made pursuant to a joint purchasing or bidding
15 agreement shall be subject to all terms and conditions of this
16 chapter. Any participation by counties and municipalities
17 authorized in this section shall be subject to the provisions
18 of section 41-16-50 (b), Code of Alabama 1975.

19 In the event that utility services are no longer
20 exempt from competitive bidding under this chapter,
21 non-adjointing boards of education may not purchase utility
22 services by joint agreement under authority granted by this
23 subsection.

24 (c) The awarding authority may require bidders to
25 furnish a bid bond for a particular bid solicitation if the

1 bonding requirement applies to all bidders, is included in the
2 written bid specifications, and if bonding is available for
3 the services, equipment, or materials.

4 §16-13B-2.

5 (a) Competitive bids shall not be required for
6 utility services for county or city boards of education, the
7 rates for which are fixed by law, regulation, or ordinance,
8 and the competitive bidding requirements of this chapter shall
9 not apply to:

10 (1) The purchase of insurance.

11 (2) Contracts for securing services of attorneys,
12 physicians, architects, teachers, superintendents of
13 construction, artists, appraisers, engineers, consultants,
14 certified public accountants, public accountants, or other
15 individuals possessing a high degree of professional skill
16 where the personality of the individual plays a decisive part.

17 (3) Contracts of employment in the regular civil
18 service.

19 (4) Contracts for fiscal or financial advice or
20 services.

21 (5) Purchases of products made or manufactured by
22 the blind or visually handicapped under the direction or
23 supervision of the Alabama Institute for Deaf and Blind in
24 accordance with Sections 21-2-1 to 21-2-4, inclusive.

1 (6) Purchases of maps or photographs from any
2 federal agency.

3 (7) Purchases of manuscripts, books, maps,
4 pamphlets, or periodicals.

5 (8) The selection of paying agents and trustees for
6 any security issued by a public body.

7 (9) Existing contracts up for renewal for sanitation
8 or solid waste collection, recycling, or disposal and those
9 providing the service.

10 (10) Purchases of computer and word processing
11 hardware when the hardware is the only type that is compatible
12 with hardware already owned by the entity taking bids and
13 custom software.

14 (11) Contractual services and purchases of
15 commodities for which there is only one vendor or supplier and
16 contractual services and purchases of personal property which
17 by their very nature are impossible to award by competitive
18 bidding.

19 (12) Contractual services and purchases of products
20 related to, or having an impact upon, security plans,
21 procedures, assessments, measures, or systems, or the security
22 or safety of persons, structures, facilities, or
23 infrastructures.

24 (13) Purchases of goods made as a part of any
25 purchasing cooperative sponsored by the National Association

1 of Counties, or its successor organization. This subdivision
2 shall not apply to goods for which a service or service
3 contract, whether subject to competitive bidding under this
4 chapter or not, is necessary to utilize the goods. Such
5 purchases may only be made if all of the following occur:

6 a. The goods being purchased are available as a
7 result of a competitive bid process approved by the Alabama
8 Department of Examiners of Public Accounts for each bid.

9 b. The goods are either not at the time available to
10 local boards of education on the state purchasing program or
11 are available at a price equal to or less than that on the
12 state purchasing program.

13 c. The purchase is made through a participating
14 Alabama vendor holding an Alabama business license if such a
15 vendor exists.

16 (b) This chapter shall not apply to:

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

19 (2) Purchases made by individual schools of the
20 county or municipal public school systems from moneys other
21 than those raised by taxation or received through
22 appropriations from state or county sources.

23 (c) The city and county boards of education shall
24 establish and maintain such purchasing facilities and
25 procedures as may be necessary to carry out the intent and

1 purpose of this chapter by complying with the requirements for
2 competitive bidding in the operation and management of each
3 city and county board of education.

4 (d) Contracts entered into in violation of this
5 chapter shall be void and anyone who violates the provisions
6 of this chapter shall be guilty of a Class C felony.

7 §16-13B-3.

