

House Bill 1300 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 23rd, Boggs of the 145th, Burmeister of the 96th, and DeLoach of the 127th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 14 of Title 43 of the Official Code of Georgia Annotated, relating to electrical contractors, plumbers, conditioned air contractors, low-voltage contractors, and utility contractors, so as to prohibit persons from contracting with any other person to perform utility contracting work unless such other person is properly licensed; to redefine the terms "utility contracting" and "utility system"; to provide that persons holding valid licenses from the State Construction Industry Licensing Board or its divisions shall be able to perform any work within the scope of their licenses; to repeal the certain requirements concerning bids; to provide that persons holding utility manager and utility foreman certificates must provide proof of completion of a course in safety training every two years; to provide for proof of violations of licensing requirements for utility contractors; to provide for cease and desist orders; to provide for fines for violations of such orders; to provide that the issuance of such orders shall not prevent the board from seeking other remedies; to provide for civil penalties for violation of the chapter; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 14 of Title 43 of the Official Code of Georgia Annotated, relating to electrical contractors, plumbers, conditioned air contractors, low-voltage contractors, and utility contractors, is amended by striking paragraphs (13) and (17) of Code Section 43-14-2, relating to definitions, and inserting in lieu thereof new paragraphs (13) and (17) to read as follows:

"(13) 'Utility contracting' means undertaking to construct, erect, alter, or repair or have constructed, erected, altered, or repaired any utility system in which the cost of the utility system work exceeds \$100,000.00."

"(17) 'Utility system' means:

1 ~~(A) any~~ Any system at least five feet underground, when installed or accessed by
2 trenching, open cut, cut and cover, or other similar construction methods which install
3 or access the system from the ground surface, including, but not limited to, gas
4 distribution systems, electrical distribution systems, communication systems, water
5 supply systems, and sanitary sewerage and drainage systems; and
6 (B) reservoirs Reservoirs and filtration plants, water and waste-water treatment plants,
7 leachate collection and treatment systems associated with landfills, and pump stations,
8 when the system distributes or collects a service, product, or commodity for which a fee
9 or price is paid for said service, product, or commodity or for the disposal of said
10 service, product, or commodity."

11 **SECTION 2.**

12 Said chapter is further amended by adding a new paragraph (4.1) to Code Section 43-14-5,
13 relating to general powers of the State Construction Industry Licensing Board, to read as
14 follows:

15 "(4.1) Upon notice and hearing authorized and conducted in accordance with Code
16 Section 43-14-10 and any rules and regulations promulgated by the board, either by the
17 board directly or through a valid delegation of the board's enforcement power to a
18 division thereof, assess civil penalties in an amount up to \$10,000.00 per violation against
19 any person found to be in violation of any requirement of this chapter;".

20 **SECTION 3.**

21 Said chapter is further amended by striking subsections (b) and (h) of Code Section
22 43-14-8.2, relating to utility contractor licenses and utility managers, and inserting in lieu
23 thereof new subsections (b) and (h) to read as follows:

24 "(b)(1) After June 30, 1994, no sole proprietorship, partnership, or corporation shall have
25 the right to engage in the business of utility contracting unless such business holds a
26 utility contractor license and there is regularly connected with such business a person or
27 persons who holds a valid utility manager certificate issued under this chapter. Such
28 utility manager must be actually engaged in the performance of such business on a
29 full-time basis and oversee the utility contracting work of all employees of the business.
30 In cases where a sole proprietorship, partnership, or corporation has more than one
31 permanent office, then each permanent office shall be registered with the division and at
32 least one person who holds a valid utility manager certificate issued under this chapter
33 shall be stationed in each office on a full-time basis and shall oversee the utility
34 contracting work of all employees of that office.

(2) The requirements of this Code section shall not prevent any person holding a valid license issued by the State Construction Industry Licensing Board, or any division thereof, pursuant to this chapter, from performing any work defined in the Code section or sections under the license held by said person was issued."

