

By: Representatives Robertson, Jennings,
Miller, Woods

To: County Affairs;
Appropriations

HOUSE BILL NO. 987

1 AN ACT TO AMEND SECTIONS 65-7-95 AND 31-7-13, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT BOARDS OF SUPERVISORS MAY LEASE
3 HEAVY ROAD MACHINERY UPON RECEIPT OF VENDOR QUOTES; AND FOR
4 RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 65-7-95, Mississippi Code of 1972, is
7 amended as follows:

8 65-7-95. The methods of constructing, reconstructing and
9 maintaining the public roads and bridges in this state, other than
10 those under the actual charge of the State Highway Department,
11 shall be as follows:

12 Any county may purchase implements and material through its
13 central purchase system; may employ labor; may work, construct,
14 reconstruct and maintain the public roads; may build bridges; and
15 may do any and all things necessary to be done to work, construct,
16 reconstruct and maintain the public roads and to build bridges as
17 herein provided. If, in the opinion of the board of supervisors,
18 any part of the work necessary to be done in working,
19 constructing, reconstructing and maintaining the public roads and
20 in building bridges in such county, or any part or parts thereof,
21 can best be done by awarding contracts therefor, the board of
22 supervisors may advertise for bids and make contracts therefor in
23 accordance with the provisions of Section 31-7-13; and the board
24 of supervisors may, in its discretion, use any funds heretofore or
25 hereafter raised by bond issue or otherwise for working,
26 constructing, reconstructing, maintaining and improving the public
27 roads and for building bridges as herein provided. In no event
28 shall any contract provided above be awarded that shall extend

29 beyond thirty (30) days from the termination and end of the term
30 of office of the members of the boards of supervisors awarding
31 same.

32 Before any board of supervisors may hire, lease or rent any
33 heavy road machinery or equipment for use in the construction,
34 reconstruction or maintenance of any county road or bridge, such
35 board of supervisors shall first adopt an order adjudicating the
36 necessity for leasing or renting such machinery or equipment, the
37 purposes for which it is to be used, the type of such machinery or
38 equipment and the reasons why the leasing or renting thereof will
39 promote the public interest of the county. Such order shall also
40 direct the clerk of the board of supervisors to advertise for bids
41 for such machinery or equipment, which bids shall be returnable on
42 a day to be fixed by the board of supervisors, in accordance with
43 Section 31-7-13, or the order shall direct the clerk or road
44 manager to solicit vendor quotes and select the lowest of at least
45 two (2) vendor quotes subject to approval by the board.

46 All contracts for the leasing or renting of such machinery or
47 equipment shall be awarded to the lowest and best responsible
48 bidder whose bid price or rental consideration is not in excess of
49 the current rates and charges fixed and prescribed by the
50 Nielsen/Data Quest publication, which rates and charges fixed and
51 prescribed by the Nielsen/Data Quest publication shall be on file
52 with the Governor's Office of General Services at that time.

53 All invoices submitted for the leasing or renting of such
54 machinery or equipment shall identify the equipment by number and
55 name and shall include the number of hours of labor performed and
56 the dates thereof.

57 SECTION 2. Section 31-7-13, Mississippi Code of 1972, is
58 amended as follows:

59 31-7-13. All agencies and governing authorities shall
60 purchase their commodities and printing; contract for fire
61 insurance, automobile insurance, casualty insurance (other than
62 workers' compensation) and liability insurance; contract for
63 garbage collection or disposal; contract for solid waste
64 collection or disposal; contract for sewage collection or
65 disposal; and contract for public construction as herein provided.

66 (a) Purchases which do not involve an expenditure of

67 more than One Thousand Five Hundred Dollars (\$1,500.00), exclusive
68 of freight or shipping charges, may be made without advertising or
69 otherwise requesting competitive bids. Provided, however, that
70 nothing contained in this paragraph (a) shall be construed to
71 prohibit any agency or governing authority from establishing
72 procedures which require competitive bids on purchases of One
73 Thousand Five Hundred Dollars (\$1,500.00) or less.

