SB271

By Senator Dial

RFD: Finance and Taxation Education

First Read: 28-FEB-13
SYNOPSIS: Currently, pursuant to the state competitive bidding law, contracts for the purchase of personal property or contractual services shall be let for periods not greater than three years.

This bill would provide that contracts for the purchase of personal property or contractual services shall be let for periods not greater than five years.

A BILL TO BE ENTITLED
AN ACT

To amend Section 16-13B-7, Code of Alabama 1975, relating to competitive bidding; to provide that contracts for the purchase of personal property or contractual services shall be let for periods of not greater than five years.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 16-13B-7, Code of Alabama 1975, is amended to read as follows:

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"§16-13B-7.

(a) When purchases are required to be made through competitive bidding, awards shall be made to the lowest responsible bidder taking into consideration the qualities of the commodities proposed to be supplied, their conformity with specifications, the purposes for which required, the terms of delivery, transportation charges, and the dates of delivery. If at any time after the award has been made the lowest responsible bidder notifies the awarding authority in writing that the bidder will no longer comply with the terms of the award to provide the goods or services to the awarding authority under the terms and conditions of the original award, or the awarding authority documents that the lowest responsible bidder defaults under the terms of the original award, the awarding authority may terminate the award to the defaulting bidder and make an award to the second lowest responsible bidder for the remainder of the award period without rebidding, provided the award to the second lowest responsible bidder is in all respects made under the terms and conditions contained in the original bid specifications and is for the same or a lower price than the bid originally submitted to the awarding authority by the second lowest responsible bidder.

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

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

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

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

"(c)(1) For purchases of personal property in
instances where the awarding authority determines that the
total cost of ownership over the expected life of the item or
items, including acquisition costs plus sustaining costs or
life cycle costs, can be reasonably ascertained from industry
recognized and accepted sources, the lowest responsible bid

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may be determined to be the bid offering the lowest life cycle costs and otherwise meeting all of the conditions and specifications contained in the invitation to bid. To utilize this subdivision to determine the lowest responsible bidder, the awarding authority shall include a notice in the invitation to bid that the lowest responsible bid may be determined by using life cycle costs and identify the industry recognized and accepted sources that will be applicable to such an evaluation.

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

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

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

"(f) Contracts for the purchase of personal property or contractual services shall be let for periods not greater than three five years. Lease-purchase contracts for capital improvements and repairs to real property shall be let for periods not greater than 10 years and all other lease-purchase contracts shall be let for periods not greater than 10 years."
Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.