8 In case of emergency affecting public health, safety
9 or convenience, so declared in writing by the awarding
10 authority, setting forth the nature of the danger to public
11 health, safety or convenience involved in delay, contracts may
12 be let to the extent necessary to meet the emergency without
13 public advertisement. Such action and the reasons therefor
14 shall immediately be made public by the awarding authority.

15 §16-13B-4.

16 (a) All proposed purchases in excess of fifteen
17 thousand dollars (\$15,000) shall be advertised by posting
18 notice thereof on a bulletin board maintained outside the
19 purchasing office and in any other manner and for any length
20 of time as may be determined. Sealed bids or bids to be
21 submitted by a reverse auction procedure shall also be
22 solicited by sending notice by mail or other electronic means
23 to all persons, firms, or corporations who have filed a
24 request in writing that they be listed for solicitation on
25 bids for the particular items that are set forth in the

1 request. If any person, firm, or corporation whose name is
2 listed fails to respond to any solicitation for bids after the
3 receipt of three solicitations, the listing may be cancelled.

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

7 (c) The awarding authority may make purchases or
8 contracts through a reverse auction procedure; provided,
9 however, that a reverse auction shall only be allowed where
10 the item to be purchased at a reverse auction is either not at
11 the time available on the state purchasing program under the
12 same terms and conditions or, if available, the lowest price
13 offered in the reverse auction is equal to or less than the
14 price for which the item is available on the state purchasing
15 program under the same terms and conditions. All of the
16 purchases shall be subject to audit by the Examiners of Public
17 Accounts. For purposes of this chapter, a reverse auction
18 procedure includes either of the following:

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

23 (2) a. A bidding process usually lasting less than
24 two weeks and taking place during a previously scheduled
25 period and at a previously scheduled Internet location, in

1 which multiple anonymous suppliers submit bids to provide the
2 designated goods or services.

3 b. The Department of Examiners of Public Accounts
4 shall establish procedures for the use of reverse auction,
5 which shall be distributed to all contracting agencies and
6 shall be used in conducting any audits of the purchasing
7 agency.

8 (d) All original bids together with all documents
9 pertaining to the award of the contract shall be retained in
10 accordance with a retention period of at least seven years
11 established by the Local Government Records Commission and
12 shall be open to public inspection.

13 (e) No purchase or contract involving professional
14 services shall be subject to the requirements of this chapter
15 and no purchase or contract involving an amount in excess of
16 fifteen thousand dollars (\$15,000) shall be divided into parts
17 involving amounts of fifteen thousand dollars (\$15,000) or
18 less for the purpose of avoiding the requirements of this
19 chapter. All such partial contracts involving fifteen thousand
20 dollars (\$15,000) or less shall be void.

21 §16-13B-5.

22 Any agreement or collusion among bidders or
23 prospective bidders in restraint of freedom of competition, by
24 agreement, to bid at a fixed price or to refrain from bidding
25 or otherwise shall render the bids of such bidders void and

1 shall cause such bidders to be disqualified from submitting
2 further bids to the awarding authority on future purchases.

3 Whoever knowingly participates in a collusive
4 agreement in violation of this section involving a bid or bids
5 of fifteen thousand dollars (\$15,000) and under shall be
6 guilty of a Class A misdemeanor and, upon conviction, shall be
7 punished as prescribed by law.

8 Whoever knowingly and intentionally participates in
9 a collusive agreement in violation of this section involving a
10 bid or bids of over fifteen thousand dollars (\$15,000) shall
11 be guilty of a Class C felony, and upon conviction shall be
12 punished as prescribed by law.

13 §16-13B-6.

14 Any disclosure in advance of the terms of a bid
15 submitted in response to an advertisement for bids shall
16 render the proceedings void and require advertisement and
17 award anew.

18 §16-13B-7.

