

House Bill 168

By: Representatives Fullerton of the 153rd and Mabra of the 63rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 10 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
2 relating to contracts and purchases by public schools, Title 36 of the Official Code of
3 Georgia Annotated, relating to local government, and Part 1 of Article 3 of Chapter 5 of Title
4 50 of the Official Code of Georgia Annotated, relating to general authority, duties, and
5 procedure relative to government purchasing, so as to modify provisions relating to
6 contractual and purchasing preferences for Georgia service providers and certain supplies,
7 materials, equipment, and agricultural products grown, manufactured, or produced in this
8 state; to provide for related matters; to provide for an effective date and applicability; to
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

12 Article 10 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
13 contracts and purchases by public schools, is amended by revising Code Section 20-2-500,
14 relating to promulgation of rules and regulations by the State Board of Education for
15 contracts or purchases over \$100.00, as follows:

16 "20-2-500.

17 (a)(1) Local boards of education shall provide that contracts for services or purchases of
18 supplies, materials, equipment, or agricultural products, including but not limited to
19 school buses but not including instructional materials or beverages for immediate
20 consumption, for public elementary and secondary schools supported in whole or in part
21 from public funds shall give preference ~~as far as may be reasonable and practicable~~ to
22 such providers of services located in this state or employing Georgia residents and
23 preferences to supplies, materials, equipment, and agricultural products as may be
24 available, manufactured, or produced in this state. Such preference shall not sacrifice
25 quality.

26 ~~(2) Local boards of education shall provide that, in determining whether such a~~
 27 ~~preference is reasonable in any case where the value of a contract for or purchase of such~~
 28 ~~supplies, materials, equipment, or agricultural products exceeds \$100,000.00, the local~~
 29 ~~school district shall consider, among other factors, information submitted by the bidder~~
 30 ~~which may include the bidder's estimate of the multiplier effect on gross state domestic~~
 31 ~~product and the effect on public revenues of the state and the effect on public revenues~~
 32 ~~of political subdivisions resulting from acceptance of a bid or offer to sell Georgia~~
 33 ~~manufactured or produced goods as opposed to out-of-state manufactured or produced~~
 34 ~~goods. Any such estimates shall be in writing. No local school district shall divide a~~
 35 ~~contract or purchase which exceeds \$100,000.00 for the purpose of avoiding the~~
 36 ~~requirements of this paragraph. Local school boards shall require that a local school or~~
 37 ~~school district, when issuing a request for a competitive bid, shall state in such bid~~
 38 ~~request and place the bidding contractors on notice that the school or school district shall~~
 39 ~~consider information relating to the effects on employment within this state. Before any~~
 40 ~~bid shall be considered, the bid shall include an employment impact statement. An~~
 41 ~~employment impact statement shall contain information related to the employment impact~~
 42 ~~to this state. Such statement shall include:~~

43 ~~(A) The number of jobs expected to be created in this state or the number of jobs~~
 44 ~~expected to be retained that might otherwise be lost if the contract is awarded to another~~
 45 ~~contractor;~~

46 ~~(B) The number of jobs expected to be created in this state or the number of jobs~~
 47 ~~expected to be retained that might otherwise be lost if the contract is awarded to another~~
 48 ~~contractor by the subcontractors expected to be used by the contractor in the~~
 49 ~~performance of the contract; and~~

50 ~~(C) A guarantee from the contractor that, as a condition of such contract, the jobs~~
 51 ~~created or retained in this state shall not be moved outside of this state during the~~
 52 ~~duration of the contract.~~

53 ~~The school or school district considering bid proposals shall require from the bidder such~~
 54 ~~information as needed to substantiate any claim by a bidder that jobs will be created or~~
 55 ~~retained in this state.~~

56 ~~(b) Vendors resident in the State of Georgia are to be granted the same preference over~~
 57 ~~vendors resident in another state in the same manner, on the same basis, and to the same~~
 58 ~~extent that preference is granted in awarding bids for the same goods or services by such~~
 59 ~~other state to vendors resident therein over vendors resident in the State of Georgia.~~

60 ~~(c) Nothing in this Code section shall negate the requirements of Code Section 50-5-73."~~

61 **SECTION 2.**

62 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
63 by revising Chapter 84 in its entirety as follows:

64 "36-84-1.

65 (a) As used in this Code section, the term 'local government' means a county, municipality,
66 or consolidated government.

67 (b) Local governments, when contracting for services or purchasing supplies, materials,
68 equipment, or agricultural products, excluding beverages for immediate consumption, shall
69 give preference as far as ~~may be reasonable and practicable~~ to providers of services located
70 in this state or employing Georgia residents and preference to such supplies, materials,
71 equipment, and agricultural products as may be available, manufactured, or produced in
72 this state. Such preference shall not sacrifice quality.

