

House Bill 137 (AS PASSED HOUSE AND SENATE)

By: Representatives Anderson of the 10th, Lumsden of the 12th, Hawkins of the 27th, Yearta of the 152nd, Leverett of the 123rd, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to
2 contracts for public works, so as to increase the dollar value of certain public works contracts
3 exempt from provisions relating to retention of contractual payments; to amend Article 10
4 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to contracts and
5 purchases by public schools, so as to increase the dollar value trigger of certain
6 considerations related to in-state purchasing preferences for certain contracts and purchases;
7 to amend Article 11 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
8 relating to public school property and facilities, so as to increase the dollar value related to
9 when certain school construction contracts must be subject to competitive bidding; to amend
10 Chapter 4 of Title 32 of the Official Code of Georgia Annotated, relating to state, county, and
11 municipal road systems, so as increase the dollar value of certain contracts counties and
12 municipalities are prohibited from negotiating; to amend Chapter 91 of Title 36 of the
13 Official Code of Georgia Annotated, relating to public works bidding, so as to increase the
14 dollar values of certain public works construction contracts exempt from bidding
15 requirements; to amend Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of
16 Georgia Annotated, relating to general authority, duties, and procedure for state purchasing,
17 so as to increase the dollar value related to when construction or public works contracts must

be conducted and negotiated by the Department of Administrative Services; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to contracts for public works, is amended in Code Section 13-10-80, relating to definitions, contract requirements, application, effect of greater benefits contracted for, and evidence of indebtedness paid, by revising subsection (c) as follows:

"(c) This Code section shall not apply to:

(1) Any contracts let by the Department of Transportation of this state for the construction, improvement, or maintenance of roads or highways in this state or purposes incidental thereto; or

(2) Any contracts whose value or duration at the time of the award does not exceed ~~\$150,000.00~~ \$250,000.00 or 45 days in duration."

SECTION 2.

Article 10 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to contracts and purchases by public schools, is amended in Code Section 20-2-500, relating to contracts for purchases authorized of certain supplies, materials, equipment, or agricultural products to give preference to in-state manufacturers or producers, purchases over \$100,000.00, and vendor preferences, by revising subsection (a) as follows:

"(a)(1) Local boards of education shall provide that contracts for or purchases of supplies, materials, equipment, or agricultural products, including but not limited to school buses but not including instructional materials or beverages for immediate consumption, for public elementary and secondary schools supported in whole or in part

from public funds shall give preference as far as may be reasonable and practicable to such supplies, materials, equipment, and agricultural products as may be manufactured or produced in this state. Such preference shall not sacrifice quality.

(2) Local boards of education shall provide that, in determining whether such a preference is reasonable in any case where the value of a contract for or purchase of such supplies, materials, equipment, or agricultural products exceeds ~~\$100,000.00~~ \$250,000.00, the local school district shall consider, among other factors, information submitted by the bidder which may include the bidder's estimate of the multiplier effect on gross state domestic product and the effect on public revenues of the state and the effect on public revenues of political subdivisions resulting from acceptance of a bid or offer to sell Georgia manufactured or produced goods as opposed to out-of-state manufactured or produced goods. Any such estimates shall be in writing. No local school district shall divide a contract or purchase which exceeds ~~\$100,000.00~~ \$250,000.00 for the purpose of avoiding the requirements of this paragraph."

SECTION 3.

Article 11 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to public school property and facilities, is amended in Code Section 20-2-520, relating to acquiring and disposing of school sites and building, repairing, renting, and furnishing schoolhouses, by revising subsection (a) as follows:

"(a) The county boards of education shall have the power to purchase, lease, or rent school sites; build, repair, or rent schoolhouses; purchase maps, globes, and school furniture; and make all arrangements necessary to the efficient operation of the schools. Such county boards are invested with the title, care, and custody of all schoolhouses or other property, with the power to control such property in such manner as they think will best serve the interests of the public schools; and when, in the opinion of the county board, any schoolhouse site has become unnecessary or inconvenient, they may sell it in the name of

the county board; and the conveyance for any such sale shall be executed by the president or secretary of the county board, according to the order of the county board. Such county boards shall have the power to receive any gift, grant, donation, or devise made for the use of the public schools within the respective counties; and all conveyances of real estate which may be made to such a county board shall vest the property in such county board and its successors in office. Such county board may provide for the building of schoolhouses by a tax on all property located in the county and outside the territorial limits of any independent school system. The construction of all public school buildings must be approved by the county school superintendent and county board and must be according to the plans furnished by the county school authorities and the State Board of Education. All public school construction contracts in excess of ~~\$100,000.00~~ \$250,000.00 shall be publicly advertised and awarded through an open and competitive process, regardless of the funding source."