19 (a) When purchases are required to be made through
20 competitive bidding, awards shall be made to the lowest
21 responsible bidder taking into consideration the qualities of
22 the commodities proposed to be supplied, their conformity with
23 specifications, the purposes for which required, the terms of
24 delivery, transportation charges, and the dates of delivery.
25 If at any time after the award has been made the lowest

1 responsible bidder notifies the awarding authority in writing
2 that the bidder will no longer comply with the terms of the
3 award to provide the goods or services to the awarding
4 authority under the terms and conditions of the original
5 award, or the awarding authority documents that the lowest
6 responsible bidder defaults under the terms of the original
7 award, the awarding authority may terminate the award to the
8 defaulting bidder and make an award to the second lowest
9 responsible bidder for the remainder of the award period
10 without rebidding, provided the award to the second lowest
11 responsible bidder is in all respects made under the terms and
12 conditions contained in the original bid specifications and is
13 for the same or a lower price than the bid originally
14 submitted to the awarding authority by the second lowest
15 responsible bidder.

16 (b) The awarding authority in the purchase of or
17 contract for personal property or contractual services shall
18 give preference, provided there is no sacrifice or loss in
19 price or quality, to commodities produced in Alabama or sold
20 by Alabama persons, firms, or corporations. Notwithstanding
21 the foregoing, no county or city board of education charged
22 with the letting of contracts or purchase of materials for the
23 construction, modification, alteration, or repair of any
24 publicly owned facility may specify the use of materials or
25 systems by a sole source, unless:

1 (1) The board of education can document to the
2 satisfaction of the State of Alabama Building Commission that
3 the "sole source" product or service is of an "indispensable"
4 nature, all other viable alternatives have been explored, and
5 it has been determined that only this product or service will
6 fulfill the function for which the product is needed.
7 Frivolous features will not be considered.

8 (2) The sole source specification has been
9 recommended by the architect or engineer of record and who
10 also documents that there is no other product available and
11 that the use of the requirement is of an indispensable nature
12 and why.

13 (3) All information substantiating the use of a sole
14 source specification is documented in writing and is filed
15 into the project file.

16 (c) (1) For purchases of personal property in
17 instances where the awarding authority determines that the
18 total cost of ownership over the expected life of the item or
19 items, including acquisition costs plus sustaining costs or
20 life cycle costs, can be reasonably ascertained from industry
21 recognized and accepted sources, the lowest responsible bid
22 may be determined to be the bid offering the lowest life cycle
23 costs and otherwise meeting all of the conditions and
24 specifications contained in the invitation to bid. To utilize
25 this subdivision to determine the lowest responsible bidder,

1 the awarding authority shall include a notice in the
2 invitation to bid that the lowest responsible bid may be
3 determined by using life cycle costs and identify the industry
4 recognized and accepted sources that will be applicable to
5 such an evaluation.

6 (2) The Department of Examiners of Public Accounts
7 shall establish procedures for the use of life cycle costs,
8 which shall be distributed to all contracting agencies and
9 shall be used in conducting any audits of the purchasing
10 agency.

11 (d) The awarding authority or requisitioning agency
12 may reject any bid if the price is deemed excessive or quality
13 of product inferior.

14 (e) Each record, with the successful bid indicated
15 thereon, and with the reasons for the award if not awarded to
16 the lowest bidder, shall, after award of the order or
17 contract, be open to public inspection.

18 (f) Contracts for the purchase of personal property
19 or contractual services shall be let for periods not greater
20 than three years. "Lease-purchase" contracts for capital
21 improvements and repairs to real property shall be let for
22 periods not greater than 10 years and all other lease-purchase
23 contracts shall be let for periods not greater than 10 years.

24 §16-13B-8.

1 Bond in a responsible sum for faithful performance
2 of the contract, with adequate surety, may be required in an
3 amount specified in the advertisement for bids.

4 §16-13B-9.

5 No contract awarded to the lowest responsible bidder
6 shall be assignable by the successful bidder without written
7 consent of the awarding authority, and in no event shall a
8 contract be assigned to an unsuccessful bidder whose bid was
9 rejected because he was not a responsible bidder.

10 §16-13B-10.

11 No member or officer of the city and county boards
12 of education shall be financially interested or have any
13 personal beneficial interest, either directly or indirectly,
14 in the purchase of or contract for any personal property or
15 contractual service, nor shall any person willfully make any
16 purchase or award any contract in violation of the provisions
17 of this chapter.

