

House Bill 730

By: Representatives Hembree of the 67<sup>th</sup>, Lindsey of the 54<sup>th</sup>, Geisinger of the 48<sup>th</sup>, and Rynders of the 152<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

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

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

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

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

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

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

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

27 **SECTION 2.**

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

32 "50-5-72.

33 (a) Notwithstanding any other provision of this part or any other law dealing with the  
 34 subject matter contained in this Code section to the contrary, all construction or public  
 35 works contracts, exceeding a total expenditure of \$100,000.00, of any department, board,  
 36 bureau, commission, office, or agency of the state government, except as provided in this  
 37 Code section, shall be conducted and negotiated by the Department of Administrative  
 38 Services in accordance with this part; provided, however, that any expenditure of less than  
 39 \$100,000.00 shall still be subject to review and approval by the Department of  
 40 Administrative Services, which may approve noncompetitive expenditures of up to  
 41 \$100,000.00.

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

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

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

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

56 Nothing in this subsection shall prohibit bidders, offerors, contractors, subcontractors, or  
 57 material suppliers from voluntarily entering into agreements described in paragraph (1) of  
 58 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.

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

70 **SECTION 3.**

71 This Act shall become effective on July 1, 2012, 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.