73 (c) ~~In determining whether such a preference is reasonable in any case where the value of~~
74 ~~a contract for or purchase of such supplies, materials, equipment, or agricultural products~~
75 ~~exceeds \$100,000.00, the local government shall consider, among other factors,~~
76 ~~information submitted by the bidder which may include the bidder's estimate of the~~
77 ~~multiplier effect on gross state domestic product and the effect on public revenues of the~~
78 ~~state and the effect on public revenues of political subdivisions resulting from acceptance~~
79 ~~of a bid or offer to sell Georgia manufactured or produced goods as opposed to out-of-state~~
80 ~~manufactured or produced goods. Any such estimates shall be in writing. No local~~
81 ~~government shall divide a contract or purchase which exceeds \$100,000.00 for the purpose~~
82 ~~of avoiding the requirements of this subsection. When issuing a request for a competitive~~
83 ~~bid, a local government shall state in such bid request and place the bidding contractors on~~
84 ~~notice that the local government receiving such bid shall consider information relating to~~
85 ~~the effects on employment within this state. Before any bid shall be considered, the bid~~
86 ~~shall include an employment impact statement. An employment impact statement shall~~
87 ~~contain information related to the potential employment impact to this state. Such~~
88 ~~statement shall include:~~

89 (1) The number of jobs expected to be created in this state should the bid be awarded to
90 the contractor and the number of jobs expected to be retained that might otherwise be lost
91 if the contract is awarded to another contractor;

92 (2) The number of jobs expected to be created in this state should the bid be awarded to
93 the contractor or the number of jobs expected to be retained that might otherwise be lost
94 if the contract is awarded to another contractor by the subcontractors expected to be used
95 by the contractor in the performance of the contract; and

96 (3) A guarantee from the contractor that, as a condition of such contract, the jobs created
 97 or retained in this state shall not be moved outside of this state during the duration of the
 98 contract.

99 The local government agency considering bid proposals shall require from the bidder such
 100 information as needed to substantiate any claim by a bidder that jobs will be created or
 101 retained in this state.

102 (d) Nothing in this Code section shall negate the requirements of Code Section 50-5-73."

103 **SECTION 3.**

104 Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,
 105 relating to general authority, duties, and procedure relative to government purchasing, is
 106 amended by revising Code Section 50-5-60, relating to preference to supplies, equipment,
 107 materials, and printing produced in Georgia generally, as follows:

108 "50-5-60.

109 (a) The state and any department, agency, or commission thereof, when contracting for
 110 services or purchasing supplies, materials, equipment, or agricultural products, excluding
 111 beverages for immediate consumption, shall give preference ~~as far as may be reasonable~~
 112 ~~and practicable~~ to such providers of services located in this state or employing Georgia
 113 residents and preference to supplies, materials, equipment, and agricultural products as may
 114 be available, manufactured, or produced in this state. Such preference shall not sacrifice
 115 quality.

116 ~~(b) Vendors resident in the State of Georgia are to be granted the same preference over~~
 117 ~~vendors resident in another state in the same manner, on the same basis, and to the same~~
 118 ~~extent that preference is granted in awarding bids for the same goods or services by such~~
 119 ~~other state, or by any local government of such state, to vendors resident therein over~~
 120 ~~vendors resident in the State of Georgia.~~

121 ~~(c) In determining whether such a preference is reasonable in any case where the value of~~
 122 ~~a contract for or purchase of such supplies, materials, equipment, or agricultural products~~
 123 ~~exceeds \$100,000.00, the state or its department, agency, or commission shall consider,~~
 124 ~~among other factors, information submitted by the bidder which may include the bidder's~~
 125 ~~estimate of the multiplier effect on gross state domestic product and the effect on public~~
 126 ~~revenues of the state and the effect on public revenues of political subdivisions resulting~~
 127 ~~from acceptance of a bid or offer to sell Georgia manufactured or produced goods as~~
 128 ~~opposed to out-of-state manufactured or produced goods. Any such estimates shall be in~~
 129 ~~writing. The state or its department, agency, or commission shall not divide a contract or~~
 130 ~~purchase which exceeds \$100,000.00 for the purpose of avoiding the requirements of this~~
 131 ~~subsection. Any agency, when issuing a request for a competitive bid, shall state in such~~

132 bid request and place the bidding contractors on notice that the agency shall consider
 133 information relating to the effects on employment within this state. Before any bid shall
 134 be considered, the bid shall include an employment impact statement. An employment
 135 impact statement shall contain information related to the potential employment impact to
 136 this state. Such statement shall include:

137 (1) The number of jobs expected to be created in this state should the bid be awarded to
 138 the contractor and the number of jobs expected to be retained that might otherwise be lost
 139 if the contract is awarded to another contractor;

140 (2) The number of jobs expected to be created in this state should the bid be awarded to
 141 the contractor or the number of jobs expected to be retained that might otherwise be lost
 142 if the contract is awarded to another contractor by the subcontractors expected to be used
 143 by the contractor in the performance of the contract; and

144 (3) A guarantee from the contractor that, as a condition of such contract, the jobs created
 145 or retained in this state shall not be moved outside of this state during the duration of the
 146 contract.