~~“(h) After June 30, 1994, it shall be unlawful for any contracting body to open or consider any bid for utility contracting unless the bidder has obtained the license required by this Code section or intends to have the utility contracting work performed by another person who has obtained such license. The utility contractor license number of the person who will perform the utility work shall be written on the face of the bid envelope, unless otherwise provided. If 50 percent or more of any multifaceted project being bid is utility work, the bidder must have obtained a utility license and his or her number must be written on the face of the bid. It shall be unlawful for any person to contract with any other person for the performance of utility contracting work who is known by such person not to have a current, valid license as a utility contractor pursuant to this chapter.”~~

SECTION 4.

Said chapter is further amended by striking subsection (b) of Code Section 43-14-8.3, relating to utility manager certificates, and inserting in lieu thereof a new subsection (b) to read as follows:

“(b) The division shall certify all applicants for certification under this chapter who satisfy the requirements of this chapter and the rules and regulations promulgated under this chapter. Persons wishing to qualify for utility manager certification shall submit a completed application form documenting required experience and other qualifications as prescribed by the board with the required fees and shall pass an examination. In order to obtain a utility manager certificate, an applicant must submit proof of completion of a course of safety training in utility contracting approved by the division. In order to continue to hold such certificate, the certificate holder must present proof to the division of completion of a safety training course approved by the division at least every two years from the date of the completion of the initial safety training course.”

SECTION 5.

Said chapter is further amended by striking subsection (b) of Code Section 43-14-8.4, relating to utility foreman certificates, and inserting in lieu thereof a new subsection (b) to read as follows:

“(b) The division shall certify all applicants for certification under this chapter who satisfy the requirements of this chapter and the rules and regulations promulgated under this chapter. One requirement for such certification shall be the successful completion of a

1 course of safety training in utility contracting approved by the division. In order to
2 continue to hold such certificate, the certificate holder must submit proof to the division
3 of completion of a safety training course approved by the division at least every two years
4 from the date of the completion of the initial safety training course. In lieu of safety
5 training any person desiring to be issued a utility foreman certificate may submit a
6 completed application on or before December 31, 1994, which documents to the
7 satisfaction of the division at least two years of experience as a utility foreman during the
8 period between January 1, 1984, and June 30, 1994. Any person who does not submit a
9 completed application for certification on or before December 31, 1994, must complete the
10 required safety training in order to be certified."

11 SECTION 6.

12 Said chapter is further amended by adding a new Code Section 43-14-12.2 to read as follows:

13 "43-14-12.2.

14 (a) If a person is in violation of Code Section 43-14-8.2, 43-14-8.3, or 43-14-8.4, it shall
15 not be necessary for an investigator to observe or witness the unlicensed person engaged
16 illegally in the process of work or to show work in progress or work completed in order to
17 prove the unlawful practice of utility contracting by an unlicensed person.

18 (b) It shall be prima-facie evidence of a violation of this chapter if any person not licensed
19 as a utility contractor advertises that such person is in the business or profession of a utility
20 contractor or advertises in a manner such that the general public would believe that such
21 person is a licensed utility contractor or in the business or profession of a utility contractor.
22 Advertising under this subsection includes, but is not limited to, newspaper, television, or
23 radio advertisements, telephone directory listings, mailings, business cards, or a sign or
24 signs at a place of business or attached to a vehicle.

25 (c) Notwithstanding the provisions of Code Section 43-1-20.1, after notice and hearing,
26 the board may issue a cease and desist order prohibiting any person from violating the
27 provisions of this chapter by engaging in the business or profession of a utility contractor
28 without a license as required under this chapter or by constructing, erecting, altering, or
29 repairing a utility system without a properly certified utility manager or properly certified
30 utility foreman present at such job site.

31 (d) The violation of any cease and desist order of the board issued under subsection (c) of
32 this Code section shall subject the person violating the order to further proceedings before
33 the board, and the board shall be authorized to impose a fine not to exceed \$5,000.00 for
34 each violation thereof. Each day that a person practices in violation of this Code section
35 and chapter or constructs, erects, alters, or repairs a utility system without a properly

1 certified utility manager or properly certified utility foreman present at such job site shall
2 constitute a separate violation.

3 (e) Nothing in this Code section shall be construed to prohibit the board from seeking
4 remedies otherwise available by statute without first seeking a cease and desist order in
5 accordance with the provisions of this Code section."

6 **SECTION 7.**

7 This Act shall become effective on July 1, 2004.

8 **SECTION 8.**

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