

The Senate Government Oversight Committee offered the following substitute to SB 21:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,
2 relating to state purchasing, so as to require that a certain percentage of all funds appropriated
3 to the state's various budget units be dedicated to projects and contracts involving small
4 businesses; to require under certain circumstances that the Department of Administrative
5 Services take into consideration such small business requirement prior to entering into any
6 contract; to provide for definitions; to provide certain audit duties to the Office of Planning
7 and Budget; to provide that such office report to certain legislative committees; to amend
8 Chapter 22 of Title 50 of the Official Code of Georgia Annotated, relating to managerial
9 control over acquisition of professional services, so as to provide that small businesses are
10 considered wherever reasonable and practicable prior to a principal representative entering
11 into a contract for professional services on behalf of certain state entities; to provide for
12 related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

14 Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to state
15 purchasing, is amended in Part 1, relating to general authority, duties, and procedure of the
16 department, by adding a new Code section to read as follows:
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18 "50-5-84.

19 When awarding a contract pursuant to any provision in this article, the Department of
20 Administrative Services shall, whenever reasonable and practicable, take into consideration
21 the provisions of subsection (a) of Code Section 50-5-126."

SECTION 2.

22 Said article is further amended by revising Part 3, relating to small business assistance, as
23 follows:
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"Subpart 1

50-5-120.

This part shall be known and may be cited as 'The Small Business Assistance Act of ~~1975~~ 2009.'

50-5-121.

For the purposes of this part, the term:

(1) 'Department' means the Department of Administrative Services.

(2) 'Small business' means a business which is independently owned and operated. In addition, such business must have either fewer than 100 employees or less than ~~\$1~~ \$10 million in gross receipts per year.

50-5-122.

The legislative intent of this part is declared to be as follows: The most important element of the American economic system of private enterprise is free and vigorous competition. Only through the existence of free and vigorous competition can free entry into business and opportunities for personal initiative and individual achievement be assured. The preservation and expansion of such competition is essential for our economic well-being. In order to encourage such competition it is the declared policy of the state to ensure that a fair proportion of the total purchases and contracts or subcontracts for property, commodities, and services for the state be placed with small businesses so long as the commodities and services of small businesses are competitive as to price and quality.

50-5-123.

There is created an advisory council to the department to be composed of representatives of designated small business enterprises to be named as follows: five by the Governor, two each by the President of the Senate and the Speaker of the House of Representatives, and one by the commissioner of administrative services to serve ex officio as ~~chairman~~ chairperson of the council. The members of the council shall serve without compensation. The council shall meet at least ~~once monthly~~ quarterly, or more often when necessary, at the call of the ~~chairman~~ chairperson in consultation with the commissioner of administrative services or his or her designee who shall also serve without additional compensation as executive director of the council.

55 50-5-124.

56 The council shall make a written report to the Governor, the President of the Senate, the
 57 Speaker of the House of Representatives, and the ~~chairmen~~ chairpersons of the Senate
 58 Committee on Insurance and Labor and the House Committee on Industry at least once
 59 each year, such report to be made no later than December 1. The report shall advise the
 60 Governor, the Speaker, the President, and the designated ~~chairmen~~ chairpersons concerning
 61 progress toward achieving the legislative intent as set forth in Code Section 50-5-122 and
 62 shall contain such recommendations for legislation as the council herein provided for
 63 deems proper.

64 Subpart 2

65 50-5-125.

66 As used in this subpart, the term:

67 (1) 'Budget unit' shall have the same meaning provided in paragraph (10) of Code
 68 Section 45-12-71.

69 (2) 'Contract' means any expenditure of funds for goods or services, including, but not
 70 limited to, any contract, subcontract, procurement, or bid entered into by a budget unit
 71 for supplies, materials, equipment, and services, including, but not limited to,
 72 professional services.

73 (3) 'Governmental entity' means the governing body of any county, municipal
 74 corporation, or any consolidated city-county government.

75 50-5-126.

76 (a) The state's various budget units shall, whenever reasonable and practicable, seek to
 77 spend at least 10 percent of all funds appropriated to such budget units for contracts by the
 78 General Assembly to contracts with small businesses; provided, however, that there shall
 79 be no sacrifice in price or quality in the award of such contracts.

80 (b) At least 10 percent of all funds appropriated by each local governmental entity as part
 81 of its fiscal budget for each year shall be, whenever reasonable and practicable, dedicated
 82 to contracts involving small businesses; provided, however, that there shall be no sacrifice
 83 in price or quality in the award of such contracts.

84 50-5-127.

85 (a) The Office of Planning and Budget shall on an annual basis audit the contracts of each
 86 budget unit to determine whether each budget unit has satisfied the provisions of Code
 87 Section 50-5-126 for the previous fiscal year. The Office of Planning and Budget shall on

88 an annual basis provide the Senate Economic Development Committee and the House
89 Committee on Economic Development and Tourism with a copy of a report demonstrating
90 the audit's findings and make itself available for testimony upon the request of the
91 chairpersons of each committee.

92 (b) Each local governmental entity shall include in its annual audit information
93 demonstrating what contracts, if any, were awarded to small businesses and whether such
94 governmental entity has satisfied the provisions of Code Section 50-5-126 for the previous
95 fiscal year. Such report shall be available to the public upon request."

96 **SECTION 3.**

97 Chapter 22 of Title 50 of the Official Code of Georgia Annotated, relating to managerial
98 control over acquisition of professional services, is amended in Code Section 50-22-6,
99 relating to selection of professional through contract negotiations, by adding a new
100 subsection to read as follows:

101 "(f) Prior to entering into a contract for professional services pursuant to this Code section,
102 the principal representative shall take into consideration, whenever reasonable and
103 practicable, the provisions of subsection (a) of Code Section 50-5-126."

104 **SECTION 4.**

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