

House Bill 1277 (COMMITTEE SUBSTITUTE)

By: Representatives Barton of the 5th, Jasperse of the 11th, Campbell of the 171st, Hagan of the 156th, and McDonald III of the 26th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 16 of Title 12 and Title 32 of the Official Code of Georgia
2 Annotated, relating to environmental policy and highways, bridges, and ferries, respectively,
3 so as to increase the project cost threshold for public roads or airports requiring
4 environmental evaluations; to authorize annual adjustments to such thresholds based upon
5 inflation; to revise various reporting requirements relating to projects of and contracts
6 awarded by the Department of Transportation; to provide for publication of such reports; to
7 repeal a limit on the amount of design-build projects that may be awarded by such
8 department; to increase the property value threshold for requirements relating to the sale of
9 property no longer needed for public road purposes; to authorize annual adjustments to such
10 threshold based upon inflation; to provide for conforming changes; to provide for related
11 matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Article 1 of Chapter 16 of Title 12 of the Official Code of Georgia Annotated, relating to
15 environmental policy, is amended by revising Code Section 12-16-9, relating to limitation
16 on requirement for environmental evaluation, as follows:

17 "12-16-9.

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18 When a project of a department, municipality, county, or authority to construct or improve
19 a public road or airport does not exceed ~~\$100~~ \$200 million in costs, such project shall not
20 constitute a proposed governmental action which may significantly adversely affect the
21 quality of the environment and the requirements of this article shall not be applicable,
22 except that an environmental evaluation shall be considered in the decision-making
23 process, consistent with paragraph (3) of Code Section 12-16-2, when it is probable to
24 expect significant adverse impact on historical sites or buildings and cultural resources.
25 On July 1, 2027, and each July 1 thereafter, the division shall be authorized to annually
26 adjust the cost threshold established in this Code section; provided, however, that such
27 adjustment shall not result in an increase by more than the annual rate of inflation as
28 measured by the Consumer Price Index as reported by the Bureau of Labor Statistics of the
29 United States Department of Labor."

30 **SECTION 2.**

31 Title 32 of the Official Code of Georgia Annotated relating to highways, bridges, and ferries,
32 is amended by revising Code Section 32-2-41.2, relating to development of benchmarks,
33 reports, and value engineering studies, as follows:

34 "32-2-41.2.

35 (a) ~~The commissioner shall develop and publish in print or electronically benchmarks,~~
36 ~~based upon the type and scope of a construction project, that detail a realistic time frame~~
37 ~~for completion of each stage of a construction project, including preliminary engineering~~
38 ~~and design, environmental permitting and review, and right of way acquisition~~ The
39 department shall develop and publish an annual fiscal year report accounting for the
40 investment of public funds in transportation during the previous fiscal year. Such report
41 shall be made available to the Governor and the General Assembly by January 15 of each
42 year.

43 (b) ~~The director shall submit an annual report to the Governor, the Lieutenant Governor,~~
 44 ~~the Speaker of the House of Representatives, and the chairpersons of the House and Senate~~
 45 ~~Transportation Committees detailing the progress of every construction project valued at~~
 46 ~~\$10 million or more against the benchmarks. This report shall include an analysis~~
 47 ~~explaining the discrepancies between the benchmarks and actual performance on each~~
 48 ~~project as well as an explanation for delays. This report shall also be published on the~~
 49 ~~website of the department~~ The department shall maintain on its website a detailed status
 50 report for each programmed project, including a project description, projected schedule by
 51 programmed phases, and projected cost by programmed phases.

