

House Bill 1124 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Mills of the 25th, Smith of the 129th, Sheldon of the 105th, Shaw of the 176th, and Forster of the 3rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 32-2-81 of the Official Code of Georgia Annotated, relating to the
2 procedure for awarding design-build contracts, so as to change the standard for award of a
3 contract; to provide that the Department of Transportation attempt to award contracts to
4 qualified Georgia contractors and to provide for reciprocity with other states; to require the
5 Department of Transportation to report to the General Assembly on its progress in utilizing
6 the design-build procedure; to provide for related matters; to provide for an effective date;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 32-2-81 of the Official Code of Georgia Annotated, relating to the procedure
11 for awarding design-build contracts, is amended by revising paragraph (7) of subsection (d)
12 and subsection (f) as follows:

13 "(7) Criteria for selection and award process, provided that the rules shall specify that the
14 criteria for selection shall consist of the following minimum ~~two~~ three components:

15 (A) A statement of qualifications from which the department will determine a list of
16 qualified firms for the project;

17 (B) From the list of qualified firms as provided in subparagraph (A) of this paragraph,
18 a price proposal from each firm from which the department shall select the ~~lowest~~
19 ~~qualified~~ bidder whose proposal best satisfies the evaluation criteria contained in the
20 request for proposal; provided, however, that a proposal ~~will~~ shall only be considered
21 nonresponsive if it does not contain all the information and level of detail requested in
22 the request for proposal. A proposal shall not be deemed to be nonresponsive solely on
23 the basis of minor irregularities in the proposal that do not directly affect the ability to
24 fairly evaluate the merits of the proposal. Notwithstanding the requirements of Code
25 Section 36-91-21, under no circumstances shall the department use a 'best and final
26 offer' standard in awarding a contract. The department may provide for a stipulated fee
27 to be awarded to the short list of qualified proposers who provide a responsive,

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1 successful proposal. In consideration for paying the stipulated fee, the department may
2 use any ideas or information contained in the proposals in connection with the contract
3 awarded for the project, or in connection with a subsequent procurement, without
4 obligation to pay any additional compensation to the unsuccessful proposers; and

5 (C) From the list of qualified firms as provided in subparagraph (A) of this paragraph,
6 the department shall make every reasonable effort, without sacrificing the integrity of
7 the process, to award contracts to firms that are based in this state. Firms resident in
8 the State of Georgia shall be granted the same preference over firms resident in another
9 state in the same manner, on the same basis, and to the same extent that preference is
10 granted in awarding bids for the same goods or services by such other state to firms
11 resident therein over firms resident in the State of Georgia.

12 ~~(f) In contracting for design-build projects, the department shall be limited to contracting~~
13 ~~for no more than 15 percent of the total amount of construction projects awarded in the~~
14 ~~previous fiscal year Beginning in fiscal year 2009, the department shall annually report to~~
15 ~~the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and~~
16 ~~the chairpersons of the House and Senate Transportation Committees on its progress in~~
17 ~~identifying suitable projects for using the design-build procedure. The report shall include~~
18 ~~the progress on each of the identified projects. By fiscal year 2010, the department should~~
19 ~~be using the design-build procedure to award at least 5 percent of the monetary value of all~~
20 ~~of its construction contracts. The percentage of construction contracts awarded using the~~
21 ~~design-build procedure should be increased to at least 10 percent by fiscal year 2012.~~

22 SECTION 2.

23 This Act shall become effective on July 1, 2008.

24 SECTION 3.

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