18 Any violation of this section shall be deemed a
19 misdemeanor, and any person who violates this section shall,
20 upon conviction, be imprisoned for not more than 12 months or
21 fined not more than five hundred dollars (\$500), or both. Upon
22 conviction thereof, any person who willfully makes any
23 purchase or awards any contract in violation of the provisions
24 of this chapter shall be removed from office.

25 §16-13B-11.

1 Any taxpayer of the area within the jurisdiction of
2 the awarding authority and any bona fide unsuccessful bidder
3 on a particular contract shall be empowered to bring a civil
4 action in the appropriate court to enjoin execution of any
5 contract entered into in violation of the provisions of this
6 chapter.

7 Section 2. Sections 41-16-50 and 41-16-51, Code of
8 Alabama 1975, are amended to read as follows:

9 "§41-16-50.

10 "(a) With the exception of contracts for public
11 works whose competitive bidding requirements are governed
12 exclusively by Title 39, all expenditure of funds of whatever
13 nature for labor, services, work, or for the purchase of
14 materials, equipment, supplies, or other personal property
15 involving fifteen thousand dollars (\$15,000) or more, and the
16 lease of materials, equipment, supplies, or other personal
17 property where the lessee is, or becomes legally and
18 contractually, bound under the terms of the lease, to pay a
19 total amount of fifteen thousand dollars (\$15,000) or more,
20 made by or on behalf of any state trade school, state junior
21 college, state college, or university under the supervision
22 and control of the State Board of Education, the district
23 boards of education of independent school districts, the
24 county commissions, the governing bodies of the municipalities
25 of the state, and the governing boards of instrumentalities of

1 counties and municipalities, including waterworks boards,
2 sewer boards, gas boards, and other like utility boards and
3 commissions, except as hereinafter provided, shall be made
4 under contractual agreement entered into by free and open
5 competitive bidding, on sealed bids, to the lowest responsible
6 bidder. Prior to advertising for bids for an item of personal
7 property, where a county, a municipality, or an
8 instrumentality thereof is the awarding authority, the
9 awarding authority may establish a local preference zone
10 consisting of either the legal boundaries or jurisdiction of
11 the awarding authority, or the boundaries of the county in
12 which the awarding authority is located, or the boundaries of
13 the Core Based Statistical Area (CBSA) in which the awarding
14 authority is located. If no such action is taken by the
15 awarding authority, the boundaries of the local preference
16 zone shall be deemed to be the same as the legal boundaries or
17 jurisdiction of the awarding authority. In the event a bid is
18 received for an item of personal property to be purchased or
19 contracted for from a person, firm, or corporation deemed to
20 be a responsible bidder, having a place of business within the
21 local preference zone where the county, a municipality, or an
22 instrumentality thereof is the awarding authority, and the bid
23 is no more than three percent greater than the bid of the
24 lowest responsible bidder, the awarding authority may award
25 the contract to the resident responsible bidder. In the event

1 only one bidder responds to the invitation to bid, the
2 awarding authority may reject the bid and negotiate the
3 purchase or contract, providing the negotiated price is lower
4 than the bid price.

5 "(b) The governing bodies of two or more contracting
6 agencies, as enumerated in subsection (a), or the governing
7 bodies of two or more counties, or the governing bodies of two
8 or more city or county boards of education, may provide, by
9 joint agreement, for the purchase of labor, services, or work,
10 or for the purchase or lease of materials, equipment,
11 supplies, or other personal property for use by their
12 respective agencies. The agreement shall be entered into by
13 similar ordinances, in the case of municipalities, or
14 resolutions, in the case of other contracting agencies,
15 adopted by each of the participating governing bodies, which
16 shall set forth the categories of labor, services, or work, or
17 for the purchase or lease of materials, equipment, supplies,
18 or other personal property to be purchased, the manner of
19 advertising for bids and the awarding of contracts, the method
20 of payment by each participating contracting agency, and other
21 matters deemed necessary to carry out the purposes of the
22 agreement. Each contracting agency's share of expenditures for
23 purchases under any agreement shall be appropriated and paid
24 in the manner set forth in the agreement and in the same
25 manner as for other expenses of the contracting agency. The

1 contracting agencies entering into a joint agreement, as
2 herein permitted, may designate a joint purchasing or bidding
3 agent, and the agent shall comply with this article.

