

The House Committee on Governmental Affairs offers the following substitute to SB 51:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 4 of Title 32 of the Official Code of Georgia Annotated, relating to state,
2 county, and municipal road systems, so as to revise contracting procedures related to the
3 acquisition of certain professional services by counties and municipalities; to amend
4 Chapter 91 of Title 36 of the Official Code of Georgia Annotated, relating to public works
5 bidding, so as to revise contracting procedures related to the acquisition of certain
6 professional services by counties and municipalities; to provide definitions; to amend
7 Chapter 22 of Title 50 of the Official Code of Georgia Annotated, relating to managerial
8 control over acquisition of professional services, so as to expand such provisions to local
9 governments; to provide for and revise definitions; to provide for related matters; to provide
10 an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 4 of Title 32 of the Official Code of Georgia Annotated, relating to state, county, and
14 municipal road systems, is amended by revising Code Section 32-4-63, relating to limitations
15 on county power to contract and at least two estimates required for certain expenditures, as
16 follows:

S. B. 51 (SUB)

17 "32-4-63.

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

19 (1) Involving the expenditure of less than \$250,000.00;

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

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

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

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

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

38 (7) Otherwise expressly authorized by law; or

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

40 (b) Except as provided for in subsection (c) of this Code section, no ~~No~~ contract involving
41 an expenditure of more than \$20,000.00 but less than \$250,000.00 shall be awarded under
42 this Code section without the submission of at least two estimates.

43 (c) A county shall use the process required by Code Section 36-91-3 for the acquisition of
 44 the professional services of architects, interior designers, land surveyors, landscape
 45 architects, and professional engineers, and the contracts for such services shall not be
 46 subject to subsection (b) of this Code section."

47 **SECTION 2.**

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

51 "32-4-113.

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

- 53 (1) Involving the expenditure of less than \$250,000.00;
- 54 (2) With a state agency or political subdivision as authorized by Code Sections 32-4-111
 55 and 32-4-112;
- 56 (3) With a railroad or railway company or a publicly or privately owned utility as
 57 authorized by Article 6 of Chapter 6 of this title;
- 58 (4) For engineering or other kinds of professional or specialized services;
- 59 (5) For emergency maintenance requiring immediate repairs to a public road, including
 60 but not limited to bridge repairs, snow and ice removal, and repairs due to flood
 61 conditions; or
- 62 (6) Otherwise expressly authorized by law.

63 (b) Except as provided for in subsection (c) of this Code section, no ~~No~~ contract involving
 64 an expenditure of more than \$20,000.00 but less than \$250,000.00 shall be awarded under
 65 this Code section without the submission of at least two estimates.

66 (c) A municipality shall use the process required by Code Section 36-91-3 for the
 67 acquisition of the professional services of architects, interior designers, land surveyors,

68 landscape architects, and professional engineers, and the contracts for such services shall
69 not be subject to subsection (b) of this Code section."

70 **SECTION 3.**

71 Chapter 91 of Title 36 of the Official Code of Georgia Annotated, relating to public works
72 bidding, is amended by adding a new Code section to read as follows:

73 "36-91-3.

74 (a) As used in this Code section, the term:

75 (1) 'Local government' means a county, municipality, or consolidated government.

76 (2) 'Professional services' shall have the same meaning as set forth in Code
77 Section 50-22-2.

78 (b) The purpose of this Code section is to provide the competitive process for local
79 governments to acquire professional services on the basis of demonstrated competence and
80 qualification for the type or types of professional services required at fair and reasonable
81 fees.

82 (c) Except as otherwise provided in this Code section, a local government shall use the
83 process provided for in Chapter 22 of Title 50 for the acquisition of professional services
84 for any project requiring professional services estimated by the local government to have
85 a cost in excess of the amounts provided in paragraph (5) of Code Section 50-22-2.

86 (d) The qualifications which may be considered by a local government in the evaluation
87 of proposals for professional services shall be determined in the sole and absolute
88 discretion of that local government based on the specific project for which professional
89 services are required and shall be set forth in the publicly advertised request for proposals.
90 Qualification criteria may include, but are not limited to, the ability of professional
91 personnel, past performance with the local government, willingness to meet time
92 requirements, project location, office location, the professional's current and projected
93 workloads, the professional's approach to the project, quality control procedures, the

94 volume of work previously awarded to the professional, and familiarity with local
95 considerations or procedures.

96 (e) In the event that a local government receives only one response to a request for
97 proposals for professional services, the local government may commence negotiations with
98 the sole responsive offeror upon closure of the advertised response period.

99 (f) No local government shall require cost estimates for professional services as part of,
100 or concurrent with, the submission of information required by Code Section 50-22-4 or
101 prior to the commencement of negotiations pursuant to Code Section 50-22-6.

102 (g) A local government may enter into multiparty on-demand services contracts for a
103 specifically delineated range of professional services with multiple providers so long as
104 such providers are competitively selected for such contracts based solely on qualifications
105 under the provisions of this Code section.

106 (h) A local government having a satisfactory existing working relationship, as determined
107 at the sole discretion of such local government, with a professional services provider may
108 expand the scope of those services with such provider so long as such expanded services
109 are within the technical competency of the existing provider. Nothing in this Code section
110 shall be construed to prohibit a continuing contract between a local government and a
111 professional services provider."

112 SECTION 4.

113 Chapter 22 of Title 50 of the Official Code of Georgia Annotated, relating to managerial
114 control over acquisition of professional services, is amended by revising Code Section
115 50-22-1, relating to purpose and policy, as follows:

116 "50-22-1.