74 (b) Purchases which involve an expenditure of more than
75 One Thousand Five Hundred Dollars (\$1,500.00) but not more than
76 Ten Thousand Dollars (\$10,000.00), exclusive of freight and
77 shipping charges may be made from the lowest and best bidder
78 without publishing or posting advertisement for bids, provided at
79 least two (2) competitive written bids have been obtained. Any
80 governing authority purchasing commodities pursuant to this
81 paragraph (b) may authorize its purchasing agent, or his designee,
82 with regard to governing authorities other than counties, or its
83 purchase clerk, or his designee, with regard to counties, to
84 accept the lowest and best competitive written bid. Such
85 authorization shall be made in writing by the governing authority
86 and shall be maintained on file in the primary office of the
87 agency and recorded in the official minutes of the governing
88 authority, as appropriate. The purchasing agent or the purchase
89 clerk, or their designee, as the case may be, and not the
90 governing authority, shall be liable for any penalties and/or
91 damages as may be imposed by law for any act or omission of the
92 purchasing agent or purchase clerk, or their designee,
93 constituting a violation of law in accepting any bid without
94 approval by the governing authority. The term "competitive
95 written bid" shall mean a bid submitted on a bid form furnished by
96 the buying agency or governing authority and signed by authorized
97 personnel representing the vendor, or a bid submitted on a
98 vendor's letterhead or identifiable bid form and signed by
99 authorized personnel representing the vendor.

100 (c) Purchases which involve an expenditure of more than

101 Ten Thousand Dollars (\$10,000.00), exclusive of freight and
102 shipping charges may be made from the lowest and best bidder after
103 advertising for competitive sealed bids once each week for two (2)
104 consecutive weeks in a regular newspaper published in the county
105 or municipality in which such agency or governing authority is
106 located. The date as published for the bid opening shall not be
107 less than seven (7) working days after the last published notice;
108 however, if the purchase involves a construction project in which
109 the estimated cost is in excess of Fifteen Thousand Dollars
110 (\$15,000.00), such bids shall not be opened in less than fifteen
111 (15) working days after the last notice is published and the
112 notice for the purchase of such construction shall be published
113 once each week for two (2) consecutive weeks. The notice of
114 intention to let contracts or purchase equipment shall state the
115 time and place at which bids shall be received, list the contracts
116 to be made or types of equipment or supplies to be purchased, and,
117 if all plans and/or specifications are not published, refer to the
118 plans and/or specifications on file. In all cases involving
119 governing authorities, before the notice shall be published or
120 posted, the plans or specifications for the construction or
121 equipment being sought shall be filed with the clerk of the board
122 of the governing authority, and there remain. If there is no
123 newspaper published in the county or municipality, then such
124 notice shall be given by posting same at the courthouse, or for
125 municipalities at the city hall, and at two (2) other public
126 places in the county or municipality, and also by publication once
127 each week for two (2) consecutive weeks in some newspaper having a
128 general circulation in the county or municipality in the above
129 provided manner. On the same date that the notice is submitted to
130 the newspaper for publication, the agency or governing authority
131 involved shall mail written notice to the main office of the
132 Mississippi Contract Procurement Center that contains the same
133 information as that in the published notice. In addition to these
134 requirements, agencies shall maintain a vendor file and vendors of

135 the equipment or commodities being sought may be mailed
136 solicitations and specifications, and a bid file shall be
137 established which shall indicate those vendors to whom such
138 solicitations and specifications were mailed, and such file shall
139 also contain such information as is pertinent to the bid.
140 Specifications pertinent to such bidding shall be written so as
141 not to exclude comparable equipment of domestic manufacture.
142 Provided, however, that should valid justification be presented,
143 the Department of Finance and Administration or the board of a
144 governing authority may approve a request for specific equipment
145 necessary to perform a specific job. Provided further, that a
146 registered professional engineer or architect may write
147 specifications for a governing authority to require a specific
148 item of equipment available only from limited sources or vendors
149 when such specifications conform with the rules and regulations
150 promulgated by an appropriate federal agency regulating such
151 matters under the federal procurement laws. Further, such
152 justification, when placed on the minutes of the board of a
153 governing authority, may serve as authority for that governing
154 authority to write specifications to require a specific item of
155 equipment needed to perform a specific job. In addition to these
156 requirements, from and after July 1, 1990, vendors of relocatable
157 classrooms and the specifications for the purchase of such
158 relocatable classrooms published by local school boards shall meet
159 all pertinent regulations of the State Board of Education,
160 including prior approval of such bid by the State Department of
161 Education. Nothing in this section shall prohibit any agency or
162 governing authority from writing specifications to include
163 life-cycle costing, total cost bids, extended warranties or
164 guaranteed buy-back provisions, provided that such bid
165 requirements shall be in compliance with regulations established
166 by the Department of Audit.

