

1 HB35
2 187752-5
3 By Representative Crawford
4 RFD: Ways and Means General Fund
5 First Read: 09-JAN-18
6 PFD: 11/28/2017



1
2 ENROLLED, An Act,

3 To amend Section 40-9-14.1, Code of Alabama 1975,
4 relating to taxation; to include as governmental entities
5 eligible to receive certificates of exemption from state and
6 local sales and use taxes from the Department of Revenue
7 certain specific tax exempt public water or sewer authorities,
8 districts, boards, and systems.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 40-9-14.1 of the Code of Alabama
11 1975, is amended to read as follows:

12 "§40-9-14.1.

13 "(a) For the purposes of this section, the term
14 governmental entity means the State of Alabama and its
15 political subdivisions, including a county, a municipality,
16 ~~and an industrial or economic development board or authority,~~
17 and any public water or sewer authority, district, system, or
18 board that otherwise is sales and use tax exempt. A
19 governmental entity shall also include an educational
20 institution of any of the foregoing Alabama political
21 subdivisions including a public college or university, a
22 county or city board of education, and the State Board of
23 Education.

1 "(b) (1) The Department of Revenue shall issue a
2 certificate of exemption to the governmental entity for each
3 tax exempt project.

4 "(2) The Department of Revenue shall grant a
5 certificate of exemption from state and local sales and use
6 taxes to any contractor licensed by the State Licensing Board
7 for General Contractors, or any subcontractor working under
8 the same contract, for the purchase of building materials,
9 construction materials and supplies, and other tangible
10 personal property that becomes part of the structure that is
11 the subject of a written contract for the construction of a
12 building or other project, not to include any contract for the
13 construction of any highway, road, or bridge, for and on
14 behalf of a governmental entity which is exempt from the
15 payment of sales and use taxes.

16 "(c) The use of a certificate of exemption for the
17 purchase of tangible personal property pursuant to this
18 section shall include only tangible personal property that
19 becomes part of the structure that is the subject of the
20 construction contract. Any contractor or subcontractor
21 purchasing any tangible personal property pursuant to a
22 certificate of exemption shall maintain an accurate cost
23 accounting of the purchase and use of the property in the
24 construction of the project.

1 "(d) A contractor who has an exemption from sales
2 and use tax for the purchase of materials to use on a
3 government project shall file, in a manner as prescribed by
4 the department, reports of all exempt purchases. The reports
5 shall be filed as a prerequisite to renewal of a certificate
6 of exemption.

7 "(e) (1) The department may assess any contractor or
8 subcontractor with state and local sales or use taxes on any
9 item purchased with a certificate of exemption not properly
10 accounted for and reported as required.

11 "(2) Any contractor or subcontractor who
12 intentionally uses a certificate of exemption in violation of
13 this section shall, in addition to the actual sales or use tax
14 liability due, be subject to a civil penalty levied by the
15 department in the amount of not less than a minimum of two
16 thousand dollars (\$2,000) or two times any state and local
17 sales or use tax due for the property and, based on the
18 contractor's or subcontractor's willful misuse of the
19 certificate of exemption, may be barred from the use of any
20 certificate of exemption on any project for up to two years.

21 "(f) The department may adopt rules to implement
22 this section in order to effectuate the purposes of this
23 section and to provide for accurate accounting and enforcement
24 of this section.

1 "(g) In bidding the work on a tax exempt project,
2 the bid form shall provide for an accounting for the tax
3 savings.

4 "(h) The intent of this section is to lower the
5 administrative cost for the governmental entity, contractor,
6 and subcontractor for public works projects. It is not the
7 intent of this section to change the basis for determining
8 professional services from fair market value, which may
9 include sales and use taxes.

10 "(i) This section shall be operative for contracts
11 entered into with governmental entities as defined in
12 subsection (a), not including public water or sewer
13 authorities, districts, systems, or boards that otherwise are
14 sales and use tax exempt, on January 1, 2014, or thereafter,
15 and shall not apply to any contract entered into prior to
16 January 1, 2014. This section shall be operative for contracts
17 entered into with public water or sewer authorities,
18 districts, systems, or boards that otherwise are sales and use
19 tax exempt on January 1, 2019, and thereafter, and shall not
20 apply to any contract entered into with such entities prior to
21 January 1, 2019. In addition, this section shall not apply to
22 any contract change orders or contract extensions, including
23 revised, renegotiated, or altered contracts, when the original
24 contract was entered into prior to January 1, 2014, with a
25 governmental entity. Nor shall this section apply to any

1 contract change orders or contract extensions, including
2 revised, renegotiated, or altered contracts with any public
3 water or sewer authority, district, system, or board that
4 otherwise is sales and use tax exempt, when the original
5 contract was entered into prior to January 1, 2019. The
6 Department of Revenue may adopt rules to implement this
7 section ~~after October 1, 2013.~~"

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

1

2

3

4

Mac McCutcheon

Speaker of the House of Representatives

5

Dr. Max

6

President and Presiding Officer of the Senate

7

House of Representatives

8

I hereby certify that the within Act originated in
and was passed by the House 06-FEB-18, as amended.

9

10

11

12

13

Jeff Woodard
Clerk

14

15

16

17

Senate

06-MAR-18

Passed

APPROVED 3/15/18

TIME 11:06am

Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num....: 2018-234
Bill Num....: H-35

Recv'd 03/15/18 02:35p SLF

SOR

Woodford
SPONSORS

F476

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 35

YEAS 95 NAYS 0

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. 35 AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees

SENATE ACTION

DATE: 2-8 2018

RD 1 RFD F476

This Bill was referred to the Standing Committee of the Senate on F476 and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) 0 w/sub 0 by a vote of

years 15 nays 0 abstain 0
this 15 day of February 2018
Patrick Harris, Chairperson

DATE: 2-8 2018

RF RD 2 CAL

DATE: 2-8 2018

RE-REFERRED 0 RE-COMMITTED 0

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 35

YEAS 24 NAYS 0

PATRICK HARRIS,
Secretary