147 The agency considering bid proposals shall require from the bidder such information as
 148 needed to substantiate any claim by a bidder that jobs will be created or retained in this
 149 state.

150 ~~(d)~~(c) Nothing in this Code section shall negate the requirements of Code Section 50-5-7."

151 **SECTION 4.**

152 Said part is further amended by revising Code Section 50-5-61, relating to state and local
 153 authority preferences for supplies, materials, equipment, and agricultural products produced
 154 in Georgia, as follows:

155 "50-5-61.

156 (a) State and local authorities created by law, ~~in the purchase of and~~ when contracting for
 157 ~~any~~ services or purchasing supplies, materials, equipment, ~~and or~~ agricultural products,
 158 excluding beverages for immediate consumption, shall give preference ~~as far as may be~~
 159 ~~reasonable and practicable~~ to such providers of services located in this state or employing
 160 Georgia residents and preference to supplies, materials, equipment, and agricultural
 161 products as may be available, manufactured, or produced in this state. Such preference
 162 shall not sacrifice quality.

163 (b) ~~In determining whether such a preference is reasonable in any case where the value of~~
 164 ~~a contract for or purchase of such supplies, materials, equipment, or agricultural products~~
 165 ~~exceeds \$100,000.00, the state or local authority shall consider, among other factors,~~
 166 ~~information submitted by the bidder which may include the bidder's estimate of the~~
 167 ~~multiplier effect on gross state domestic product and the effect on public revenues of the~~

168 ~~state and the effect on public revenues of political subdivisions resulting from acceptance~~
 169 ~~of a bid or offer to sell Georgia manufactured or produced goods as opposed to out-of-state~~
 170 ~~manufactured or produced goods. Any such estimates shall be in writing. No state or local~~
 171 ~~authority shall divide a contract or purchase which exceeds \$100,000.00 for the purpose~~
 172 ~~of avoiding the requirements of this subsection. Any state or local authority, when issuing~~
 173 ~~a solicitation for a competitive bid, shall state in such bid request and place the bidding~~
 174 ~~contractors on notice that the state or local authority shall consider information relating to~~
 175 ~~the effects on employment within this state. Before any bid shall be considered, the bid~~
 176 ~~shall include an employment impact statement. An employment impact statement shall~~
 177 ~~contain information related to the potential employment impact to this state. Such~~
 178 ~~statement shall include:~~

179 (1) The number of jobs expected to be created in this state should the bid be awarded to
 180 the contractor and the number of jobs expected to be retained that might otherwise be lost
 181 if the contract is awarded to another contractor;

182 (2) The number of jobs expected to be created in this state should the bid be awarded to
 183 the contractor or the number of jobs expected to be retained that might otherwise be lost
 184 if the contract is awarded to another contractor by the subcontractors expected to be used
 185 by the contractor in the performance of the contract; and

186 (3) A guarantee from the contractor that, as a condition of such contract, the jobs created
 187 or retained in this state will not be moved outside of this state during the duration of the
 188 contract.

189 The state or local authority considering bid proposals shall require from the bidder such
 190 information as needed to substantiate any claim by a bidder that jobs will be created or
 191 retained in this state.

192 (c) Nothing in this Code section shall negate the requirements of Code Section 50-5-73."

193 SECTION 5.

194 Said part is further amended by revising Code Section 50-5-62, which is reserved, as follows:

195 "50-5-62.

196 The Department of Administrative Services, in awarding all contracts, shall give preference
 197 to:

198 (1) Sellers of products produced, grown, or manufactured in Georgia;

199 (2) Sellers who maintain a business located in Georgia;

200 (3) Providers of services who are located in this state, maintain a business license in this
 201 state, and promise as a condition of such contract to continue to remain so located and
 202 licensed during the duration of the contract;

203 (4) Any business that promises to employ residents of Georgia for the purpose of
204 satisfying the terms of the contract and that promises to continue such employment
205 throughout the duration of the contract as a condition of the contract; and
206 (5) Any person or entity that pays income taxes to this state. Reserved."

207 **SECTION 6.**

208 This Act shall become effective on July 1, 2013, and shall apply to contracts entered into on
209 or after such date.

210 **SECTION 7.**

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