

Senate Bill 463

By: Senators Hill of the 32nd, Mullis of the 53rd, Loudermilk of the 52nd, Gooch of the 51st and Miller of the 49th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 32-2-81 of the Official Code of Georgia Annotated, relating to  
2 procedures for design-build contracts with the Department of Transportation, so as to remove  
3 the requirement that the department accept the lowest bid in proposals for design-build  
4 projects; to provide for the percentage of design-build projects the department may award;  
5 to remove certain limitations on the percentage of design-build contracts the department may  
6 award; to remove certain reporting requirements of the department related to design-build  
7 proposal awards; to provide for related matters; to repeal conflicting laws; and for other  
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Code Section 32-2-81 of the Official Code of Georgia Annotated, relating to procedures for  
12 design-build contracts with the Department of Transportation, is amended by revising  
13 subparagraph (d)(7)(B) and subsections (f) and (g) as follows:

14 "(B) A price proposal from each of the ~~From the list of~~ qualified firms as provided in  
15 subparagraph (A) of this paragraph, ~~a price proposal from each firm from which the~~  
16 ~~department shall select the lowest qualified bidder; provided, however, that a~~ A proposal  
17 will only be considered nonresponsive if it does not contain all the information and level  
18 of detail requested in the request for proposal. A proposal shall not be deemed to be  
19 nonresponsive solely on the basis of minor irregularities in the proposal that do not directly  
20 affect the ability to fairly evaluate the merits of the proposal. Notwithstanding the  
21 requirements of Code Section 36-91-21, under no circumstances shall the department use  
22 a 'best and final offer' standard in awarding a contract. The department may provide for  
23 a stipulated fee to be awarded to the short list of qualified proposers who provide a  
24 responsive, successful proposal. In consideration for paying the stipulated fee, the  
25 department may use any ideas or information contained in the proposals in connection with

26 the contract awarded for the project, or in connection with a subsequent procurement,  
27 without obligation to pay any additional compensation to the unsuccessful proposers;"

28 "(f) In contracting for design-build projects, the department shall be limited to contracting  
29 for no more than ~~30~~ 50 percent of the total amount of construction projects awarded in the  
30 previous fiscal year. ~~After July 1, 2014, in contracting for design-build projects, the~~  
31 ~~department shall be limited to contracting for no more than 15 percent of the total amount~~  
32 ~~of construction projects awarded in the previous fiscal year.~~

33 (g) Not later than 90 days after the end of the fiscal year, the department shall provide to  
34 the Governor, Lieutenant Governor, Speaker of the House of Representatives, and  
35 ~~chairmen~~ chairpersons of the House and Senate Transportation Committees a summary  
36 containing all the projects awarded during the fiscal year using the design-build contracting  
37 method. ~~Included in the report shall be an explanation for projects awarded to other than~~  
38 ~~the low bid proposal.~~ This report shall be made available for public information."

39 **SECTION 2.**

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