

House Bill 155 (AS PASSED HOUSE AND SENATE)

By: Representatives Ehrhart of the 36th, Heard of the 104th, Floyd of the 147th, and Heard of the 114th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 22 of Title 50 of the Official Code of Georgia Annotated, relating to
2 managerial control over acquisition of professional services, so as to provide a statement of
3 purpose and policy; to define a certain term; to change the maximum number of professionals
4 considered for selection; to repeal a provision relating to the selection of a professional in
5 certain state contracts; to require a declaration by an interior designer in certain state
6 contracts; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 22 of Title 50 of the Official Code of Georgia Annotated, relating to managerial
10 control over acquisition of professional services, is amended by striking in its entirety Code
11 Section 50-22-1, relating to purpose and policy, and inserting in lieu thereof the following:

12 "50-22-1.

13 The purpose of this chapter is to provide managerial control by the state over the
14 acquisition of the professional services provided by architects, professional engineers,
15 landscape architects, ~~and~~ land surveyors, and interior designers. It is declared to be the
16 policy of this state to announce publicly requirements for such professional services, to
17 encourage all qualified persons to put themselves in a position to be considered for a
18 contract, and to enter into contracts for such professional services on the basis of
19 demonstrated competence and qualification for the types of professional services required
20 at fair and reasonable fees."

21 **SECTION 2.**

22 Said chapter is further amended by striking in its entirety paragraph (4) of Code Section
23 50-22-2, relating to definitions, and inserting in lieu thereof the following:

24 "(4) 'Professional services' means those services within the scope of the following:

25 (A) The practice of architecture, as defined in paragraph (6) of Code Section 43-4-1;

1 (B) The practice of registered interior design, as defined in Code Section 43-4-30;

2 (C) The practice of professional engineering, as defined in paragraph (11) of Code
3 Section 43-15-2;

4 ~~(C)~~(D) The practice of land surveying, as defined in paragraph (6) of Code Section
5 43-15-2; or

6 ~~(D)~~(E) The practice of landscape architecture, as defined in paragraph (3) of Code
7 Section 43-23-1."

8 SECTION 3.

9 Said chapter is further amended by striking in its entirety subsection (b) of Code Section
10 50-22-4, relating to submission of information to state agency by persons desiring to provide
11 professional services and preliminary selections, and inserting in lieu thereof the following:

12 "(b) For each proposed project for which professional services are required, the principal
13 representative or his or her designee of the state agency for which the project is to be done
14 shall evaluate statements of qualifications and performance data as required in the public
15 notice provided for in Code Section 50-22-3 and shall conduct discussions with not less
16 than three persons regarding their qualifications, approaches to the project, abilities to
17 furnish the required professional services, anticipated design concepts, and use of
18 alternative methods of approach for furnishing the required professional services. The
19 principal representative or his or her designee shall then select not less than three nor more
20 than ~~eight~~ five persons deemed to be most highly qualified to perform the required
21 professional services after considering, and based upon, such factors as the ability of
22 professional personnel, past performance, willingness to meet time requirements, project
23 location, office location, the professional's current and projected workloads, the
24 professional's approach, quality control procedures, the volume of work previously
25 awarded to the person by the state agency, and the extent to which said persons have and
26 will involve minority subcontractors, with the object of effecting an equitable distribution
27 of contracts among qualified persons as long as such distribution does not violate the
28 principle of selection of the most highly qualified person. In selection, as mentioned in this
29 Code section, persons who maintain an office in Georgia shall be given preference when
30 qualifications appear to be equal."

31 SECTION 4.

32 Said chapter is further amended by striking in its entirety Code Section 50-22-5, relating to
33 final selection of professional by other than contract negotiations, and inserting in lieu
34 thereof the following:

1 "50-22-5.

2 ~~(a) After selecting not less than three nor more than eight persons deemed to be the most~~
 3 ~~highly qualified to perform the required professional services, the principal representative~~
 4 ~~or his designee shall then send a notice in writing to each person so selected defining the~~
 5 ~~scope of the required professional services and then shall select a person to provide the~~
 6 ~~professional services based upon additional factors such as the cost of providing the~~
 7 ~~professional services and other factors as the agency deems appropriate or as required by~~
 8 ~~law; provided, however, that, if the agency selects the person to provide professional~~
 9 ~~services through contract negotiations, the provisions of Code Section 50-22-6 shall apply.~~

10 ~~(b) In cases where Code Section 50-22-6 is not applicable, such additional factors to be~~
 11 ~~considered shall be available to interested persons at the time of the public notice provided~~
 12 ~~for in Code Section 50-22-3 and shall be presented in writing to any person selected for~~
 13 ~~consideration of the project pursuant to Code Section 50-22-4. Reserved."~~

14 SECTION 5.

15 Said chapter is further amended by striking in their entirety subsections (a) and (d) of Code
 16 Section 50-22-6, relating to selection of professional through contract negotiations,
 17 contractual prohibition against contingent fees, and right to terminate contract, and inserting
 18 in lieu thereof, respectively, the following:

19 "~~(a) In cases where the agency shall select the person to provide the professional services~~
 20 ~~through contract negotiations, the The principal representative or his or her designee shall~~
 21 ~~rank in order not less than three nor more than ~~eight~~ five persons deemed most qualified~~
 22 ~~to perform such professional services. The principal representative or his or her designee~~
 23 ~~shall then negotiate a contract with the highest qualified person providing professional~~
 24 ~~services for such services at compensation which the principal representative or his or her~~
 25 ~~designee determines in writing to be fair and reasonable. In making such decision, the~~
 26 ~~principal representative or his or her designee shall take into account the estimated value~~
 27 ~~of the services to be rendered and the scope, complexity, and professional nature thereof."~~

28 "~~(d) Each contract for professional services entered into by the principal representative~~
 29 ~~shall contain a prohibition against contingent fees as follows: the architect, registered land~~
 30 ~~surveyor, professional engineer, ~~or~~ landscape architect, or interior designer, as applicable,~~
 31 ~~warrants that he or she has not employed or retained any company or person, other than a~~
 32 ~~bona fide employee working solely for him or her, to solicit or secure this contract and that~~
 33 ~~he or she has not paid or agreed to pay any person, company, corporation, individual, or~~
 34 ~~firm, other than a bona fide employee working solely for him or her, any fee, commission,~~
 35 ~~percentage, gift, or other consideration contingent upon or resulting from the award or the~~
 36 ~~making of this contract."~~

1

SECTION 6.

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