167 (d) (i) Purchases may be made from the lowest and best
168 bidder. In determining the lowest and best bid, freight and

169 shipping charges shall be included. If any governing authority
170 accepts a bid other than the lowest bid actually submitted, it
171 shall place on its minutes detailed calculations and narrative
172 summary showing that the accepted bid was determined to be the
173 lowest and best bid, including the dollar amount of the accepted
174 bid and the dollar amount of the lowest bid. No agency or
175 governing authority shall accept a bid based on items not included
176 in the specifications.

177 (ii) If the lowest and best bid is not more than
178 ten percent (10%) above the amount of funds allocated for a public
179 construction or renovation project, then the agency or governing
180 authority shall be permitted to negotiate with the lowest bidder
181 in order to enter into a contract for an amount not to exceed the
182 funds allocated.

183 (iii) Whenever bids are solicited for a public
184 construction or renovation project and only one (1) bid is
185 received, the agency or the governing authority may accept such
186 bid if the bid is opened, it is within the funds allocated for the
187 project, it is responsive to the solicitation and the contractor
188 is capable of performing the contract in accordance with the
189 solicitation.

190 (iv) No addendum to bid specifications for such
191 projects may be issued by the agency or governing authority within
192 twelve (12) hours of the time established by the agency or
193 governing authority for the receipt of bids.

194 (e) Any lease-purchase of equipment which an agency is
195 not required to lease-purchase under the master lease-purchase
196 program pursuant to Section 31-7-10 and any lease-purchase of
197 equipment which a governing authority elects to lease-purchase may
198 be acquired by a lease-purchase agreement under this paragraph
199 (e). Lease-purchase financing may also be obtained from the
200 vendor or from a third-party source after having solicited and
201 obtained at least two (2) written competitive bids, as defined in
202 paragraph (b) of this section, for such financing without

203 advertising for such bids. Solicitation for the bids for
204 financing may occur before or after acceptance of bids for the
205 purchase of such equipment or, where no such bids for purchase are
206 required, at any time before the purchase thereof. No such
207 lease-purchase agreement shall be for an annual rate of interest
208 which is greater than the overall maximum interest rate to
209 maturity on general obligation indebtedness permitted under
210 Section 75-17-101, and the term of such lease-purchase agreement
211 shall not exceed the useful life of property covered thereby as
212 determined according to the upper limit of the asset depreciation
213 range (ADR) guidelines for the Class Life Asset Depreciation Range
214 System established by the Internal Revenue Service pursuant to the
215 United States Internal Revenue Code and regulations thereunder as
216 in effect on December 31, 1980, or comparable depreciation
217 guidelines with respect to any equipment not covered by ADR
218 guidelines. Any lease-purchase agreement entered into pursuant to
219 this paragraph (e) may contain any of the terms and conditions
220 which a master lease-purchase agreement may contain under the
221 provisions of Section 31-7-10(5), and shall contain an annual
222 allocation dependency clause substantially similar to that set
223 forth in Section 31-7-10(8). Each agency or governing authority
224 entering into a lease-purchase transaction pursuant to this
225 paragraph (e) shall maintain with respect to each such
226 lease-purchase transaction the same information as required to be
227 maintained by the Department of Finance and Administration
228 pursuant to Section 31-7-10(13). However, nothing contained in
229 this section shall be construed to permit agencies to acquire
230 items of equipment with a total acquisition cost in the aggregate
231 of less than Ten Thousand Dollars (\$10,000.00) by a single
232 lease-purchase transaction. All equipment, and the purchase
233 thereof by any lessor, acquired by lease-purchase under this
234 paragraph and all lease-purchase payments with respect thereto
235 shall be exempt from all Mississippi sales, use and ad valorem
236 taxes. Interest paid on any lease-purchase agreement under this

237 section shall be exempt from State of Mississippi income taxation.

