

House Bill 1644

By: Representatives Smith of the 13th, Post 2, Barnes of the 84th, Post 2, Wix of the 33rd, Post 1, Stoner of the 34th, Post 1, and Noel of the 44th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges,
2 and ferries, so as to provide for an exception for design-build on the limitations on the power
3 of the department to contract; to provide for the development of design-build procedures for
4 the construction of any public road or other transportation purpose project; to define a term;
5 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,
10 is amended by striking paragraph (1) of subsection (d) of Code Section 32-2-61, relating to
11 limitations on power to contract, in its entirety and inserting in its place the following:

12 "(d)(1) The department is prohibited from negotiating any contract for the construction
13 or maintenance of a public road involving the expenditure of \$50,000.00 or more except
14 any contract:

15 (A) With counties, municipalities, and state agencies, provided that such negotiated
16 contract shall be made at the average bid price of the same kind of work let to contract
17 after advertisement during a period of 60 days prior to the making of the contract;

18 (B) With a railroad company or utility concerning relocation of its tracks or facilities
19 where the same are not then located on a public road and such relocation is necessary
20 as an incident to the construction or improvement of a public road. However, nothing
21 contained in this subsection shall be construed as requiring the department to furnish
22 a site or right of way for railroad or railway lines or tracks or utility facilities required
23 to be removed from a public road. Furthermore, this subsection shall not prevent the
24 department from assisting in the removal and relocation of publicly owned utilities
25 from locations on public roads as provided in Code Section 32-6-170;

1 (C) For emergency construction or maintenance involving the expenditure of
 2 \$50,000.00 or more when the public interest requires that the work be done without the
 3 delay of advertising for public bids;

4 (D) For the procurement of business, professional, or other services from any person,
 5 firm, or corporation as an independent contractor; ~~or~~

6 (E) With the State Road and Tollway Authority; or

7 (F) Through the provisions of a design-build contract as provided for in Code Section
 8 32-2-81."

9 SECTION 2.

10 Said title is further amended by adding a new Code Section 32-2-81 to read as follows:

11 "32-2-81.

12 (a) As used in this Code section, the term 'design-build procedure' means a method of
 13 contracting under which the department contracts with another party for the party to both
 14 design and build the structures, facilities, and other items specified in the contract.

15 (b) When the department determines that it is in the best interests of the public, the
 16 department may combine any or all of the environmental services, right of way services,
 17 design services, and construction phases of a public road or other transportation purpose
 18 project into a single contract using a design-build procedure. Design-build contracts may
 19 be advertised and awarded notwithstanding the requirements of paragraph (1) of subsection
 20 (d) of Code Section 32-2-61. However, construction activities may not begin on any
 21 portion of such projects until title to the necessary rights of way and easements for the
 22 construction of that portion of the project has vested in the state or a local governmental
 23 entity and all railroad crossing and utility agreements have been executed.

24 (c) The department shall adopt by rule procedures for administering design-build contracts.
 25 Such procedures shall include, but not be limited to:

26 (1) Prequalification requirements;

27 (2) Public advertisement procedures;

28 (3) Scope of service requirements;

29 (4) Letters of interest requirements;

30 (5) Request for proposals;

31 (6) Criteria for evaluating technical information and project costs;

32 (7) Criteria for selection and award process; and

33 (8) Criteria for resolution of contract issues.

34 (d) The department must receive at least three letters of interest in order to proceed with
 35 a request for proposals. The department shall request proposals from no fewer than three
 36 of the design-build firms submitting letters of interest. If a design-build firm withdraws

1 from consideration after the department requests proposals, the department may continue
2 if at least two proposals are received.

3 (e) The department may use the design-build procedure for projects where:

4 (1) The construction activities are highly specialized and a design-build approach is
5 critical in developing the construction methodology;

6 (2) The projects selected provide opportunity for greater innovation and efficiencies
7 between the designer and the contractor; or

8 (3) Significant savings in project delivery time or cost would be realized."

9 **SECTION 3.**

10 This Act shall become effective on July 1, 2004.

11 **SECTION 4.**

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