

House Bill 137

By: Representatives Anderson of the 10<sup>th</sup>, Lumsden of the 12<sup>th</sup>, Hawkins of the 27<sup>th</sup>, Yearta of the 152<sup>nd</sup>, Leverett of the 123<sup>rd</sup>, and others

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, so as to increase the dollar value of certain public works contracts  
3 exempt from provisions relating to retention of contractual payments; to amend Article 10  
4 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to contracts and  
5 purchases by public schools, so as to increase the dollar value trigger of certain  
6 considerations related to in-state purchasing preferences for certain contracts and purchases;  
7 to amend Article 11 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
8 relating to public school property and facilities, so as to increase the dollar value related to  
9 when certain school construction contracts must be subject to competitive bidding; to amend  
10 Chapter 4 of Title 32 of the Official Code of Georgia Annotated, relating to state, county, and  
11 municipal road systems, so as increase the dollar value of certain contracts counties and  
12 municipalities are prohibited from negotiating; to amend Chapter 91 of Title 36 of the  
13 Official Code of Georgia Annotated, relating to public works bidding, so as to increase the  
14 dollar values of certain public works construction contracts exempt from bidding  
15 requirements; to amend Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of  
16 Georgia Annotated, relating to general authority, duties, and procedure for state purchasing,  
17 so as to increase the dollar value related to when construction or public works contracts must

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18 be conducted and negotiated by the Department of Administrative Services; to provide for  
19 related matters; to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **SECTION 1.**

22 Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to contracts for  
23 public works, is amended in Code Section 13-10-80, relating to definitions, contract  
24 requirements, application, effect of greater benefits contracted for, and evidence of  
25 indebtedness paid, by revising subsection (c) as follows:

26 "(c) This Code section shall not apply to:

27 (1) Any contracts let by the Department of Transportation of this state for the  
28 construction, improvement, or maintenance of roads or highways in this state or purposes  
29 incidental thereto; or

30 (2) Any contracts whose value or duration at the time of the award does not exceed  
31 ~~\$150,000.00~~ \$250,000.00 or 45 days in duration."

32 **SECTION 2.**

33 Article 10 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to  
34 contracts and purchases by public schools, is amended in Code Section 20-2-500, relating  
35 to contracts for purchases authorized of certain supplies, materials, equipment, or agricultural  
36 products to give preference to in-state manufacturers or producers, purchases over  
37 \$100,000.00, and vendor preferences, by revising subsection (a) as follows:

38 "(a)(1) Local boards of education shall provide that contracts for or purchases of  
39 supplies, materials, equipment, or agricultural products, including but not limited to  
40 school buses but not including instructional materials or beverages for immediate  
41 consumption, for public elementary and secondary schools supported in whole or in part

42 from public funds shall give preference as far as may be reasonable and practicable to  
43 such supplies, materials, equipment, and agricultural products as may be manufactured  
44 or produced in this state. Such preference shall not sacrifice quality.

45 (2) Local boards of education shall provide that, in determining whether such a  
46 preference is reasonable in any case where the value of a contract for or purchase of such  
47 supplies, materials, equipment, or agricultural products exceeds ~~\$100,000.00~~  
48 \$250,000.00, the local school district shall consider, among other factors, information  
49 submitted by the bidder which may include the bidder's estimate of the multiplier effect  
50 on gross state domestic product and the effect on public revenues of the state and the  
51 effect on public revenues of political subdivisions resulting from acceptance of a bid or  
52 offer to sell Georgia manufactured or produced goods as opposed to out-of-state  
53 manufactured or produced goods. Any such estimates shall be in writing. No local  
54 school district shall divide a contract or purchase which exceeds ~~\$100,000.00~~  
55 \$250,000.00 for the purpose of avoiding the requirements of this paragraph."

56

### SECTION 3.

57 Article 11 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to  
58 public school property and facilities, is amended in Code Section 20-2-520, relating to  
59 acquiring and disposing of school sites and building, repairing, renting, and furnishing  
60 schoolhouses, by revising subsection (a) as follows:

61 "(a) The county boards of education shall have the power to purchase, lease, or rent school  
62 sites; build, repair, or rent schoolhouses; purchase maps, globes, and school furniture; and  
63 make all arrangements necessary to the efficient operation of the schools. Such county  
64 boards are invested with the title, care, and custody of all schoolhouses or other property,  
65 with the power to control such property in such manner as they think will best serve the  
66 interests of the public schools; and when, in the opinion of the county board, any  
67 schoolhouse site has become unnecessary or inconvenient, they may sell it in the name of

68 the county board; and the conveyance for any such sale shall be executed by the president  
 69 or secretary of the county board, according to the order of the county board. Such county  
 70 boards shall have the power to receive any gift, grant, donation, or devise made for the use  
 71 of the public schools within the respective counties; and all conveyances of real estate  
 72 which may be made to such a county board shall vest the property in such county board and  
 73 its successors in office. Such county board may provide for the building of schoolhouses  
 74 by a tax on all property located in the county and outside the territorial limits of any  
 75 independent school system. The construction of all public school buildings must be  
 76 approved by the county school superintendent and county board and must be according to  
 77 the plans furnished by the county school authorities and the State Board of Education. All  
 78 public school construction contracts in excess of ~~\$100,000.00~~ \$250,000.00 shall be publicly  
 79 advertised and awarded through an open and competitive process, regardless of the funding  
 80 source."

