

House Bill 704

By: Representatives Cheokas of the 151st, Jones of the 25th, Dubnik of the 29th, Dickey of the 134th, Blackmon of the 146th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 50-6-25 of the Official Code of Georgia Annotated, relating to
2 maintenance of statistics on architectural and engineering firms doing business with the state
3 and ineligibility of firms, so as to replace the requirement that the state auditor produce
4 certain monthly reports with the requirement that he or she produce annual reports; to
5 provide for the removal of certain requirements; to amend Code Sections 42-2-14
6 and 50-22-7 of the Official Code of Georgia Annotated, relating to power of Governor to
7 declare state of emergency with regard to jail and prison overcrowding and exemptions from
8 requirements and construction with Code Section 50-6-25, respectively, so as to provide for
9 cross-references; to provide for related matters; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**
13 Code Section 50-6-25 of the Official Code of Georgia Annotated, relating to maintenance
14 of statistics on architectural and engineering firms doing business with the state and
15 ineligibility of firms, is amended by revising said Code section as follows:

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16 "50-6-25.

17 ~~(a)(1) The state auditor shall maintain statistics on all architectural and engineering firms~~
18 ~~doing business with the various departments, agencies, authorities, and public~~
19 ~~corporations of the state, except the Department of Transportation which shall be~~
20 ~~governed by paragraph (2) of this subsection. The statistics shall show the percentage of~~
21 ~~the total state business done by each such firm and shall be made available to the General~~
22 ~~Assembly and all departments, agencies, authorities, and public corporations of the state~~
23 ~~using architectural and engineering services. The state auditor shall compile the statistics~~
24 ~~and shall maintain the statistics current on a monthly basis.~~

25 ~~(2) The state auditor shall include in the statistics provided for in paragraph (1) of this~~
26 ~~subsection all architectural and engineering firms doing business with the Department of~~
27 ~~Transportation. The Department of Transportation shall report its architectural and~~
28 ~~engineering contracts to the state auditor in two divisions. In the first division, such~~
29 ~~department shall report those contracts which are under a gross value of \$1 million at the~~
30 ~~time of execution by the total contract amount without accounting for any subcontracts.~~
31 ~~In the second division, such department shall report those contracts with a gross value in~~
32 ~~excess of \$1 million at the time of execution and shall report all subcontracts thereunder~~
33 ~~which are in excess of \$25,000.00 as further provided for in this Code section. The~~
34 ~~statistics shall show the total percentage of state business done by each such firm and~~
35 ~~shall be made available to the General Assembly and the Department of Transportation.~~
36 ~~The state auditor shall compile the statistics and shall maintain the statistics current on~~
37 ~~a monthly basis. With respect to any contract of the Department of Transportation in~~
38 ~~excess of \$1 million with an architectural or engineering firm which awards a portion of~~
39 ~~the business in an amount in excess of \$25,000.00 under such contract to one or more~~
40 ~~subcontractors or joint-venture partners, such department shall report to the state auditor~~
41 ~~the amount of each subcontractor or joint-venture partner with that portion of the business~~
42 ~~awarded to such subcontractor or joint-venture partner, and such amounts shall not be~~

43 ~~listed or included as business of the Department of Transportation awarded to the~~
44 ~~architectural or engineering firm receiving the state contract. The architectural or~~
45 ~~engineering firm shall report to the Department of Transportation, as part of its preaward~~
46 ~~audit conducted by such department, the amount of business in excess of \$25,000.00~~
47 ~~under an anticipated contract which the contractor intends to award to any subcontractor~~
48 ~~or joint-venture partner, and, after verification that the information reported is correct, the~~
49 ~~Department of Transportation shall furnish such information to the state auditor. The~~
50 ~~state auditor shall revise the statistics with respect to architectural and engineering firms~~
51 ~~currently doing business with the Department of Transportation with respect to contracts~~
52 ~~outstanding on April 19, 1995, under which all services have not been performed by such~~
53 ~~architectural and engineering firms in satisfaction of the contract. Such revised statistics~~
54 ~~shall be computed in accordance with the provisions of this subsection crediting~~
55 ~~subcontractors and joint-venture partners with business awarded to them and providing~~
56 ~~that such amounts credited shall not be listed or included as business of the state awarded~~
57 ~~to the architectural or engineering firm receiving the state contract. Such revised~~
58 ~~statistics shall be provided by the contractor within 60 days of April 19, 1995, and, after~~
59 ~~such time, the state auditor shall not be required to revise such statistics:~~

