

1 HB27  
2 195104-1  
3 By Representative Hollis  
4 RFD: State Government  
5 First Read: 05-MAR-19  
6 PFD: 02/14/2019

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8 SYNOPSIS: Under existing law, certain expenditures of  
9 funds by governmental and educational institutions  
10 are subject to the competitive bid law.

11 This bill would define the terms  
12 minority-owned business and minority group as those  
13 terms relate to the competitive bid law.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT  
18

19 To amend Section 41-16-50, Code of Alabama 1975, as  
20 amended by Act 2018-231, 2018 Regular Session, relating to  
21 public contracts; to define minority-owned business and  
22 minority group as those terms relate to the competitive bid  
23 law.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 41-16-50, Code of Alabama 1975,  
26 as amended by Act 2018-231, 2018 Regular Session, is amended  
27 to read as follows:

1                   "§41-16-50.

2                   "(a) With the exception of contracts for public  
3 works whose competitive bidding requirements are governed  
4 exclusively by Title 39, all expenditure of funds of whatever  
5 nature for labor, services, work, or for the purchase of  
6 materials, equipment, supplies, or other personal property  
7 involving fifteen thousand dollars (\$15,000) or more, and the  
8 lease of materials, equipment, supplies, or other personal  
9 property where the lessee is, or becomes legally and  
10 contractually, bound under the terms of the lease, to pay a  
11 total amount of fifteen thousand dollars (\$15,000) or more,  
12 made by or on behalf of any state trade school, state junior  
13 college, state college, or university under the supervision  
14 and control of the Alabama Community College System, the  
15 Alabama Fire College, the district boards of education of  
16 independent school districts, the county commissions, the  
17 governing bodies of the municipalities of the state, and the  
18 governing boards of instrumentalities of counties and  
19 municipalities, including waterworks boards, sewer boards, gas  
20 boards, and other like utility boards and commissions, except  
21 as hereinafter provided, shall be made under contractual  
22 agreement entered into by free and open competitive bidding,  
23 on sealed bids, to the lowest responsible bidder. Prior to  
24 advertising for bids for an item of personal property or  
25 services, where a county, a municipality, or an  
26 instrumentality thereof is the awarding authority, the  
27 awarding authority may establish a local preference zone

1 consisting of either the legal boundaries or jurisdiction of  
2 the awarding authority, or the boundaries of the county in  
3 which the awarding authority is located, or the boundaries of  
4 the Core Based Statistical Area in which the awarding  
5 authority is located. If no such action is taken by the  
6 awarding authority, the boundaries of the local preference  
7 zone shall be deemed to be the same as the legal boundaries or  
8 jurisdiction of the awarding authority. In the event a bid is  
9 received for an item of personal property or services to be  
10 purchased or contracted for from a person, firm, or  
11 corporation deemed to be a responsible bidder, having a place  
12 of business within the local preference zone where the county,  
13 a municipality, or an instrumentality thereof is the awarding  
14 authority, and the bid is no more than five percent greater  
15 than the bid of the lowest responsible bidder, the awarding  
16 authority may award the contract to the resident responsible  
17 bidder. In the event only one bidder responds to the  
18 invitation to bid, the awarding authority may reject the bid  
19 and negotiate the purchase or contract, providing the  
20 negotiated price is lower than the bid price.

21 "(b) The governing bodies of two or more contracting  
22 agencies, as enumerated in subsection (a), or the governing  
23 bodies of two or more counties, or the governing bodies of two  
24 or more city or county boards of education, may provide, by  
25 joint agreement, for the purchase of labor, services, or work,  
26 or for the purchase or lease of materials, equipment,  
27 supplies, or other personal property for use by their

1        respective agencies. The agreement shall be entered into by  
2        similar ordinances, in the case of municipalities, or  
3        resolutions, in the case of other contracting agencies,  
4        adopted by each of the participating governing bodies, which  
5        shall set forth the categories of labor, services, or work, or  
6        for the purchase or lease of materials, equipment, supplies,  
7        or other personal property to be purchased, the manner of  
8        advertising for bids and the awarding of contracts, the method  
9        of payment by each participating contracting agency, and other  
10       matters deemed necessary to carry out the purposes of the  
11       agreement. Each contracting agency's share of expenditures for  
12       purchases under any agreement shall be appropriated and paid  
13       in the manner set forth in the agreement and in the same  
14       manner as for other expenses of the contracting agency. The  
15       contracting agencies entering into a joint agreement, as  
16       herein permitted, may designate a joint purchasing or bidding  
17       agent, and the agent shall comply with this article.  
18       Purchases, contracts, or agreements made pursuant to a joint  
19       purchasing or bidding agreement shall be subject to all terms  
20       and conditions of this article.

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

25                "(c) The awarding authority may require bidders to  
26       furnish a bid bond for a particular bid solicitation if the  
27       bonding requirement applies to all bidders, is included in the

1 written bid specifications, and if bonding is available for  
2 the services, equipment, or materials.

3 "(d) (1) Notwithstanding subsection (a), in the event  
4 the lowest bid for an item of personal property or services to  
5 be purchased or contracted for is received from a foreign  
6 entity, where the county, a municipality, or an  
7 instrumentality thereof is the awarding authority, the  
8 awarding authority may award the contract to a responsible  
9 bidder whose bid is no more than 10 percent greater than the  
10 foreign entity if the bidder has a place of business within  
11 the local preference zone or is a responsible bidder from a  
12 business within the state that is a woman-owned enterprise, an  
13 enterprise of small business, as defined in Section 25-10-3, a  
14 minority-owned business enterprise, a veteran-owned business  
15 enterprise, or a disadvantaged-owned business enterprise.

16 "(2) For the purposes of this subsection, ~~foreign~~  
17 ~~entity means a business entity that does not have a place of~~  
18 ~~business within the state.~~ the following terms shall have the  
19 following meanings:

20 "a. FOREIGN ENTITY. A business entity that does not  
21 have a place of business within the state.

22 "b. MINORITY-OWNED BUSINESS ENTERPRISE. A business  
23 entity at least 51 percent of which is owned by members of a  
24 minority group or, in the case of a corporation, at least 51  
25 percent of the shares of the corporation are owned by members  
26 of a minority group, and is managed and controlled by members  
27 of a minority group in its daily operations.

1                   "c. MINORITY GROUP. Individuals of African American,  
2                   Native American, Asian, or Hispanic descent."

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