117 The purpose of this chapter is to provide managerial control by the state and local
118 governments over the acquisition of the professional services provided by architects,
119 professional engineers, landscape architects, land surveyors, and interior designers. It is

120 declared to be the policy of this state to announce publicly requirements for such
 121 professional services, to encourage all qualified persons to put themselves in a position to
 122 be considered for a contract, and to enter into contracts for such professional services on
 123 the basis of demonstrated competence and qualification for the types of professional
 124 services required at fair and reasonable fees."

125 SECTION 5.

126 Said chapter is further amended by revising Code Section 50-22-2, relating to definitions, as
 127 follows:

128 "50-22-2.

129 As used in this chapter, the term:

130 (1) 'Agency' means ~~every state department, agency, board, bureau, commission, and~~
 131 ~~authority, unless otherwise exempted under the provisions of subsection (b) of Code~~
 132 ~~Section 50-22-7~~ a state agency or a local government.

133 (1.1) 'Local government' means a county, municipality, or consolidated government.

134 (2) 'Person' means an individual, a corporation, a partnership, a business trust, an
 135 association, a firm, or any other legal entity.

136 (2.1) 'Predesign' means that phase of an activity where requirements programming, site
 137 analysis, and other appropriate studies are conducted to develop essential information,
 138 including cost estimates, to support and advance the decision-making process prior to the
 139 design and implementation phases of an activity.

140 (3) 'Principal representative' means:

141 (A) The governing board of a state agency or the executive head of a state agency;

142 or

143 (B) The governing authority or designated officer, official, or employee of a local
 144 government

145 who is authorized to contract for the agency for professional services.

- 146 (4) 'Professional services' means those services within the scope of the following:
- 147 (A) The practice of architecture, as defined in paragraph (11) of Code Section 43-4-1;
- 148 (B) The practice of registered interior design, as defined in Code Section 43-4-30;
- 149 (C) The practice of professional engineering, as defined in paragraph (11) of Code
- 150 Section 43-15-2;
- 151 (D) The practice of land surveying, as defined in paragraph (6) of Code
- 152 Section 43-15-2; or
- 153 (E) The practice of landscape architecture, as defined in paragraph (3) of Code
- 154 Section 43-23-1.
- 155 (5) 'Project' means any activity requiring professional services estimated by the state
- 156 agency to have:
- 157 (A) A preliminary construction cost estimate in excess of \$1 million; or
- 158 (B) Costs for professional services in excess of \$75,000.00.
- 159 (6) 'State agency' means every state department, agency, board, bureau, commission, and
- 160 authority, unless otherwise exempted under the provisions of subsection (b) of Code
- 161 Section 50-22-7."

162 SECTION 6.

163 Said chapter is further amended by revising Code Section 50-22-4, relating to submission of

164 information to state agency by persons desiring to provide professional services and

165 preliminary selections, as follows:

166 "50-22-4.

167 (a) Any person desiring to provide professional services to ~~a state~~ an agency shall submit

168 to the agency a statement of qualifications and performance data and such other

169 information as may be required by the agency. The agency may request such person to

170 update such statement periodically in order to reflect changed conditions in the status of

171 such person.

172 (b) For each proposed project for which professional services are required, the principal
173 representative or his or her designee of the ~~state~~ agency for which the project is to be done
174 shall evaluate statements of qualifications and performance data as required in the public
175 notice provided for in Code Section 50-22-3 and shall conduct discussions with not less
176 than three persons regarding their qualifications, approaches to the project, abilities to
177 furnish the required professional services, anticipated design concepts, and use of
178 alternative methods of approach for furnishing the required professional services. The
179 principal representative or his or her designee shall then select not less than three nor more
180 than five persons deemed to be most highly qualified to perform the required professional
181 services after considering, and based upon, such factors as the ability of professional
182 personnel, past performance, willingness to meet time requirements, project location, office
183 location, the professional's current and projected workloads, the professional's approach,
184 quality control procedures, the volume of work previously awarded to the person by the
185 ~~state~~ agency, and the extent to which said persons have and will involve minority
186 subcontractors, with the object of effecting an equitable distribution of contracts among
187 qualified persons ~~as~~ so long as such distribution does not violate the principle of selection
188 of the most highly qualified person. In selection, as mentioned in this Code section,
189 persons who maintain an office in Georgia shall be given preference when qualifications
190 appear to be equal."

191 SECTION 7.

192 Said chapter is further amended by revising Code Section 50-22-7, relating to exemptions
193 from requirements and construction with Code Section 50-6-25, as follows:

194 "50-22-7.

195 (a) Notwithstanding any other provisions of this chapter, there shall be no public notice
196 requirement or utilization of the selection process as provided for in this chapter for
197 projects in which the ~~state~~ agency is able to reuse existing drawings, specifications,

198 designs, or other documents from a prior project by retention of the person who provided
199 the professional services and who prepared the original documents.

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

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

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

215 SECTION 8.

216 Said chapter is further amended by revising Code Section 50-22-8, relating to rules and
217 regulations, as follows:

218 "50-22-8.

219 A state agency shall be authorized to promulgate rules and regulations to carry out the
220 provisions of this chapter. A local government shall be authorized to adopt ordinances,
221 resolutions, or regulations to carry out the provisions of this chapter."

222 **SECTION 9.**

223 This Act shall become effective on July 1, 2027.

224 **SECTION 10.**

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