60 ~~(b) Any architectural or engineering firm which has received more than 10 percent of the~~
61 ~~total awarded for such services by the departments, agencies, authorities, and public~~
62 ~~corporations of the state during any period of 36 months, as calculated pursuant to the~~
63 ~~provisions of subsection (a) of this Code section and shown by the statistics of the state~~
64 ~~auditor, shall be ineligible to contract with any department, agency, authority, or public~~
65 ~~corporation of the state until the firm, during any period of 36 months, has been awarded~~
66 ~~less than 10 percent of the total awarded for such services; provided, however, that any~~
67 ~~architectural or engineering firm may contract with the Department of Transportation for~~
68 ~~not more than 30 percent of the total awarded for such services, 10 percent for~~
69 ~~transportation purposes, and 20 percent for tollway purposes:~~

70 (a) The state auditor shall annually provide the General Assembly with statistics on all
71 architectural and engineering firms doing business with the departments, agencies,
72 authorities, and public corporations of this state. The annual statistics shall include a listing
73 of the architectural and engineering firms that were awarded contracts during the preceding
74 fiscal year, including the amount of the contract awards, statistics on the number of
75 contracts awarded to firms in the State of Georgia, and statistics on the number of contracts
76 awarded to firms in rural areas of this state. The state auditor is authorized to provide any
77 additional statistical information, as determined necessary.
78 (b) The statistics will become a part of the annual reporting requirements as outlined in
79 Code Section 50-6-32, the 'Transparency in Government Act.' The annual statistics shall
80 be posted for the preceding fiscal year as soon as is practical after the close of each fiscal
81 year, but no later than January 1, beginning January 1, 2027."

82 **SECTION 2.**

83 Code Section 42-2-14 of the Official Code of Georgia Annotated, relating to power of
84 Governor to declare state of emergency with regard to jail and prison overcrowding, is
85 amended by revising said Code section as follows:

86 "42-2-14.

87 The Governor, upon certification by the commissioner of corrections and approval by the
88 director of the Office of Planning and Budget that the population of the prison system of
89 the State of Georgia has exceeded the capacity of the prison system for any period of 90
90 consecutive days, beginning at any time after December 31, 1988, may declare a state of
91 emergency with regard to jail and prison overcrowding. Following the declaration of such
92 emergency, the department may establish additional facilities for use by the department,
93 such facilities to be either of a permanent type of construction or of a temporary or
94 movable type as the department may find most advantageous to the particular needs, to the
95 end that the inmates under its supervision may be so distributed throughout the state as to

96 facilitate individualization of treatment designed to prepare them for lawful living in the
 97 community where they are most likely to reside after their release from a correctional
 98 facility. For this purpose, the department may purchase or lease sites and suitable lands
 99 and erect necessary buildings thereon or purchase or lease existing facilities, all within the
 100 limits of appropriations as approved by the General Assembly. With the approval of the
 101 Governor, provisions of Chapter 5 of Title 50, relating to the Department of Administrative
 102 Services, ~~or provisions of Code Section 50-6-25~~ or Chapter 22 of Title 50, relating to
 103 control over acquisition of professional services, may be waived by the department to
 104 facilitate the rapid construction or procurement of facilities for inmates; ~~provided, however,~~
 105 ~~that the authority to waive provisions of Code Section 50-6-25 shall terminate as of July~~
 106 ~~1, 1991~~. During any year in which correctional facilities are constructed or procured under
 107 this Code section and any requirements are waived, the department shall furnish the
 108 Governor and the General Assembly with a detailed report specifying the facilities
 109 constructed or procured, the requirements waived, and the reasons therefor."

110

SECTION 3.

111 Code Section 50-22-7 of the Official Code of Georgia Annotated, relating to exemptions
 112 from requirements and construction with Code Section 50-6-25, is amended by revising said
 113 Code section as follows:

114 "50-22-7.

115 (a) Notwithstanding any other provisions of this chapter, there shall be no public notice
 116 requirement or utilization of the selection process as provided for in this chapter for
 117 projects in which the state agency is able to reuse existing drawings, specifications,
 118 designs, or other documents from a prior project by retention of the person who provided
 119 the professional services and who prepared the original documents.

120 (b) Notwithstanding any other provisions of this chapter, the Board of Regents and
 121 University System of Georgia shall be exempt from the provisions of this chapter.

122 (c) ~~The provisions of Code Section 50-6-25, relating to the eligibility of architectural and~~
123 ~~engineering firms to do business with the state, shall not be affected or superseded by the~~
124 ~~provisions of this chapter.~~

125 (d) Notwithstanding any other provisions of this chapter, there shall be no public notice
126 requirement or utilization of the selection process as provided for in this chapter for
127 services required for the predesign phase of any state agency construction project unless
128 the state agency estimates the predesign phase alone to have costs for professional services
129 in excess of \$75,000.00. No award of a contract to provide predesign services under this
130 exemption shall be interpreted to preclude the lawful necessity to give public notice and
131 use the selection process for design of projects meeting the criteria of paragraph (5) of
132 Code Section 50-22-2. Costs for predesign services, whether or not those services are
133 exempt under this subsection, shall be added to any other costs of an activity for purposes
134 of determining whether the activity is a project."

135 **SECTION 4.**

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