

House Bill 1326

By: Representatives Murphy of the 97<sup>th</sup>, Howard of the 98<sup>th</sup>, Warren of the 99<sup>th</sup>, Harbin of the 80<sup>th</sup>, and Lord of the 103<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 4 of Title 50 of the Official Code of Georgia Annotated, relating to  
2 organization of the executive branch of state government, so as to revise provisions relating  
3 to governmental privatization contracts; to provide for the invalidity of contracts entered into  
4 without compliance; to provide for an emergency exception and the circumstances under  
5 which such exception shall apply; to provide for related matters; to provide an effective date;  
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 4 of Title 50 of the Official Code of Georgia Annotated, relating to organization of  
10 the executive branch of state government, is amended by striking Code Section 50-4-5,  
11 relating to notice of privatization contracts, and Code Section 50-4-6, relating to other  
12 requirements for privatization contracts, and inserting in their place new Code sections to  
13 read as follows:

14 "50-4-5.

15 (a) As used in this Code section, the term:

16 (1) 'Institution' means any physical facility operated by the executive branch of state  
17 government which is used in the delivery of any governmental services and which has an  
18 annual operating budget in excess of \$1 million.

19 (2) 'Program' means any program operated by the executive branch of state government  
20 at a cost in excess of \$5 million per year.

21 (b) Before any department, agency, authority, or other unit of the executive branch enters  
22 into any contract to privatize the operation of any institution or program, the department,  
23 agency, authority, or other unit shall give written notice of the proposed privatization to the  
24 President of the Senate, the Speaker of the House, and the appropriate legislative overview  
25 committee, if any. Such notice shall be given at least 60 days prior to entering into the  
26 contract to privatize the operation of the institution or program.

1 (c) This Code section shall not apply with respect to any privatization effort begun prior  
2 to July 1, 1997, or to the renewal of any contract or agreement for the privatization of an  
3 institution or program.

4 (d)(1) The provisions of this Code section shall be mandatory and binding with respect  
5 to its subject matter. Any contract entered into in violation of this Code section shall be  
6 void in its entirety. The only exceptions to this Code section shall be the exception  
7 specified in subsection (c) and an emergency exception as provided in this subsection.

8 (2) The emergency exception specified in this subsection shall apply only if there exists  
9 an imminent peril to person or property which can be avoided only through  
10 noncompliance with this Code section; and in order for this exception to apply the  
11 Governor must by executive order make a prior written finding to such effect. Such  
12 executive order shall recite with particularity the specific facts of such imminent peril,  
13 such as, for example: (A) a specific substantial likelihood that specific persons will suffer  
14 adverse risks to their health or physical safety if the contract is not entered into without  
15 compliance; or (B) a specific substantial likelihood that specific property of the state or  
16 specific persons will be damaged or lost if the contract is not entered into without  
17 compliance.

18 50-4-6.

19 (a) As used in this Code section, the term 'institution' means any physical facility operated  
20 by the executive branch of state government which is used in the delivery of any  
21 governmental services and which has an annual operating budget in excess of \$1 million.

22 (b) No contract between a state agency and a private provider or vendor for the operation  
23 of all or part of an institution under the control of the agency shall be entered into unless  
24 it is preceded by a feasibility study which makes the following findings:

25 (1) That the state employees who are employed in the operation of the institution prior  
26 to the transfer of operation to the private provider or vendor will have a reasonable  
27 opportunity to apply for continued employment either with the state or with the private  
28 provider or vendor; or

29 (2) That any state employees who are displaced or discharged from employment as a  
30 result of the transfer of operation to the private provider or vendor will be eligible for  
31 participation in an employment assistance program to be implemented by the state and  
32 coordinated by the Department of Labor and which shall be designed to assist such  
33 persons in securing other employment. The program shall include such educational  
34 programs, vocational skills programs, apprenticeship training programs, on-the-job  
35 training programs, job search and job development programs, and other occupational

1 training or retraining programs as are determined by the Department of Labor to best  
2 promote the goals of employability and employment of such persons.

3 (c) The provisions of this Code section shall be mandatory and binding with respect to its  
4 subject matter. Any contract entered into in violation of this Code section shall be void in  
5 its entirety. The only exception to this Code section shall be an emergency exception as  
6 provided in this subsection. The emergency exception specified in this subsection shall  
7 apply only if there exists an imminent peril to person or property which can be avoided  
8 only through noncompliance with this Code section; and in order for this exception to  
9 apply the Governor must by executive order make a prior written finding to such effect.  
10 Such executive order shall recite with particularity the specific facts of such imminent  
11 peril, such as, for example: (1) a specific substantial likelihood that specific persons will  
12 suffer adverse risks to their health or physical safety if the contract is not entered into  
13 without compliance; or (2) a specific substantial likelihood that specific property of the  
14 state or specific persons will be damaged, destroyed, or lost if the contract is not entered  
15 into without compliance."

16 **SECTION 2.**

17 This Act shall become effective upon its approval by the Governor or upon its becoming law  
18 without such approval.

19 **SECTION 3.**

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