4 Purchases, contracts, or agreements made pursuant to a joint
5 purchasing or bidding agreement shall be subject to all terms
6 and conditions of this article.

7 "In the event that utility services are no longer
8 exempt from competitive bidding under this article,
9 non-adjointing counties may not purchase utility services by
10 joint agreement under authority granted by this subsection.

11 "(c) The awarding authority may require bidders to
12 furnish a bid bond for a particular bid solicitation if the
13 bonding requirement applies to all bidders, is included in the
14 written bid specifications, and if bonding is available for
15 the services, equipment, or materials.

16 "§41-16-51.

17 "(a) Competitive bids shall not be required for
18 utility services, the rates for which are fixed by law,
19 regulation, or ordinance, and the competitive bidding
20 requirements of this article shall not apply to:

21 "(1) The purchase of insurance.

22 "(2) The purchase of ballots and supplies for
23 conducting any primary, general, special, or municipal
24 election.

1 "(3) Contracts for securing services of attorneys,
2 physicians, architects, teachers, superintendents of
3 construction, artists, appraisers, engineers, consultants,
4 certified public accountants, public accountants, or other
5 individuals possessing a high degree of professional skill
6 where the personality of the individual plays a decisive part.

7 "(4) Contracts of employment in the regular civil
8 service.

9 "(5) Contracts for fiscal or financial advice or
10 services.

11 "(6) Purchases of products made or manufactured by
12 the blind or visually handicapped under the direction or
13 supervision of the Alabama Institute for Deaf and Blind in
14 accordance with Sections 21-2-1 to 21-2-4, inclusive.

15 "(7) Purchases of maps or photographs from any
16 federal agency.

17 "(8) Purchases of manuscripts, books, maps,
18 pamphlets, or periodicals.

19 "(9) The selection of paying agents and trustees for
20 any security issued by a public body.

21 "(10) Existing contracts up for renewal for
22 sanitation or solid waste collection, recycling, and disposal
23 between municipalities or counties, or both, and those
24 providing the service.

1 "(11) Purchases of computer and word processing
2 hardware when the hardware is the only type that is compatible
3 with hardware already owned by the entity taking bids and
4 custom software.

5 "(12) Professional services contracts for
6 codification and publication of the laws and ordinances of
7 municipalities and counties.

8 "(13) Contractual services and purchases of
9 commodities for which there is only one vendor or supplier and
10 contractual services and purchases of personal property which
11 by their very nature are impossible to award by competitive
12 bidding.

13 "(14) Purchases of dirt, sand, or gravel by a county
14 governing body from in-county property owners in order to
15 supply a county road or bridge project in which the materials
16 will be used. The material shall be delivered to the project
17 site by county employees and equipment used only on projects
18 conducted exclusively by county employees.

19 "(15) Contractual services and purchases of products
20 related to, or having an impact upon, security plans,
21 procedures, assessments, measures, or systems, or the security
22 or safety of persons, structures, facilities, or
23 infrastructures.

24 "(16) Subject to the limitations in this
25 subdivision, purchases of goods made as a part of the

1 purchasing cooperative sponsored by the National Association
2 of Counties, or its successor organization. This subdivision
3 shall not apply to goods for which a service or service
4 contract, whether subject to competitive bidding under this
5 article or not, is necessary to utilize the goods. Such
6 purchases may only be made if all of the following occur:

7 "a. The goods being purchased are available as a
8 result of a competitive bid process approved by the Alabama
9 Department of Examiners of Public Accounts for each bid.

10 "b. The goods are either not at the time available
11 to counties on the state purchasing program or are available
12 at a price equal to or less than that on the state purchasing
13 program.

14 "c. The purchase is made through a participating
15 Alabama vendor holding an Alabama business license if such a
16 vendor exists.

17 "(b) This article shall not apply to:

18 "(1) Any purchases of products where the price of
19 the products is already regulated and established by state
20 law.

21 "(2) Purchases made by individual schools of the
22 county or municipal public school systems from moneys other
23 than those raised by taxation or received through
24 appropriations from state or county sources.