238 (f) When necessary to ensure ready availability of
239 commodities for public works and the timely completion of public
240 projects, no more than two (2) alternate bids may be accepted by a
241 governing authority for commodities. No purchases may be made
242 through use of such alternate bids procedure unless the lowest and
243 best bidder, for reasons beyond his control, cannot deliver the
244 commodities contained in his bid. In that event, purchases of
245 such commodities may be made from one (1) of the bidders whose bid
246 was accepted as an alternate.

247 (g) In the event a determination is made by an agency
248 or governing authority after a construction contract is let that
249 changes or modifications to the original contract are necessary or
250 would better serve the purpose of the agency or the governing
251 authority, such agency or governing authority may, in its
252 discretion, order such changes pertaining to the construction that
253 are necessary under the circumstances without the necessity of
254 further public bids; provided that such change shall be made in a
255 commercially reasonable manner and shall not be made to circumvent
256 the public purchasing statutes. In addition to any other
257 authorized person, the architect or engineer hired by an agency or
258 governing authority with respect to any public construction
259 contract shall have the authority, when granted by an agency or
260 governing authority, to authorize changes or modifications to the
261 original contract without the necessity of prior approval of the
262 agency or governing authority when any such change or modification
263 is less than one percent (1%) of the total contract amount. The
264 agency or governing authority may limit the number, manner or
265 frequency of such emergency changes or modifications.

266 (h) In the event any agency or governing authority
267 shall have advertised for bids for the purchase of gas, diesel
268 fuel, oils and other petroleum products and coal and no acceptable
269 bids can be obtained, such agency or governing authority is
270 authorized and directed to enter into any negotiations necessary

271 to secure the lowest and best contract available for the purchase
272 of such commodities.

273 (i) Any agency or governing authority authorized to
274 enter into contracts for the construction, maintenance, surfacing
275 or repair of highways, roads or streets, may include in its bid
276 proposal and contract documents a price adjustment clause with
277 relation to the cost to the contractor, including taxes, based
278 upon an industry-wide cost index, of petroleum products including
279 asphalt used in the performance or execution of the contract or in
280 the production or manufacture of materials for use in such
281 performance. Such industry-wide index shall be established and
282 published monthly by the State Department of Transportation with a
283 copy thereof to be mailed, upon request, to the clerks of the
284 governing authority of each municipality and the clerks of each
285 board of supervisors throughout the state. The price adjustment
286 clause shall be based on the cost of such petroleum products only
287 and shall not include any additional profit or overhead as part of
288 the adjustment. The bid proposals or document contract shall
289 contain the basis and methods of adjusting unit prices for the
290 change in the cost of such petroleum products.

291 (j) If the executive head of any agency of the state
292 shall determine that an emergency exists in regard to the purchase
293 of any commodities or repair contracts, so that the delay incident
294 to giving opportunity for competitive bidding would be detrimental
295 to the interests of the state, then the provisions herein for
296 competitive bidding shall not apply and the head of such agency
297 shall be authorized to make the purchase or repair. Total
298 purchases so made shall only be for the purpose of meeting needs
299 created by the emergency situation. In the event such executive
300 head is responsible to an agency board, at the meeting next
301 following the emergency purchase, documentation of the purchase,
302 including a description of the commodity purchased, the purchase
303 price thereof and the nature of the emergency shall be presented
304 to the board and placed on the minutes of the board of such

305 agency. The head of such agency shall, at the earliest possible
306 date following such emergency purchase, file with the Department
307 of Finance and Administration (i) a statement under oath
308 certifying the conditions and circumstances of the emergency, and
309 (ii) a certified copy of the appropriate minutes of the board of
310 such agency, if applicable.

