

The House Committee on Governmental Affairs offers the following substitute to SB 447:

A BILL TO BE ENTITLED  
AN ACT

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

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

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

14 "13-10-3.

15 (a) For the purpose of determining residency under this Code section, a Georgia resident  
16 business shall include any business that regularly maintains a place from which business  
17 is physically conducted in Georgia for at least one year prior to any bid or proposal  
18 submitted pursuant to this Code section or a new business that is domiciled in Georgia  
19 which regularly maintains a place from which business is physically conducted in Georgia;  
20 provided, however, that a place of business shall not include a post office box, site trailer,  
21 or temporary structure.

22 (b) Whenever the state contracts for the doing of a public work, materialmen, contractors,  
23 builders, architects, engineers, and laborers resident in the State of Georgia are to be  
24 granted the same preference over materialmen, contractors, builders, architects, engineers,  
25 and laborers resident in another state in the same manner, on the same basis, and to the  
26 same extent that preference is granted in awarding bids for the same goods or services by  
27 such other state to materialmen, contractors, builders, architects, engineers, and laborers

28 resident in such other state over materialmen, contractors, builders, architects, engineers,  
 29 and laborers resident in the State of Georgia. However, these requirements shall in no way  
 30 impair the ability of the state to compare the quality of materials proposed for purchase and  
 31 to compare the qualifications, character, responsibility, and fitness of materialmen,  
 32 contractors, builders, architects, engineers, and laborers proposed for employment in its  
 33 consideration of the purchase of materials or employment of persons. This subsection shall  
 34 not apply to transportation projects for which federal aid funds are available.

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

#### 44 **SECTION 2.**

45 Said chapter is further amended by revising Code Section 13-10-90, relating to definitions  
 46 relative to security and immigration compliance, by adding a new paragraph to read as  
 47 follows:

48 "(2.1) 'Physical performance of services' means the building, altering, repairing,  
 49 improving, or demolishing of any public structure or building or other public improvements  
 50 of any kind to public real property, including the construction, reconstruction, or  
 51 maintenance of all or part of a public road."

#### 52 **SECTION 3.**

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  
83 Section 50-5-73."

84 **SECTION 4.**

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 5.**

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