

The Senate Transportation Committee offered the following substitute to HB 1177:

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:

**SECTION 1.**

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

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 notice,  
13 makes a written determination supported by specific findings that single bonds in such  
14 amount are not reasonably available, and the board approves such determination in a public  
15 meeting. In such event, the estimated value of the construction portion of the contract,  
16 excluding right of way acquisition and engineering, shall be guaranteed by a combination  
17 of security including, but not limited to the following:

- 18 (1) Payment, performance, surety, cosurety, or excess layer surety bonds;
- 19 (2) Letters of credit;
- 20 (3) Guaranties of the contractor or its parent companies;
- 21 (4) Obligations of the United States and of its agencies and instrumentalities; or
- 22 (5) Cash collateral.

23 The combination of such guarantees shall be determined at the discretion of the  
24 department, subject to the approval of the board; provided, however, that such aggregate  
25 guarantees shall include not less than \$300 million of performance and payment bonds and  
26 shall equal not less than 100 percent of the contractor's obligation under the construction

1 portion of the contract. Payment guarantees approved pursuant to this subsection shall be  
2 deemed to satisfy the requirements of Code Section 13-10-61. Contractors requesting  
3 payment under construction contracts guaranteed pursuant to this subsection shall provide  
4 the following certification under oath with each such request: 'All payments due to  
5 subcontractors and suppliers from previous payment received under the contract have been  
6 made, and timely payments will be made from the proceeds of the payment covered by this  
7 certification.'

8 **SECTION 2.**

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

11 **SECTION 3.**

12 All laws and parts of laws in conflict with this Act are repealed.