311 (k) If the governing authority, or the governing
312 authority acting through its designee, shall determine that an
313 emergency exists in regard to the purchase of any commodities or
314 repair contracts, so that the delay incident to giving opportunity
315 for competitive bidding would be detrimental to the interest of
316 the governing authority, then the provisions herein for
317 competitive bidding shall not apply and any officer or agent of
318 such governing authority having general or special authority
319 therefor in making such purchase or repair shall approve the bill
320 presented therefor, and he shall certify in writing thereon from
321 whom such purchase was made, or with whom such a repair contract
322 was made. At the board meeting next following the emergency
323 purchase or repair contract, documentation of the purchase or
324 repair contract, including a description of the commodity
325 purchased, the price thereof and the nature of the emergency shall
326 be presented to the board and shall be placed on the minutes of
327 the board of such governing authority.

328 (l) The commissioners or board of trustees of any
329 hospital owned or owned and operated separately or jointly by one
330 or more counties, cities, towns, supervisors districts or election
331 districts, or combinations thereof, may contract with such lowest
332 and best bidder for the purchase or lease of any commodity under a
333 contract of purchase or lease-purchase agreement whose obligatory
334 terms do not exceed five (5) years. In addition to the authority
335 granted herein, the commissioners or board of trustees are
336 authorized to enter into contracts for the lease of equipment or
337 services, or both, which it considers necessary for the proper
338 care of patients if, in its opinion, it is not financially

339 feasible to purchase the necessary equipment or services. Any
340 such contract for the lease of equipment or services executed by
341 the commissioners or board shall not exceed a maximum of five (5)
342 years' duration and shall include a cancellation clause based on
343 unavailability of funds. If such cancellation clause is
344 exercised, there shall be no further liability on the part of the
345 lessee.

346 (m) Excepted from bid requirements are:

347 (i) Purchasing agreements, contracts and maximum
348 price regulations executed or approved by the Department of
349 Finance and Administration.

350 (ii) Repairs to equipment, when such repairs are
351 made by repair facilities in the private sector; however, engines,
352 transmissions, rear axles and/or other such components shall not
353 be included in this exemption when replaced as a complete unit
354 instead of being repaired and the need for such total component
355 replacement is known before disassembly of the component;
356 provided, however, that invoices identifying the equipment,
357 specific repairs made, parts identified by number and name,
358 supplies used in such repairs, and the number of hours of labor
359 and costs therefor shall be required for the payment for such
360 repairs.

361 (iii) Purchases of parts for repairs to equipment,
362 when such repairs are made by personnel of the agency or governing
363 authority; however, entire assemblies, such as engines or
364 transmissions, shall not be included in this exemption when the
365 entire assembly is being replaced instead of being repaired.

366 (iv) Raw unprocessed deposits of gravel or fill
367 dirt which are to be removed and transported by the purchaser.

368 (v) Motor vehicles or other equipment purchased
369 from a federal or state agency or a governing authority at a
370 public auction held for the purpose of disposing of such vehicles
371 or other equipment. Any purchase by a governing authority under
372 the exemption authorized by this paragraph (v) shall require

373 advance authorization spread upon the minutes of the governing
374 authority to include the listing of the item or items authorized
375 to be purchased and the maximum bid authorized to be paid for each
376 item or items.

377 (vi) Purchases, sales, transfers or trades by
378 governing authorities or state agencies when such purchases,
379 sales, transfers or trades are made by a private treaty agreement
380 or through means of negotiation, from any federal agency or
381 authority, another governing authority or state agency of the
382 State of Mississippi, or any state agency of another state.
383 Nothing in this section shall permit such purchases through public
384 auction except as provided for in paragraph (v) of this section.
385 It is the intent of this section to allow governmental entities to
386 dispose of and/or purchase commodities from other governmental
387 entities at a price that is agreed to by both parties. This shall
388 allow for purchases and/or sales at prices which may be determined
389 to be below the market value if the selling entity determines that
390 the sale at below market value is in the best interest of the
391 taxpayers of the state. Governing authorities shall place the
392 terms of the agreement and any justification on the minutes, and
393 state agencies shall obtain approval from the Department of
394 Finance and Administration, prior to releasing or taking
395 possession of the commodities.

396 (vii) Perishable supplies or foods purchased for
397 use in connection with hospitals, the school lunch programs,
398 homemaking programs and for the feeding of county or municipal
399 prisoners.

400 (viii) Noncompetitive items available from one (1)
401 source only.