SECTION 4.

Chapter 4 of Title 32 of the Official Code of Georgia Annotated, relating to state, county, and municipal road systems, is amended revising Code Section 32-4-63, relating to limitations on power to contract and at least two estimates required for certain expenditures, as follows: "32-4-63.

(a) A county is prohibited from negotiating a contract except a contract:

(1) Involving the expenditure of less than ~~\$200,000.00~~ \$250,000.00;

(2) With a state agency or county or municipality with which a county is authorized to contract in accordance with the provisions of Code Sections 32-4-61 and 32-4-62;

(3) For the purchase of those materials, supplies, and equipment necessary for the county's construction and maintenance of its public roads and for the support and maintenance of the county's forces used in such work, as authorized by Chapter 91 of Title 36;

(4) Subject to Article 6 of Chapter 6 of this title, with a railroad or railway company or a publicly or privately owned utility concerning relocation of its line, tracks, or facilities where the same are not then located in a public road and such relocation or grade-crossing elimination is necessary as an incident to the construction of a new public road or to the reconstruction or maintenance of an existing public road. Nothing contained in this paragraph shall be construed as requiring a county to furnish a site or right of way for railroad or railway lines or tracks of public utility facilities required to be removed from a public road;

(5) For engineering or other kinds of professional or specialized services;

(6) For emergency maintenance requiring immediate repairs to a public road, including but not limited to bridge repairs, snow and ice removal, and repairs due to flood conditions;

(7) Otherwise expressly authorized by law; or

(8) That is a design-build contract as provided for in Code Section 32-4-74.

(b) No contract involving an expenditure of more than \$20,000.00 but less than ~~\$200,000.00~~ \$250,000.00 shall be awarded under this Code section without the submission of at least two estimates."

SECTION 5.

Said chapter is further amended by revising Code Section 32-4-113, relating to limitations on power to contract and at least two estimates required for certain expenditures, as follows:

"32-4-113.

(a) A municipality is prohibited from negotiating a contract except a contract:

(1) Involving the expenditure of less than ~~\$200,000.00~~ \$250,000.00;

(2) With a state agency or political subdivision as authorized by Code Sections 32-4-111 and 32-4-112;

(3) With a railroad or railway company or a publicly or privately owned utility as authorized by Article 6 of Chapter 6 of this title;

(4) For engineering or other kinds of professional or specialized services;

(5) For emergency maintenance requiring immediate repairs to a public road, including but not limited to bridge repairs, snow and ice removal, and repairs due to flood conditions; or

(6) Otherwise expressly authorized by law.

(b) No contract involving an expenditure of more than \$20,000.00 but less than ~~\$200,000.00~~ \$250,000.00 shall be awarded under this Code section without the submission of at least two estimates."

SECTION 6.

Chapter 91 of Title 36 of the Official Code of Georgia Annotated, relating to public works bidding, is amended in Code Section 36-91-22, relating to exceptions, use of inmate labor, and emergency situations, by revising subsections (a) and (g) as follows:

"(a) The requirements of this chapter shall not apply to public works construction projects, when the same can be performed at a cost of less than ~~\$100,000.00~~ \$250,000.00. Public works construction projects shall not be subdivided in an effort to evade the provisions of this chapter."

"(g) The requirements of this chapter shall not apply to public works construction projects or any portion of a public works construction project self-performed by a governmental entity. If the governmental entity contracts with a private person or entity for a portion of such project, the provisions of this chapter shall apply to any such contract estimated to exceed ~~\$100,000.00~~ \$250,000.00."

SECTION 7.

Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to general authority, duties, and procedure for state purchasing, is amended in Code Section 50-5-72, relating to construction and public works contracts conducted by department, advertising costs, and exceptions, by revising subsection (a) as follows:

"(a) Notwithstanding any other provision of this part or any other law dealing with the subject matter contained in this Code section to the contrary, all construction or public works contracts, exceeding a total expenditure of ~~\$100,000.00~~ \$250,000.00, of any department, board, bureau, commission, office, or agency of the state government, except as provided in this Code section, shall be conducted and negotiated by the Department of Administrative Services in accordance with this part; provided, however, that any expenditure of less than ~~\$100,000.00~~ \$250,000.00 shall still be subject to review and approval by the Department of Administrative Services, which may approve noncompetitive expenditures of up to ~~\$100,000.00~~ \$250,000.00."

SECTION 8.

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