

House Bill 1177 (COMMITTEE SUBSTITUTE)

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 **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 single bonds in such amount are
15 not reasonably available in the surety industry. Whereupon the amount of the value of the
16 construction portion of the contract, excluding right of way acquisition and engineering,
17 shall be guaranteed by combinations, as shall be determined in the discretion of the board,
18 of performance and payment bonds, letters of credit and corporate guaranties, but in no
19 case shall such aggregate assurances toward performance and payment:

20 (1) Be composed of less than \$300 million of performance and payment bonds; and

21 (2) Equal less than 100 percent of the contractor's obligation under the construction
22 portion of the contract, and shall be in accordance with Part 4 of Article 1 of Chapter 10
23 of Title 13 for the purposes of Code Section 13-10-61.

24 Additionally, contractors shall provide the following certification under oath with each
25 request for payment: 'All payments due to subcontractors and suppliers from previous

1 payment received under the contract have been made, and timely payments will be made
2 from the proceeds of the payment covered by this certification."

3 **SECTION 2.**

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

6 **SECTION 3.**

7 All laws and parts of laws in conflict with this Act are repealed.