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

6 "(4) The purchase, lease, or other acquisition of
7 machinery, equipment, supplies, and other personal property or
8 services by a medical clinic board organized under Sections
9 11-58-1 to 11-58-14, inclusive.

10 "(5) Purchases for public hospitals and nursing
11 homes operated by the governing boards of instrumentalities of
12 the state, counties, and municipalities.

13 "(6) Contracts for the purchase, lease, sale,
14 construction, installation, acquisition, improvement,
15 enlargement, or extension of any plant, building, structure,
16 or other facility or any machinery, equipment, furniture, or
17 furnishings therefor designed or intended for lease or sale
18 for industrial development, other than public utilities, under
19 Sections 11-54-80 to 11-54-99, inclusive, or Sections 11-54-20
20 to 11-54-28, inclusive, or any other statute or amendment to
21 the Constitution of Alabama authorizing the construction of
22 plants or other facilities for industrial development or for
23 the construction and equipment of buildings for public
24 building authorities under Sections 11-56-1 to 11-56-22,
25 inclusive.

1 "(7) The purchase of equipment, supplies, or
2 materials needed, used, and consumed in the normal and routine
3 operation of any waterworks system, sanitary sewer system, gas
4 system, or electric system, or any two or more thereof, that
5 are owned by municipalities, counties, or public corporations,
6 boards, or authorities that are agencies, departments, or
7 instrumentalities of municipalities or counties and no part of
8 the operating expenses of which system or systems have, during
9 the then current fiscal year, been paid from revenues derived
10 from taxes or from appropriations of the state, a county, or a
11 municipality.

12 "(8) Purchases made by local housing authorities,
13 organized and existing under Chapter 1 of Title 24, from
14 moneys other than those raised by state, county, or city
15 taxation or received through appropriations from state,
16 county, or city sources.

17 "(c) The state trade schools, state junior colleges,
18 state colleges, and universities under the supervision and
19 control of the State Board of Education, the district boards
20 of education of independent school districts, the county
21 commissions, and the governing bodies of the municipalities of
22 the state shall establish and maintain such purchasing
23 facilities and procedures as may be necessary to carry out the
24 intent and purpose of this article by complying with the
25 requirements for competitive bidding in the operation and

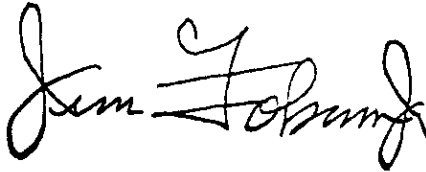
1 management of each state trade school, state junior college,
2 state college, or university under the supervision and control
3 of the State Board of Education, the district boards of
4 education of independent school districts, the county
5 commissions, and the governing bodies of the municipalities of
6 the state and the governing boards of instrumentalities of
7 counties and municipalities, including waterworks boards,
8 sewer boards, gas boards, and other like utility boards and
9 commissions.

10 "(d) Contracts entered into in violation of this
11 article shall be void and anyone who violates the provisions
12 of this article shall be guilty of a Class C felony."

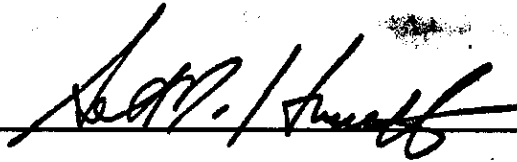
13 Section 3. Although this bill would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds, the bill is excluded from further
16 requirements and application under Amendment 621, now
17 appearing as Section 111.05 of the Official Recompilation of
18 the Constitution of Alabama of 1901, as amended, because the
19 bill defines a new crime or amends the definition of an
20 existing crime.

21 Section 4. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate



Speaker of the House of Representatives

SB418

Senate 10-MAR-09

I hereby certify that the within Act originated in and passed the Senate, as amended.

McDowell Lee
Secretary

House of Representatives
Amended and passed 07-MAY-09

Senate concurred in House amendment 15-MAY-09

By: Senators Preuitt and Means

APPROVED May 22, 2009
TIME 9:35 a.m.
Bob Riley
GOVERNOR