

House Bill 1326 (COMMITTEE SUBSTITUTE)

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 general organization of the executive branch of state government, so as to change provisions  
3 relating to requirements for certain privatization contracts; to change provisions for required  
4 notice; to require a competitive bidding or proposal process for such contracts; to provide for  
5 the invalidity of contracts entered into without compliance; to provide for emergency  
6 exceptions; to provide an effective date and applicability; to provide for related matters; to  
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

15 "50-4-5.

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

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

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

22 (b) Before any department, agency, authority, or other unit of the executive branch enters  
23 into any contract to privatize the operation of any institution or program, the department,  
24 agency, authority, or other unit shall give written notice of the proposed privatization to the  
25 President of the Senate, the Speaker of the House, and the appropriate legislative overview

1 committee, if any. Such notice shall be given at least 60 days prior to entering into the  
2 contract to privatize the operation of the institution or program.

3 (c) This Code section shall not apply with respect to any privatization effort begun prior  
4 to July 1, ~~1997~~ 2004, or to the renewal of any contract or agreement for the privatization  
5 of an institution or program.

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

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

20 50-4-6.

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

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

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

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

1 training programs, job search and job development programs, and other occupational  
 2 training or retraining programs as are determined by the Department of Labor to best  
 3 promote the goals of employability and employment of such persons.

4 (c) No contract between a state agency and a private provider or vendor for the operation  
 5 of all or part of an institution under the control of the agency shall be entered into unless  
 6 it is publicly advertised and:

7 (1) Competitively bid; or

8 (2) Subject to a competitive request for proposals process.

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

## 22 SECTION 2.

23 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 24 without such approval and shall apply with respect to contracts entered into on or after that  
 25 date.

## 26 SECTION 3.

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