

Senate Bill 179

By: Senators Hill of the 6th and Dugan of the 30th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to
2 contracts for public works, and Chapter 91 of Title 36 of the Official Code of Georgia
3 Annotated, relating to public works bidding, so as to provide that, if a sealed competitive
4 proposal is requested and price or project cost is not a selection or evaluation factor, no bid
5 bond shall be required; to provide for an exception; to correct statutory references; to
6 authorize incentives in contracts for early project completion by contractors; to provide for
7 related matters; to provide an effective date; to repeal conflicting laws; and for other
8 purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

SECTION 1.

10 Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to contracts for
11 public works, is amended by revising Code Section 13-10-20, relating to large public works
12 contracts, requirements for bid bonds, and withdrawal of bid, by adding a new subsection to
13 read as follows:

14 "(e) When the state invites competitive sealed proposals for a public works construction
15 project and the request for proposals for such project states that price or project cost will
16 not be a selection or evaluation factor, no bid bond shall be required unless the state
17 provides for a bid bond in the request for proposals and specifies the amount of such bond."
18

SECTION 2.

19 Said chapter is further amended by revising subsection (b) of Code Section 13-10-62, relating
20 to notice of commencement, as follows:

21 "(b) The failure to file a notice of commencement shall render the notice to the contractor
22 requirements of paragraph ~~(1)~~ (2) of subsection (a) of Code Section 13-10-63 inapplicable."
23

24 **SECTION 3.**

25 Said chapter is further amended by adding a new part to Article 1, relating to general
26 provisions, to read as follows:

27 "Part 5

28 13-10-70.

29 Public works construction contracts may include both liquidated damages provisions for
30 late construction project completion and incentive provisions for early construction project
31 completion when the project schedule is deemed to have value. The terms of the liquidated
32 damages provisions and the incentive provisions shall be established in advance as a part
33 of the construction contract."

34 **SECTION 4.**

35 Chapter 91 of Title 36 of the Official Code of Georgia Annotated, relating to public works
36 bidding, is amended by adding a new Code section to Article 2, relating to contracting and
37 bidding requirements, to read as follows:

38 "36-91-23.

39 Public works construction contracts may include both liquidated damages provisions for
40 late construction project completion and incentive provisions for early construction project
41 completion when the project schedule is deemed to have value. The terms of the liquidated
42 damages provisions and the incentive provisions shall be established in advance as a part
43 of the construction contract."

44 **SECTION 5.**

45 Said chapter is further amended by revising Part 1 of Article 3, relating to general provisions
46 regarding bonds, by adding a new Code section to read as follows:

47 "36-91-41.

48 When a governmental entity invites competitive sealed proposals for a public works
49 construction project and the request for proposals for such project states that price or
50 project cost will not be a selection or evaluation factor, no bid bond shall be required unless
51 the governmental entity provides for a bid bond in the request for proposals and specifies
52 the amount of such bond."

53 **SECTION 6.**

54 Said chapter is further amended by revising subsection (b) of Code Section 36-91-92, relating
55 to notice of commencement, as follows:

56 "(b) The failure to file a notice of commencement shall render the notice to contractor
57 requirements of paragraph ~~(1)~~ (2) of subsection (a) of Code Section 36-91-93 inapplicable."

58 **SECTION 7.**

59 This Act shall become effective upon its approval by the Governor or upon its becoming law
60 without such approval.

61 **SECTION 8.**

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