

Senate Bill 169

By: Senators Rogers of the 21st, Pearson of the 51st, Seabaugh of the 28th, Cagle of the 49th, Schaefer of the 50th 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 prohibit any department, agency, or instrumentality of  
3 the state or any political subdivision of the state from entering into a contract for the  
4 performance of services within the State of Georgia unless the contract provides that only  
5 persons who are citizens or nationals of the United States shall perform the services under  
6 the contract or any subcontract thereunder; to provide for certain provisions to be included  
7 in any such contracts; to prohibit retaliation against a party filing a complaint for violation  
8 of these provisions; to provide for administrative complaints; to provide for judicial review;  
9 to provide for related matters; to provide an effective date; to provide for applicability; to  
10 repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to contracts for  
14 public works, is amended by adding a new article to read as follows:

15 style="text-align:center">"ARTICLE 3

16 13-10-90.

17 (a) As used in this article, the term 'services' means any work performed by an independent  
18 contractor wherein the service rendered does not consist primarily of acquisition of  
19 equipment or materials or the rental of equipment, materials, or supplies.

20 (b) No department, agency, or instrumentality of the state or a political subdivision of the  
21 state shall enter into a contract for the performance of services within the State of Georgia  
22 unless the contract provides that only persons who are citizens or nationals of the United  
23 States or noncitizens authorized under federal immigration law to perform such services  
24 shall perform the services under the contract or any subcontract thereunder.

1 (c) Every contract for the performance of services defined in subsection (a) of this Code  
2 section shall include the following provisions:

3 During the performance of this contract, the contractor agrees to:

4 (1) Post or make readily available to employees and applicants for employment and state  
5 in all solicitations for employees or subcontractors placed by or on behalf of the  
6 contractor a statement that only persons who are citizens or nationals of the United States  
7 or noncitizens authorized under federal immigration law to perform such service may  
8 perform the services under the contract; and

9 (2) Include the provisions contained in the foregoing paragraph in every subcontract for  
10 services thereunder, so that the provisions will be binding upon each subcontractor.

11 (d)(1) No contractor that holds or has been awarded a contract to provide services  
12 defined in subsection (a) of this Code section may retaliate against or take any adverse  
13 action against any employee or any subcontractor thereunder for reporting, or attempting  
14 to report, a violation of this Code section to the contracting agency.

15 (2) This Code section shall be enforced without regard to race, religion, gender,  
16 ethnicity, or national origin.

17 (e)(1) Any person aggrieved by a failure by any agency or by a contractor of such agency  
18 to comply with a requirement of this Code section may file a written administrative  
19 complaint with the agency. The agency shall issue a final written administrative response  
20 to each complaint.

21 (2) Any person described in paragraph (1) of this subsection who is aggrieved by a final  
22 administrative action taken thereunder may, within 60 days after the date of receipt of the  
23 final written agency response to such person's complaint, seek relief from any superior  
24 court in Georgia having jurisdiction of the matter to remedy the failure giving rise to his  
25 or her complaint, including mandamus, injunctive relief, and attorney fees and costs."

## 26 SECTION 2.

27 This Act shall become effective on July 1, 2005, and shall be applicable to all contracts  
28 executed on or after that date.

## 29 SECTION 3.

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