

House Bill 192 (COMMITTEE SUBSTITUTE)

By: Representatives Smith of the 129<sup>th</sup>, Everson of the 106<sup>th</sup>, Rogers of the 26<sup>th</sup>, and  
Loudermilk of the 14<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 32-2-61 of the Official Code of Georgia Annotated, relating to  
2 limitations on the Department of Transportation's power to contract, so as to provide for an  
3 increase in the amount for which the department may execute a negotiated contract; to amend  
4 Code Section 32-2-70 of the Official Code of Georgia Annotated, relating to bonds to be  
5 posted by successful bidders on department contracts, so as to increase the amount of the  
6 contract that requires such bonds; to amend Code Section 32-4-67 of the Official Code of  
7 Georgia Annotated, relating to the proposal guaranty by the bidder on a county contract, so  
8 as to exempt contracts for engineering or other professional services from the guaranty; to  
9 amend Code Section 32-4-69 of the Official Code of Georgia Annotated, relating to bonds  
10 of successful bidders on county contracts, so as to exempt professional services contracts;  
11 to amend Code Section 32-4-119 of the Official Code of Georgia Annotated, relating to  
12 bonds of successful bidders on municipal contracts, so as to exempt professional services  
13 contracts; to provide for related matters; to provide for an effective date; to repeal conflicting  
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Code Section 32-2-61 of the Official Code of Georgia Annotated, relating to limitations on  
18 the Department of Transportation's power to contract, is amended by revising paragraph (1)  
19 of paragraph (d) as follows:

20 "(d)(1) The department is prohibited from negotiating any contract for the construction  
21 or maintenance of a public road involving the expenditure of ~~\$50,000.00~~ \$100,000.00 or  
22 more except any contract:

23 (A) With counties, municipalities, and state agencies, provided that such negotiated  
24 contract shall be made at the average bid price of the same kind of work let to contract  
25 after advertisement during a period of 60 days prior to the making of the contract;

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(B) With a railroad company or utility concerning relocation of its tracks or facilities where the same are not then located on a public road and such relocation is necessary as an incident to the construction or improvement of a public road. However, nothing contained in this subsection shall be construed as requiring the department to furnish a site or right of way for railroad or railway lines or tracks or utility facilities required to be removed from a public road. Furthermore, this subsection shall not prevent the department from assisting in the removal and relocation of publicly owned utilities from locations on public roads as provided in Code Section 32-6-170;

(C) For emergency construction or maintenance involving the expenditure of ~~\$50,000.00~~ \$100,000.00 or more when the public interest requires that the work be done without the delay of advertising for public bids;

(D) For the procurement of business, professional, or other services from any person, firm, or corporation as an independent contractor;

(E) With the State Road and Tollway Authority; or

(F) Through the provisions of a design-build contract as provided for in Code Section 32-2-81."

## SECTION 2.

Code Section 32-2-70 of the Official Code of Georgia Annotated, relating to bonds to be posted by successful bidders on department contracts, is revised as follows:

"32-2-70.

Where the contract price exceeds ~~\$50,000.00~~ \$100,000.00, no department construction contract shall be valid unless the contractor first gives:

(1) The performance and payment bonds in accordance with Chapter 10 of Title 13; and

(2) Such other bonds or insurance policies required by the department in its proposal forms, including but not limited to public liability and property damage insurance bonds or policies."

## SECTION 3.

Code Section 32-4-67 of the Official Code of Georgia Annotated, relating to the proposal guaranty by the bidder on a county contract, is amended by revising subsection (a) as follows:

"(a) No bid, other than a bid solely for engineering or other kinds of professional services, will be considered by a county unless it is accompanied by a proposal guaranty in the form of a certified check or other acceptable security payable to the county for an amount deemed by the county in the public interest necessary to ensure that the successful bidder will execute the contract on which he bid."

**SECTION 4.**

Code Section 32-4-69 of the Official Code of Georgia Annotated, relating to bonds of successful bidders on county contracts, is amended by revising the introductory language as follows:

"Notwithstanding any provision of Chapter 91 of Title 36 to the contrary, when the price of a contract let to bid, other than a contract solely for engineering or other kinds of professional services, is \$5,000.00 or more, no contract of a county shall be valid unless the contractor first gives:"

**SECTION 5.**

Code Section 32-4-119 of the Official Code of Georgia Annotated, relating to bonds of successful bidders on municipal contracts, is amended by revising the introductory language as follows:

"Notwithstanding any provision of Chapter 91 of Title 36 to the contrary, where the contract price is \$5,000.00 or more, no construction contract of a municipality, other than a contract solely for engineering or other professional services, shall be valid unless the contractor first gives:"

**SECTION 6.**

This Act shall become effective on July 1, 2007.

**SECTION 7.**

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