402 (ix) Construction of incinerators and other
403 facilities for disposal of solid wastes in which products either
404 generated therein, such as steam, or recovered therefrom, such as
405 materials for recycling, are to be sold or otherwise disposed of;
406 provided, however, in constructing such facilities a governing

407 authority or agency shall publicly issue requests for proposals,
408 advertised for in the same manner as provided herein for seeking
409 bids for public construction projects, concerning the design,
410 construction, ownership, operation and/or maintenance of such
411 facilities, wherein such requests for proposals when issued shall
412 contain terms and conditions relating to price, financial
413 responsibility, technology, environmental compatibility, legal
414 responsibilities and such other matters as are determined by the
415 governing authority or agency to be appropriate for inclusion; and
416 after responses to the request for proposals have been duly
417 received, the governing authority or agency may select the most
418 qualified proposal or proposals on the basis of price, technology
419 and other relevant factors and from such proposals, but not
420 limited to the terms thereof, negotiate and enter contracts with
421 one or more of the persons or firms submitting proposals.

422 (x) Supplies, commodities and equipment purchased
423 by hospitals through group purchase programs pursuant to Section
424 31-7-38.

425 (xi) Purchases of data processing equipment made
426 by governing authorities under the provisions of purchase
427 agreements, contracts or maximum price regulations executed or
428 approved by the Mississippi Department of Information Technology
429 Services.

430 (xii) Energy efficiency services and equipment
431 acquired by school districts, junior colleges, institutions of
432 higher learning and state agencies or other applicable
433 governmental entities on a shared-savings, lease or lease-purchase
434 basis pursuant to Section 31-7-14.

435 (xiii) Purchases of contracts for fire insurance,
436 automobile insurance, casualty insurance, health insurance and
437 liability insurance by governing authorities or agencies.

438 (xiv) Purchases of coal and/or natural gas by
439 municipally-owned electric power generating systems that have the
440 capacity to use both coal and natural gas for the generation of

441 electric power.

442 (xv) Purchases by libraries or for libraries of
443 books and periodicals; processed film, video cassette tapes,
444 filmstrips and slides; recorded audio tapes, cassettes and
445 diskettes; and any such items as would be used for teaching,
446 research or other information distribution; however, equipment
447 such as projectors, recorders, audio or video equipment, and
448 monitor televisions are not exempt under this paragraph.

449 (xvi) Purchases of unmarked vehicles when such
450 purchases are made in accordance with purchasing regulations
451 adopted by the Department of Finance and Administration pursuant
452 to Section 31-7-9(2).

453 (xvii) Sales, transfers or trades of any personal
454 property between governing authorities within a county or any such
455 transaction involving governing authorities of two (2) or more
456 counties.

457 (xviii) Purchases of ballots printed pursuant to
458 Section 23-15-351.

459 (xix) From and after July 1, 1990, contracts by
460 Mississippi Authority for Educational Television with any private
461 educational institution or private nonprofit organization whose
462 purposes are educational in regard to the construction, purchase,
463 lease or lease-purchase of facilities and equipment and the
464 employment of personnel for providing multichannel interactive
465 video systems (ITSF) in the school districts of this state.

466 (xx) From and after January 1, 1991, purchases
467 made by state agencies involving any item that is manufactured,
468 processed, grown or produced from the state's prison industries.

469 (xxi) Purchases of surveillance equipment or any
470 other high-tech equipment to be used by narcotics agents in
471 undercover operations, provided that any such purchase shall be in
472 compliance with regulations established by the Department of
473 Finance and Administration.

474 (xxii) Purchases by community or junior colleges

475 of textbooks which are obtained for the purpose of renting such
476 books to students as part of a book service system.

477 (xxiii) Purchases of commodities made by school
478 districts from vendors with which any levying authority of the
479 school district, as defined in Section 37-57-1, has contracted
480 through competitive bidding procedures for purchases of the same
481 commodities.

482 (xxiv) Emergency purchases made by the Public
483 Employees' Retirement System pursuant to Section 25-11-15(7).

484 (xxv) Repealed.

485 (xxvi) Contracts for garbage collection or
486 disposal, contracts for solid waste collection or disposal and
487 contracts for sewage collection or disposal.

