

House Bill 953 (AS PASSED HOUSE AND SENATE)

By: Representatives Rich of the 97th, Williamson of the 115th, Welch of the 110th, Watson of the 172nd, and Jones of the 25th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to the
2 Department of Administrative Services, so as to provide new authority for the department
3 to enter into or authorize agreements with cooperative purchasing organizations; to provide
4 that certain terms in particular types of state contracts shall be void and unenforceable and
5 should not be included in such agreements; to require the Department of Administrative
6 Services to provide such information on its website; to specify that bids, offers, or proposals
7 and registers thereof shall be subject to the public disclosure provisions of Article 4 of
8 Chapter 18 of Title 50, relating to open records; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to the Department
13 of Administrative Services, is amended in Code Section 50-5-51, relating to power, authority,
14 and duty of department, by revising paragraph (9) as follows:

15 "(9) To enter into or authorize agreements with ~~private nonprofit~~ cooperative purchasing
16 organizations or other states and their political subdivisions to effectuate the purposes and
17 policies of this chapter;"

18 style="text-align:center">**SECTION 2.**

19 Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,
20 relating to the general authority, duties, and procedure of state purchasing, is amended by
21 adding a new Code section to read as follows:

22 "50-5-64.1.

23 (a) A contract entered into pursuant to this part shall not contain a term that:

24 (1) Requires the state or any agency, authority, board, bureau, commission, department,
25 institution, or any other entity thereof to:

- 26 (A) Defend, indemnify, or hold harmless another person; or
 27 (B) Be bound by terms and conditions that are unknown at the time of signing such
 28 contract or which may be unilaterally changed by the other party;
 29 (2) Provides for:
 30 (A) A person other than the Attorney General to serve as legal counsel for the state or
 31 for any agency, authority, board, bureau, commission, department, institution, or any
 32 other entity thereof;
 33 (B) A venue for any action or dispute other than the Superior Court of Fulton County,
 34 Georgia, as provided in Code Section 50-21-1;
 35 (C) The contract to be construed in accordance with the laws of a state other than the
 36 State of Georgia;
 37 (D) Binding arbitration; or
 38 (E) An automatic renewal such that state funds are or would be obligated in subsequent
 39 fiscal years; or
 40 (3) Is inconsistent with the provisions of Article 4 of Chapter 18 of this title, relating to
 41 open records.
 42 (b) If a contract entered into pursuant to this part contains a term prohibited under
 43 subsection (a) of this Code section, such term shall be void, and the contract shall be
 44 otherwise enforceable as if it did not contain such term.
 45 (c) The Department of Administrative Services shall maintain a copy of this Code section
 46 on its website."

47 SECTION 3.

48 Said part is further amended by revising paragraph (4) of subsection (d) of Code Section
 49 50-5-67, relating to the competitive bidding procedure, method of soliciting bids, required
 50 conditions for competitive sealed proposals, clarification, contract awards, negotiation of
 51 contracts, certificate of independent price determination, and receiving electronic bids, as
 52 follows:

53 "(4) The Department of Administrative Services shall canvass the bids, offers, or
 54 proposals and award the contract according to the terms of this part. The Department of
 55 Administrative Services shall prepare a register of bids, offers, or proposals which ~~will~~
 56 shall become available for public inspection ~~upon request within one day, in accordance~~
 57 with Article 4 of Chapter 18 of this title, relating to open records, after the issuance of the
 58 department's public notice of intent to award to the successful bidder or offeror. The
 59 bids, offers, or proposals shall not be subject to public disclosure, in accordance with
 60 Article 4 of Chapter 18 of this title, relating to open records, until after the issuance of the
 61 public notice of intent to award a contract to the successful bidder or offeror except that

62 audited financial statements not otherwise publicly available but required to be submitted
63 in the bid, offer, or proposal shall not be subject to such public disclosure."

64 **SECTION 4.**

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