

Senate Bill 175

By: Senators Grant of the 25th and Mullis of the 53rd

AS PASSED

AN ACT

To amend Code Section 45-9-1 of the Official Code of Georgia Annotated, relating to general provisions relative to insuring and indemnification of state officers and employees, so as to clarify the meaning of criminal action; to amend Part 12 of Article 4 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to dissolution of electric membership corporations, so as to replace "Department of Administrative Services" with "Office of Treasury and Fiscal Services" where such term appears in certain Code sections; to amend Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to general authority, duties, and procedures for state purchasing, so as to modify certain duties and provisions relating to state purchasing; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 45-9-1 of the Official Code of Georgia Annotated, relating to general provisions relative to insuring and indemnification of state officers and employees, is amended by revising subsection (a) as follows:

"(a) In addition to any other compensation which may be paid to an officer, official, or employee of any agency, board, bureau, commission, department, or authority of the executive, judicial, or legislative branch of government of this state, each such agency, board, bureau, commission, department, or authority is authorized, in its discretion, to purchase policies of liability insurance or contracts of indemnity or to formulate sound programs of self-insurance utilizing funds available to such agency, board, bureau, commission, department, or authority, insuring or indemnifying such officers, officials, or employees to the extent that they are not immune from liability against personal liability for damages arising out of the performance of their duties or in any way connected therewith. Such policies of liability insurance, contracts of indemnity, or programs of self-insurance may also provide for reimbursement to an officer, official, or employee of any agency, board, bureau, commission, department, or authority of the state for reasonable legal fees and other expenses incurred in the successful defense of any criminal proceeding,

including, but not limited to, any criminal cause of action, suit, investigation, subpoena, warrant, request for documentation or property, or threat of such action whether formal or informal where such action arises out of the performance of his or her official duties. In addition, in the case of an officer, official, or employee who is required to maintain a professional license, such reimbursement may also be provided for legal fees and other expenses so incurred in the successful defense of a charge arising out of the performance of his or her official duties in proceedings before a professional licensing board, disciplinary board or commission, or other similar body. Legal fees and other expenses shall be subject to adjustment by and the approval of the Attorney General."

SECTION 2.

Part 12 of Article 4 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to dissolution of electric membership corporations, is amended by replacing "Department of Administrative Services" with "Office of Treasury and Fiscal Services" wherever the former word occurs in:

- (1) Code Section 46-3-427, relating to the execution and contents of the articles of dissolution;
- (2) Code Section 46-3-436, relating to the entry of a decree of involuntary dissolution; and
- (3) Code Section 46-3-438, relating to a deposit with the Department of Administrative Services of an amount due to unknown, disabled, or unlocatable creditors or members.

SECTION 3.

Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to general authority, duties, and procedures for state purchasing, is amended by revising subsection (b) of Code Section 50-5-67, relating to competitive bidding procedure, as follows:

"(b) Except as otherwise provided for in this part, all contracts for the purchases of supplies, materials, equipment, or services other than professional and personal employment services made under this part shall, wherever possible, be based upon competitive bids and shall be awarded to the lowest responsible bidder, taking into consideration the quality of the articles to be supplied and conformity with the specifications which have been established and prescribed, the purposes for which the articles are required, the discount allowed for prompt payment, the transportation charges, and the date or dates of delivery specified in the bid and any other cost affecting the total

cost of ownership during the life cycle of the supplies, materials, equipment, or services as specified in the solicitation document. Competitive bids on such contracts shall be received in accordance with rules and regulations to be adopted by the commissioner of administrative services, which rules and regulations shall prescribe, among other things, the manner, time, and places for proper advertisement for the bids, indicating the time and place when the bids will be received; the article for which the bid shall be submitted and the specification prescribed for the article; the amount or number of the articles desired and for which the bids are to be made; and the amount, if any, of bonds or certified checks to accompany the bids. Any and all bids so received may be rejected."

SECTION 4.

Said Code section is further amended by revising subsection (d) as follows:

"(d)(1) Except as otherwise provided for in this part, the Department of Administrative Services shall publish, prior to award or letting of the contracts, notice of its intent to award a contract to the successful bidder or offeror on public display in a conspicuous place in the department's office, on the Georgia Procurement Registry, or both so that it may be easily seen by the public. The public notice on public display shall also state the price or the amount for which the contract may be awarded, the commodities or services to be covered by the contract which may be awarded, and the names of all persons whose bids, offers, or proposals were rejected by the department, together with a statement giving the reasons for the rejection.

(2) Every bid or proposal conforming to the terms of the advertisement provided for in this Code section, together with the name of the bidder, shall be recorded, and all such records with the name of the successful bidder or offeror indicated thereon shall, within one day after the issuance of the department's public notice of intent to award to the successful bidder or offeror, be subject to public inspection upon request.

(3) The Department of Administrative Services shall also, within one day after the award or letting of the contract, publish the name of the successful bidder or offeror on public display in a conspicuous place in the department's office or on the Georgia Procurement Registry so that it may be easily seen by the public. The public notice on public display shall also show the price or the amount for which the contract was let and the commodities covered by the contract. The Department of Administrative Services shall also, within one day after the award or letting of the contract, publish on public display the names of all persons whose bids, offers, or proposals were rejected by it, together with a statement giving the reasons for such rejection.

(4) The Department of Administrative Services shall canvass the bids, offers, or proposals and award the contract according to the terms of this part. The Department of Administrative Services shall prepare a register of bids, offers, or proposals which will become available for public inspection upon request within one day after the issuance of the department's public notice of intent to award to the successful bidder or offeror. The bids, offers, or proposals shall not be subject to public disclosure until after the issuance of the public notice of intent to award a contract to the successful bidder or offeror except that audited financial statements not otherwise publicly available but required to be submitted in the bid, offer, or proposal shall not be subject to public disclosure.

(5) Records related to the competitive bidding and proposal process which, if disclosed prior to the issuance of the public notice of intent to award would undermine the public purpose of obtaining the best value for this state, shall not be subject to public disclosure until after the department's issuance of its public notice of intent to award a contract to the successful bidder or offeror. Such records include but are not limited to cost estimates, bids, proposals, evaluation criteria, vendor evaluations, negotiation documents, offers and counter-offers, and records revealing preparation for the procurement.

(6) A proper bond for the faithful performance of any contract shall be required of the successful bidder or offeror in the discretion of the Department of Administrative Services. After the contracts have been awarded, the Department of Administrative Services shall certify to the offices, agencies, departments, boards, bureaus, commissions, institutions, or other entities of the state the sources of the supplies and the contract price of the various supplies, materials, services, and equipment so contracted for."

SECTION 5.

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