488 (xxvii) Professional maintenance program contracts
489 for the repair or maintenance of municipal water tanks, which
490 provide professional services needed to maintain municipal water
491 storage tanks for a fixed annual fee for a duration of two (2) or
492 more years.

493 (xxviii) Purchases made by state agencies
494 involving any item that is manufactured, processed or produced by
495 the Mississippi Industries for the Blind.

496 (xxix) Contracts for the leasing of heavy road
497 equipment for county road construction or maintenance awarded by
498 order of a board of supervisors pursuant to vendor quotes under
499 Section 65-7-95.

500 In connection with the purchase of noncompetitive items only
501 available from one (1) source, a certification of the conditions
502 and circumstances requiring the purchase shall be filed by the
503 agency with the Department of Finance and Administration and by
504 the governing authority with the board of the governing authority.

505 Upon receipt of such certification the Department of Finance and
506 Administration or the board of the governing authority, as the
507 case may be, may, in writing, authorize the purchase, which
508 authority shall be noted on the minutes of the body at the next

509 regular meeting thereafter. In such situations, a governing
510 authority is not required to obtain the approval of the Department
511 of Finance and Administration.

512 (n) (i) All contracts for the purchase of:

513 (A) Commodities, equipment and public
514 construction (including, but not limited to, repair and
515 maintenance), and

516 (B) Water lines, sewer lines, storm drains,
517 drainage ditches, asphalt milling, traffic striping, asphalt
518 overlay of streets, and curb and gutter (not to exceed One Hundred
519 Fifty Thousand Dollars (\$150,000.00) per project listed in this
520 item B) may be let for periods of not more than twenty-four (24)
521 months in advance, subject to applicable statutory provisions
522 prohibiting the letting of contracts during specified periods near
523 the end of terms of office.

524 (ii) All purchases made by governing authorities,
525 including purchases made pursuant to the provisions of
526 subparagraph (i) of this paragraph (n), may be made upon one (1)
527 purchase order issued per month to each individual vendor prior to
528 delivery of such commodities provided that each individual
529 delivery, load or shipment purchased is properly requisitioned and
530 is properly received and receipted by signed ticket, receipt or
531 invoice, indicating thereon the point of delivery, and provided
532 that, with respect to counties, such commodities are properly
533 accounted for by the receiving clerk or an assistant receiving
534 clerk as provided by Section 31-7-109. Such purchase order shall
535 be invalid on the first calendar day of the month immediately
536 following the month in which it was issued. Purchases in such
537 month immediately following may be made only if a purchase order
538 is issued for such month. Each monthly purchase order shall be
539 retained in the records of the governing authority. Agencies may
540 make purchases as authorized under this subparagraph (ii) in
541 accordance with such regulations, policies and procedures as are
542 promulgated by the Department of Finance and Administration.

543 (o) No contract or purchase as herein authorized shall
544 be made for the purpose of circumventing the provisions of this
545 section requiring competitive bids, nor shall it be lawful for any
546 person or concern to submit individual invoices for amounts within
547 those authorized for a contract or purchase where the actual value
548 of the contract or commodity purchased exceeds the authorized
549 amount and the invoices therefor are split so as to appear to be
550 authorized as purchases for which competitive bids are not
551 required. Submission of such invoices shall constitute a
552 misdemeanor punishable by a fine of not less than Five Hundred
553 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
554 or by imprisonment for thirty (30) days in the county jail, or
555 both such fine and imprisonment. In addition, the claim or claims
556 submitted shall be forfeited.

557 (p) When in response to a proper advertisement
558 therefor, no bid firm as to price is submitted to an electric
559 utility for power transformers, distribution transformers, power
560 breakers, reclosers or other articles containing a petroleum
561 product, the electric utility may accept the lowest and best bid
562 therefor although the price is not firm.

563 (q) The prohibitions and restrictions set forth in
564 Sections 19-11-27, 21-35-27 and 31-7-49 shall not apply to a
565 contract, lease or lease-purchase agreement entered pursuant to
566 the requirements of this chapter.

