

House Bill 1177

By: Representatives Smith of the 129th, Graves of the 12th, Smith of the 13th, Channell of the 116th, Wix of the 33rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 32-2-60 of the Official Code of Georgia Annotated, relating to
2 Department of Transportation construction contracts, so as to provide for bonding amounts
3 for certain projects; to provide for related matters; to provide an effective date; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Code Section 32-2-60 of the Official Code of Georgia Annotated, relating to Department of
8 Transportation construction contracts, is amended by inserting after subsection (d) thereof
9 a new subsection (e) to read as follows:

10 "(e) When the estimated amount of any department construction contract exceeds \$300
11 million, performance and payment bonds shall be required in the amount of at least the
12 total amount payable by the terms of the contract unless the department, after public
13 comment, makes a written recommendation to the board, supported by specific findings,
14 and the board by vote in a public approved meeting, that bonds in such amount are not
15 reasonably available in the surety industry, whereupon the amount of such bonds shall be
16 fixed by the department in an amount not less than \$300 million, and adequate for the
17 protection of the state and all persons furnishing labor and material for use in prosecution
18 of the work provided for in the contract. If approved by the board, payment bonds obtained
19 in the approved amount shall be deemed a payment bond taken in accordance with
20 provisions contained in Code Sections 13-10-60 through 13-10-65 for the purposes of Code
21 Section 13-10-61. If a determination is made by the department, with board approval, that
22 a payment bond in an amount less than the total contract amount may be furnished, then
23 the contractor shall provide the following certification under oath with each request for
24 payment: 'All payments due to subcontractors and suppliers from previous payments
25 received under the contract have been made, and timely payments will be made from the
26 proceeds of the payment covered by this certification.'

1 **SECTION 2.**

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

4 **SECTION 3.**

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