

House Bill 329

By: Representatives Hembree of the 67<sup>th</sup>, Lindsey of the 54<sup>th</sup>, Jacobs of the 80<sup>th</sup>, Dollar of the 45<sup>th</sup>, Brockway of the 101<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 36-91-21 and Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to competitive award requirements and to general authority, duties, and procedure relative to state purchasing, respectively, so as to provide for certain contracting and bidding requirements for governmental entities and the Department of Administrative Services relative to public works construction contracts; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 36-91-21 of the Official Code of Georgia Annotated, relating to competitive award requirements, is amended by redesignating existing subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting a new subsection (f) to read as follows:

"(f) Unless otherwise required by law, no governmental entity that contracts for public works construction shall in its bid documents, specifications, project agreements, or other controlling documents for a public works construction contract:

(1) Require or prohibit bidders, offerors, contractors, subcontractors, or material suppliers to enter into or adhere to prehire agreements, project labor agreements, collective bargaining agreements, or any other agreement with one or more labor organizations on the same or other related construction projects; or

(2) Discriminate against, or treat differently, bidders, offerors, contractors, subcontractors, or material suppliers for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations on the same or other related construction projects.

Nothing in this subsection shall prohibit bidders, offerors, contractors, subcontractors, or material suppliers from voluntarily entering into agreements described in paragraph (1) of this subsection."

## SECTION 2.

Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to general authority, duties, and procedure relative to state purchasing, is amended by revising Code Section 50-5-72, relating to construction and public works contracts conducted by the Department of Administrative Services and exceptions, as follows:

"50-5-72.

(a) Notwithstanding any other provision of this part or any other law dealing with the subject matter contained in this Code section to the contrary, all construction or public works contracts, exceeding a total expenditure of \$100,000.00, of any department, board, bureau, commission, office, or agency of the state government, except as provided in this Code section, shall be conducted and negotiated by the Department of Administrative Services in accordance with this part; provided, however, that any expenditure of less than \$100,000.00 shall still be subject to review and approval by the Department of Administrative Services, which may approve noncompetitive expenditures of up to \$100,000.00.

(b) All advertising costs incurred in connection with such contracts shall be borne by and paid from the funds appropriated to and available to the department, board, bureau, commission, office, or agency of the state government for which the contract is negotiated.

(c) Unless otherwise required by law, the Department of Administrative Services shall not in its bid documents, specifications, project agreements, or other controlling documents for a public works construction contract:

(1) Require or prohibit bidders, offerors, contractors, subcontractors, or material suppliers to enter into or adhere to prehire agreements, project labor agreements, collective bargaining agreements, or any other agreement with one or more labor organizations on the same or other related construction projects; or

(2) Discriminate against, or treat differently, bidders, offerors, contractors, subcontractors, or material suppliers for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations on the same or other related construction projects.

Nothing in this subsection shall prohibit bidders, offerors, contractors, subcontractors, or material suppliers from voluntarily entering into agreements described in paragraph (1) of this subsection.

59     (d) The commissioner of administrative services is authorized and directed to promulgate  
60     such rules and regulations as shall carry out the additional duties and responsibilities placed  
61     upon the department by this Code section.

(e) Nothing contained in this Code section shall apply to or affect the Department of Transportation, the several public authorities of this state, including the Stone Mountain Memorial Association and the Board of Regents of the University System of Georgia, or the expenditure of money credited to the account of this state in the Unemployment Trust Fund by the secretary of the treasury of the United States pursuant to Section 903 of the Social Security Act and appropriated as provided in Code Section 34-8-85. No contract in existence on March 18, 1964, shall be affected by this Code section, and such contract may continue to be utilized."

70 **SECTION 3.**

71 This Act shall become effective on July 1, 2011, and shall apply to all contracts entered into  
72 on or after such date.

73 **SECTION 4.**

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