

House Bill 259 (AS PASSED HOUSE AND SENATE)

By: Representatives Rogers of the 10th, Dickey of the 140th, Coomer of the 14th, Nimmer of the 178th, Hatchett of the 150th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,
2 relating to state purchasing, so as to provide an exemption from competitive bidding
3 procedures; to increase the exemption threshold for competitive bidding procedures; to
4 change a short title; to change a definition relative to small business assistance; to revise
5 legislative intent; to provide for a short title; to provide for applicability; to provide for an
6 effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the 'Georgia Business Act.'

10 **SECTION 2.**

11 Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to state
12 purchasing, is amended in Part 1, relating to general authority, duties, and procedure, by
13 revising paragraph (1) of subsection (b) of Code Section 50-5-67, relating to the competitive
14 bidding procedure for state purchases, as follows:

15 "(b)(1) Except as otherwise provided for in this part, all contracts for the ~~purchases~~
16 purchase of supplies, materials, equipment, or services made under this part, other than
17 professional and personal employment services ~~made under this part~~ or the purchase of
18 new automobiles manufactured by a company that constructs or assembles within this
19 state any light duty motor vehicle with a gross vehicle weight rating of under 12,500
20 pounds, shall, wherever possible, be based upon competitive bids and shall be awarded
21 to the lowest responsible bidder, taking into consideration the quality of the articles to be
22 supplied and conformity with the specifications which have been established and
23 prescribed, the purposes for which the articles are required, the discount allowed for
24 prompt payment, the transportation charges, and the date or dates of delivery specified
25 in the bid and any other cost affecting the total cost of ownership during the life cycle of

26 the supplies, materials, equipment, or services as specified in the solicitation document.
 27 Competitive bids on such contracts shall be received in accordance with rules and
 28 regulations to be adopted by the commissioner of administrative services which shall
 29 prescribe, among other things, the manner, time, and places for proper advertisement for
 30 the bids, indicating the time and place when the bids will be received; the article for
 31 which the bid shall be submitted and the specification prescribed for the article; the
 32 amount or number of the articles desired and for which the bids are to be made; and the
 33 amount, if any, of bonds or certified checks to accompany the bids. Any and all bids so
 34 received may be rejected."

35 **SECTION 3.**

36 Said article is further amended in said part by revising subsection (a) of Code Section
 37 50-5-69, relating to purchases without competitive bidding, as follows:

38 "(a) If the needed supplies, materials, equipment, or service can reasonably be expected
 39 to be acquired for less than ~~\$5,000.00~~ \$25,000.00 and is not available on state contracts or
 40 through statutorily required sources, the purchase may be effectuated without competitive
 41 bidding. The commissioner of administrative services may by rule and regulation authorize
 42 the various offices, agencies, departments, boards, bureaus, commissions, institutions,
 43 authorities, or other entities of the state to make purchases in their own behalf and may
 44 provide the circumstances and conditions under which such purchases may be effected.
 45 In order to assist and advise the commissioner of administrative services in making
 46 determinations to allow offices, agencies, departments, boards, bureaus, commissions,
 47 institutions, authorities, or other entities of the state to make purchases in their own behalf,
 48 there is created a Purchasing Advisory Council consisting of the executive director of the
 49 Georgia Technology Authority or his or her designee; the director of the Office of Planning
 50 and Budget or his or her designee; the chancellor of the University System of Georgia or
 51 his or her designee; the commissioner of the Technical College System of Georgia or his
 52 or her designee; the commissioner of transportation or his or her designee; the Secretary
 53 of State or his or her designee; the commissioner of human services or his or her designee;
 54 the commissioner of community health or his or her designee; the commissioner of public
 55 health or his or her designee; the commissioner of behavioral health and developmental
 56 disabilities or his or her designee; and one member to be appointed by the Governor. The
 57 commissioner of administrative services shall promulgate the necessary rules and
 58 regulations governing meetings of such council and the method and manner in which such
 59 council will assist and advise the commissioner of administrative services."

60 **SECTION 4.**

61 Said article is further amended in Part 3, relating to small business assistance, by revising
62 Code Section 50-5-120, relating to a short title, as follows:

63 "50-5-120.

64 This part shall be known and may be cited as 'The Small Business Assistance Act of ~~2012~~
65 2015."

66 **SECTION 5.**

67 Said article is further amended in said part by revising Code Section 50-5-121, relating to
68 definitions relative to small business assistance, as follows:

69 "50-5-121.

70 For the purposes of this part, the term:

71 (1) 'Department' means the Department of Administrative Services.

72 (2) 'Georgia resident business' means any business that regularly maintains a place from
73 which business is physically conducted in Georgia for at least one year prior to any bid
74 or proposal to the state or a new business that is domiciled in Georgia and which
75 regularly maintains a place from which business is physically conducted in Georgia;
76 provided, however, that a place from which business is conducted shall not include a post
77 office box, a leased private mailbox, site trailer, or temporary structure.

78 (3) 'Small business' means a ~~Georgia resident~~ business which is independently owned
79 and operated. In addition, such business must have either fewer than 300 employees or
80 less than \$30 million in gross receipts per year."

81 **SECTION 6.**

82 Said article is further amended in said part by revising Code Section 50-5-122, relating to
83 legislative intent, as follows:

84 "50-5-122.

85 (a) The legislative intent of this part is declared to be as follows: The most important
86 element of the American economic system of private enterprise is free and vigorous
87 competition. Only through the existence of free and vigorous competition can free entry
88 into business and opportunities for personal initiative and individual achievement be
89 assured. The preservation and expansion of such competition is essential for our economic
90 well-being. In order to encourage such competition it is the declared policy of the state to
91 ensure that a fair proportion of the total purchases and contracts or subcontracts for
92 property, commodities, and services for the state be placed with Georgia resident
93 businesses and small businesses so long as the commodities and services of small
94 businesses are competitive as to price and quality.

95 (b) The department shall be authorized to effectuate the legislative intent as set forth in this
96 Code section."

97 **SECTION 7.**

98 The amendment made by Section 3 of this Act shall apply to Code Section 50-5-69 as it
99 exists on July 1, 2015.

100 **SECTION 8.**

101 This Act shall become effective on July 1, 2015.

102 **SECTION 9.**

103 All laws and parts of laws in conflict with this Act are repealed.