567 (r) For the purposes of this section, the term
568 "purchase" shall mean the total amount of money encumbered by a
569 single purchase order.

570 (s) Any governing authority or agency of the state
571 shall, before contracting for the services and products of a fuel
572 management or fuel access system, enter into negotiations with not
573 fewer than two (2) sellers of fuel management or fuel access
574 systems for competitive written bids to provide the services and
575 products for the systems. In the event that the governing
576 authority or agency cannot locate two (2) sellers of such systems

577 or cannot obtain bids from two (2) sellers of such systems, it
578 shall show proof that it made a diligent, good-faith effort to
579 locate and negotiate with two (2) sellers of such systems. Such
580 proof shall include, but not be limited to, publications of a
581 request for proposals and letters soliciting negotiations and
582 bids. For purposes of this paragraph (s), a fuel management or
583 fuel access system is an automated system of acquiring fuel for
584 vehicles as well as management reports detailing fuel use by
585 vehicles and drivers, and the term "competitive written bid" shall
586 have the meaning as defined in paragraph (b) of this section.

587 (t) Before entering into any contract for garbage
588 collection or disposal, contract for solid waste collection or
589 disposal or contract for sewage collection or disposal, which
590 involves an expenditure of more than Fifty Thousand Dollars
591 (\$50,000.00), a governing authority or agency shall issue publicly
592 a request for proposals concerning the specifications for such
593 services which shall be advertised for in the same manner as
594 provided in this section for seeking bids for purchases which
595 involve an expenditure of more than Ten Thousand Dollars
596 (\$10,000.00). Any request for proposals when issued shall contain
597 terms and conditions relating to price, financial responsibility,
598 technology, legal responsibilities and other relevant factors as
599 are determined by the governing authority or agency to be
600 appropriate for inclusion; all factors determined relevant by the
601 governing authority or agency or required by this paragraph (t)
602 shall be duly included in the advertisement to elicit proposals.
603 After responses to the request for proposals have been duly
604 received, the governing authority or agency shall select the most
605 qualified proposal or proposals on the basis of price, technology
606 and other relevant factors and from such proposals, but not
607 limited to the terms thereof, negotiate and enter contracts with
608 one or more of the persons or firms submitting proposals. If the
609 governing authority or agency deems none of the proposals to be
610 qualified or otherwise acceptable, the request for proposals

611 process may be reinitiated.

612 (u) Notwithstanding any provision of this section to
613 the contrary, any agency or governing authority, by order placed
614 on its minutes, may, in its discretion, set aside not more than
615 twenty percent (20%) of its anticipated annual expenditures for
616 the purchase of commodities from minority businesses; however, all
617 such set-aside purchases shall comply with all purchasing
618 regulations promulgated by the Department of Finance and
619 Administration and shall be subject to bid requirements under this
620 section. Set-aside purchases for which competitive bids are
621 required shall be made from the lowest and best minority business
622 bidder. For the purposes of this paragraph, the term "minority
623 business" means a business which is owned by a majority of persons
624 who are United States citizens or permanent resident aliens (as
625 defined by the Immigration and Naturalization Service) of the
626 United States, and who are Asian, Black, Hispanic or Native
627 American, according to the following definitions:

628 (i) "Asian" means persons having origins in any of
629 the original people of the Far East, Southeast Asia, the Indian
630 subcontinent, or the Pacific Islands.

631 (ii) "Black" means persons having origins in any
632 black racial group of Africa.

633 (iii) "Hispanic" means persons of Spanish or
634 Portuguese culture with origins in Mexico, South or Central
635 America, or the Caribbean Islands, regardless of race.

636 (iv) "Native American" means persons having
637 origins in any of the original people of North America, including
638 American Indians, Eskimos and Aleuts.

639 (v) The architect, engineer or other
640 representative designated by the agency or governing authority
641 that is contracting for public construction or renovation may
642 prepare and submit to the contractor only one (1) preliminary
643 punch list of items that do not meet the contract requirements at
644 the time of substantial completion and one (1) final list

645 immediately before final completion and final payment.

646 (w) Nothing in this section shall be construed as
647 authorizing any purchase not authorized by law.

648 SECTION 3. This act shall take effect and be in force from
649 and after its passage.