81 **SECTION 4.**

82 Chapter 4 of Title 32 of the Official Code of Georgia Annotated, relating to state, county, and  
 83 municipal road systems, is amended revising Code Section 32-4-63, relating to limitations  
 84 on power to contract and at least two estimates required for certain expenditures, as follows:  
 85 "32-4-63.

86 (a) A county is prohibited from negotiating a contract except a contract:

87 (1) Involving the expenditure of less than ~~\$200,000.00~~ \$250,000.00;

88 (2) With a state agency or county or municipality with which a county is authorized to  
 89 contract in accordance with the provisions of Code Sections 32-4-61 and 32-4-62;

90 (3) For the purchase of those materials, supplies, and equipment necessary for the  
 91 county's construction and maintenance of its public roads and for the support and  
 92 maintenance of the county's forces used in such work, as authorized by Chapter 91 of  
 93 Title 36;

94 (4) Subject to Article 6 of Chapter 6 of this title, with a railroad or railway company or  
 95 a publicly or privately owned utility concerning relocation of its line, tracks, or facilities  
 96 where the same are not then located in a public road and such relocation or  
 97 grade-crossing elimination is necessary as an incident to the construction of a new public  
 98 road or to the reconstruction or maintenance of an existing public road. Nothing  
 99 contained in this paragraph shall be construed as requiring a county to furnish a site or  
 100 right of way for railroad or railway lines or tracks of public utility facilities required to  
 101 be removed from a public road;

102 (5) For engineering or other kinds of professional or specialized services;

103 (6) For emergency maintenance requiring immediate repairs to a public road, including  
 104 but not limited to bridge repairs, snow and ice removal, and repairs due to flood  
 105 conditions;

106 (7) Otherwise expressly authorized by law; or

107 (8) That is a design-build contract as provided for in Code Section 32-4-74.

108 (b) No contract involving an expenditure of more than \$20,000.00 but less than  
 109 ~~\$200,000.00~~ \$250,000.00 shall be awarded under this Code section without the submission  
 110 of at least two estimates."

## 111 SECTION 5.

112 Said chapter is further amended by revising Code Section 32-4-113, relating to limitations  
 113 on power to contract and at least two estimates required for certain expenditures, as follows:

114 "32-4-113.

115 (a) A municipality is prohibited from negotiating a contract except a contract:

116 (1) Involving the expenditure of less than ~~\$200,000.00~~ \$250,000.00;

117 (2) With a state agency or political subdivision as authorized by Code Sections 32-4-111  
 118 and 32-4-112;

- 119 (3) With a railroad or railway company or a publicly or privately owned utility as  
120 authorized by Article 6 of Chapter 6 of this title;
- 121 (4) For engineering or other kinds of professional or specialized services;
- 122 (5) For emergency maintenance requiring immediate repairs to a public road, including  
123 but not limited to bridge repairs, snow and ice removal, and repairs due to flood  
124 conditions; or
- 125 (6) Otherwise expressly authorized by law.
- 126 (b) No contract involving an expenditure of more than \$20,000.00 but less than  
127 ~~\$200,000.00~~ \$250,000.00 shall be awarded under this Code section without the submission  
128 of at least two estimates."

129 **SECTION 6.**

130 Chapter 91 of Title 36 of the Official Code of Georgia Annotated, relating to public works  
131 bidding, is amended in Code Section 36-91-22, relating to exceptions, use of inmate labor,  
132 and emergency situations, by revising subsections (a) and (g) as follows:

133 "(a) The requirements of this chapter shall not apply to public works construction projects,  
134 when the same can be performed at a cost of less than ~~\$100,000.00~~ \$250,000.00. Public  
135 works construction projects shall not be subdivided in an effort to evade the provisions of  
136 this chapter."

137 "(g) The requirements of this chapter shall not apply to public works construction projects  
138 or any portion of a public works construction project self-performed by a governmental  
139 entity. If the governmental entity contracts with a private person or entity for a portion of  
140 such project, the provisions of this chapter shall apply to any such contract estimated to  
141 exceed ~~\$100,000.00~~ \$250,000.00."

142 **SECTION 7.**

143 Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,  
144 relating to general authority, duties, and procedure for state purchasing, is amended in Code  
145 Section 50-5-72, relating to construction and public works contracts conducted by  
146 department, advertising costs, and exceptions, by revising subsection (a) as follows:

147 "(a) Notwithstanding any other provision of this part or any other law dealing with the  
148 subject matter contained in this Code section to the contrary, all construction or public  
149 works contracts, exceeding a total expenditure of ~~\$100,000.00~~ \$250,000.00, of any  
150 department, board, bureau, commission, office, or agency of the state government, except  
151 as provided in this Code section, shall be conducted and negotiated by the Department of  
152 Administrative Services in accordance with this part; provided, however, that any  
153 expenditure of less than ~~\$100,000.00~~ \$250,000.00 shall still be subject to review and  
154 approval by the Department of Administrative Services, which may approve  
155 noncompetitive expenditures of up to ~~\$100,000.00~~ \$250,000.00."

156 **SECTION 8.**

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