

Senate Bill 460

By: Senators Hill of the 32nd, Pearson of the 51st, Wiles of the 37th, Butterworth of the 50th, Jackson of the 24th and others

A BILL TO BE ENTITLED
AN ACT

1 To enact the "Georgia Public Works and Contractor Protection Act"; to amend Code Section
2 13-10-91 of the Official Code of Georgia Annotated, relating to the verification of new
3 employee eligibility, applicability, and rules and regulations, so as to clarify certain
4 provisions and requirements relating to public employers' verification of employee work
5 eligibility; to provide for penalties; to provide for related matters; to repeal conflicting laws;
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Georgia Public Works and Contractor
10 Protection Act."

11 **SECTION 2.**

12 Code Section 13-10-91 of the Official Code of Georgia Annotated, relating to the verification
13 of new employee eligibility, applicability, and rules and regulations, is amended by revising
14 subsection (b) as follows:

15 "(b)(1) No public employer shall accept a bid or enter into a contract pursuant to this
16 chapter for the physical performance of services within this state unless the contractor
17 and any subcontractor registers and participates in the federal work authorization program
18 to verify information of all newly hired employees ~~or, contractors, subcontractors, and~~
19 any and all employees and subcontractors of the same in its employ. Before a bid for any
20 such service is considered by a public employer, the bid shall include a signed, notarized
21 affidavit from the contractor and any subcontractor attesting to the following:

22 (A) The affiant has registered with and is authorized to use the federal work
23 authorization program;

24 (B) The user identification number and date of authorization for the affiant; and

25 (C) The affiant is using and will continue to use the federal work authorization
26 program throughout the contract period.

27 An affidavit required by this subsection shall be considered an open public record once
28 a public employer has entered into a contract for services; provided, however, that any
29 information protected from public disclosure by federal law shall be redacted. Affidavits
30 shall be maintained by the public employer for five years. Any person who makes a
31 false, fictitious, or fraudulent statement in an affidavit submitted pursuant to this Code
32 section shall be guilty of violating Code Section 16-10-20, relating to falsifying a
33 government document, and upon conviction shall be punished as prescribed by that Code
34 section.

35 (2) No contractor or subcontractor who enters a contract pursuant to this chapter with a
36 public employer shall enter into such a contract or subcontract in connection with the
37 physical performance of services within this state unless the contractor or subcontractor
38 registers and participates in the federal work authorization program to verify information
39 of all newly hired employees. Any employee, contractor, or subcontractor of such
40 contractor or subcontractor shall also be required to satisfy the requirements of this
41 paragraph.

42 (3) A contractor shall, as a condition of any contract entered into pursuant to this chapter,
43 provide a public employer with the identity of any and all subcontractors hired or
44 contracted with for purposes of fulfilling the obligations under such public service
45 contract. The notice required by this paragraph shall be provided within three business
46 days of entering into a contract or agreement for hire with any subcontractor. The notice
47 shall include the subcontractor's name, address, user identification number, and date of
48 authorization to use the federal work authorization program. The information required
49 by this paragraph shall be submitted in the form of a signed, notarized affidavit.

50 (4) The Georgia Department of Audits and Accounts shall require compliance reports
51 from each state or local government agency. Each report shall be submitted by the
52 department head and have attached thereto his or her sworn affidavit attesting to the
53 accuracy of the information contained therein. The Georgia Department of Audits and
54 Accounts shall conduct annual compliance audits on a minimum of at least half of the
55 reporting agencies and publish the results of such audits annually on or before September
56 30. The annual audit shall give priority to auditing those agencies that have never had
57 an audit or have the greatest time since the agency's last audit.

58 (5) In order to verify compliance with the provisions of this subsection, each year the
59 Commissioner of Labor shall conduct 200 random audits of public employers and
60 contractors. The results of the audits shall be published on the OPEN GEORGIA website

61 and on the Georgia Department of Labor's website no later than September 30 of each
62 year.

63 (6) Any state or local agency found to be in violation of this subsection shall be excluded
64 from the list of qualified local governments. In addition, any agency found to be in
65 violation shall forfeit 10 percent of its state funding for the year following the year in
66 which such agency was found to be in violation.

67 (7) Contractors and subcontractors found to be in violation of this subsection shall be
68 prohibited from bidding on or entering into any public contract for 12 months following
69 the discovery of the violation. In addition, a contractor or subcontractor shall be subject
70 to a fine of \$5,000.00 per day for each day the contractor or subcontractor acts in
71 violation of the provisions of this Code section. Such fines shall accrue to the benefit of
72 the public employer."

73 **SECTION 2.**

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