

Senate Bill 447

By: Senators Bulloch of the 11th, Tolleson of the 20th, Rogers of the 21st, Williams of the 19th, Hill of the 4th and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Part 1 of Article 1 of Chapter 10 of Title 13 of the Official Code of Georgia
2 Annotated, relating to bonds for contracts for public works in general, so as to provide
3 certain contractual and purchasing preferences for materials and in letting contracts to
4 materialmen, contractors, builders, architects, engineers, and laborers who reside within this
5 state; to provide standards for construction projects; to amend Title 20 of the Official Code
6 of Georgia Annotated, relating to education, so as to provide certain contractual and
7 purchasing preferences for vendors who reside within this state; to provide for related
8 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
9 other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **SECTION 1.**

12 Part 1 of Article 1 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated,
13 relating to bonds for contracts for public works in general, is amended by adding a new Code
14 section to read as follows:

15 "13-10-3.

16 (a) Whenever the state contracts for the doing of a public work, it shall give preference in
17 the purchase of materials and in letting contracts to materialmen, contractors, builders,
18 architects, engineers, and laborers who reside within this state whenever such material can
19 be purchased or the services of such materialmen, contractors, builders, architects,
20 engineers, and laborers can be employed at no greater expense than that which the state
21 would incur if such purchase was made from, contract let to, or employment given to a
22 person residing beyond the limits of this state. For the purpose of determining residency
23 under this subsection, a Georgia resident business shall include any business that regularly
24 maintains a place from which business is physically conducted in Georgia for at least one
25 year prior to any bid or proposal submitted pursuant to this Code section or a new business
26 that is domiciled in Georgia which regularly maintains a place from which business is

27 physically conducted in Georgia; provided, however, that a place of business shall not
 28 include a post office box, site trailer, or temporary structure. However, these requirements
 29 shall in no way impair the ability of the state to compare the quality of materials proposed
 30 for purchase and to compare the qualifications, character, responsibility, and fitness of
 31 materialmen, contractors, builders, architects, engineers, and laborers proposed for
 32 employment in its consideration of the purchase of materials or employment of persons.
 33 This subsection shall not apply to transportation projects for which federal aid funds are
 34 available.

35 (b) Whenever the state contracts for the doing of a public work, materialmen, contractors,
 36 builders, architects, engineers, and laborers resident in the State of Georgia are to be
 37 granted the same preference over materialmen, contractors, builders, architects, engineers,
 38 and laborers resident in another state in the same manner, on the same basis, and to the
 39 same extent that preference is granted in awarding bids for the same goods or services by
 40 such other state to materialmen, contractors, builders, architects, engineers, and laborers
 41 resident in such other state over materialmen, contractors, builders, architects, engineers,
 42 and laborers resident in the State of Georgia.

43 (c) All state agencies, authorities, departments, commissions, boards, and similar entities
 44 shall adhere to the policies and procedures contained in the State Construction Manual for
 45 project management and procurement of, and contracting for, design, construction, and
 46 other project related professional services for all state owned buildings in Georgia funded
 47 by state bonds or other state revenue. The State Construction Manual shall be jointly
 48 edited and posted on a state website by the Georgia State Financing and Investment
 49 Commission and the Board of Regents and shall be updated on a periodic basis to reflect
 50 evolving owner needs and industry best practices after consultation with other state agency
 51 and industry stakeholders."

52 **SECTION 2.**

53 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 54 revising Code Section 20-2-500, relating to promulgation of rules and regulations by the
 55 State Board of Education for contracts or purchases over \$100.00, as follows:

56 "20-2-500.

57 (a) The State Board of Education is authorized to promulgate rules and regulations to
 58 regulate contracts or purchases which involve the aggregate sum of \$100.00 or more for
 59 or on behalf of students of any public elementary or secondary school supported in whole
 60 or in part from public funds.

61 (b)(1) Such rules shall provide that such contracts for or purchases of supplies, materials,
 62 equipment, or agricultural products, including but not limited to school buses but not

63 including instructional materials or beverages for immediate consumption, for public
 64 elementary and secondary schools supported in whole or in part from public funds shall
 65 give preference as far as may be reasonable and practicable to such supplies, materials,
 66 equipment, and agricultural products as may be manufactured or produced in this state.
 67 Such preference shall not sacrifice quality.

68 (2) Such rules shall provide that, in determining whether such a preference is reasonable
 69 in any case where the value of a contract for or purchase of such supplies, materials,
 70 equipment, or agricultural products exceeds \$100,000.00, the local school district shall
 71 consider, among other factors, information submitted by the bidder which may include
 72 the bidder's estimate of the multiplier effect on gross state domestic product and the effect
 73 on public revenues of the state and the effect on public revenues of political subdivisions
 74 resulting from acceptance of a bid or offer to sell Georgia manufactured or produced
 75 goods as opposed to out-of-state manufactured or produced goods. Any such estimates
 76 shall be in writing. No local school district shall divide a contract or purchase which
 77 exceeds \$100,000.00 for the purpose of avoiding the requirements of this paragraph.

78 (c) Vendors resident in the State of Georgia are to be granted the same preference over
 79 vendors resident in another state in the same manner, on the same basis, and to the same
 80 extent that preference is granted in awarding bids for the same goods or services by such
 81 other state to vendors resident therein over vendors resident in the State of Georgia.

82 ~~(c)~~(d) Nothing in this Code section shall negate the requirements of Code Section
 83 50-5-73."

84 **SECTION 3.**

85 This Act shall become effective on July 1, 2010, and shall apply to all contracts which are
 86 first advertised or otherwise given public notice on or after that date.

87 **SECTION 4.**

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