52 (c) ~~The department shall create and maintain on its website a detailed status report on each~~
 53 ~~project under planning or construction. This status report shall include, but not be limited~~
 54 ~~to, the name and contact information of the project manager, if applicable.~~

55 (d) ~~Value engineering studies shall be performed on all projects whose costs exceed \$50~~
 56 ~~million, except for any project procured in accordance with Code Sections 32-2-79,~~
 57 ~~32-2-80, and 32-2-81, and the director shall submit an annual report to the Governor, the~~
 58 ~~Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons~~
 59 ~~of the House and Senate Transportation Committees detailing the amount saved due to the~~
 60 ~~value engineering studies. This report shall also be published on the website of the~~
 61 ~~department."~~

62 **SECTION 3.**

63 Said title is further amended in Code Section 32-2-43, relating to director of planning,
 64 appointment, and responsibilities, by revising subsection (b) as follows:

65 "(b) The director of planning's principal responsibility shall be the development of
 66 transportation plans, including the development of the state-wide strategic transportation
 67 plan, state-wide transportation improvement program, state-wide freight and logistics
 68 implementation plan, and other comprehensive plans pursuant to the provisions of Code

69 ~~Section Sections~~ 32-2-3 and ~~Code Section~~ 32-2-22, and strategic transportation plans
70 pursuant to the provisions of Code Section 32-2-41.1, ~~and benchmarks and value~~
71 ~~engineering studies pursuant to the provisions of Code Section 32-2-41.2~~, in consultation
72 with the board, the Governor, and the commissioner. The director shall also be responsible
73 for the duties and activities assigned to the director in Article 5 of Chapter 8 of Title 48.
74 The director shall be the director of the Planning Division of the department and shall
75 possess, exercise, and perform all the duties, powers, and authority which may be vested
76 in such division by law and are necessary or appropriate for such purpose, except those
77 duties, powers, and authority which are expressly reserved by law to the board or the
78 commissioner."

79 **SECTION 4.**

80 Said title is further amended in Code Section 32-2-69, relating to bidding process and award
81 of contract, by revising subsection (a) as follows:

82 "(a) Except as authorized by Code Sections ~~32-2-79~~, 32-2-80, and 32-2-82, the department
83 shall award contracts to the lowest reliable bidder, provided that the department shall have
84 the right to reject any and all such bids whether such right is reserved in the public notice
85 or not and, in such case, the department may ~~readvertise~~ republish the advertisement,
86 perform the work itself, or abandon the project."

87 **SECTION 5.**

88 Said title is further amended by repealing and reserving Code Section 32-2-79, relating to
89 biennial reporting of potential undertakings best suited for public-private partnership.

90 **SECTION 6.**

91 Said title is further amended in Code Section 32-2-80, relating to public-private partnerships
92 (P3s), by revising subsection (d) as follows:

93 "(d) The department shall be authorized to promulgate reasonable rules or regulations to
 94 assist in proposal evaluations and to implement the purposes of this Code section. The
 95 department shall report the content of such rules or regulations to the Transportation
 96 Committees of the Senate and House of Representatives for their approval by majority vote
 97 prior to the promulgation thereof and shall make ~~quarterly reports to the same chairpersons~~
 98 ~~of all of its activities undertaken pursuant to the provisions of this Code section~~ annual
 99 reports to the same chairpersons on the status of the projects undertaken pursuant to this
 100 Code section in relation to the annual fiscal year report required by subsection (a) of Code
 101 Section 32-2-41.2."

102 SECTION 7.

103 Said title is further amended in Code Section 32-2-81, relating to design-build procedure, by
 104 revising subsections (e) and (f) as follows:

105 "~~(e) In contracting for design-build projects, the department shall be limited to contracting~~
 106 ~~for no more than 50 percent of the total amount of construction projects awarded in the~~
 107 ~~previous fiscal year.~~

108 ~~(f) Not later than 90 days after~~ Following the end of the fiscal year, the department shall
 109 provide to the Governor, ~~Lieutenant Governor~~ President of the Senate, Speaker of the
 110 House of Representatives, and chairpersons of the House and Senate Transportation
 111 Committees a summary containing all ~~the~~ projects awarded during the fiscal year using the
 112 design-build contracting method. ~~Included in the report shall be~~ Such report shall
 113 include an explanation for any projects awarded to based upon anything other than the
 114 low-bid proposal, the considerations for any project awarded on a best value basis, and a
 115 summary of projects undertaken pursuant to this Code section in relation to the annual
 116 fiscal year report required by subsection (a) of Code Section 32-2-41.2. This The report
 117 required by this Code section shall be made available for public information to the public."

118 **SECTION 8.**

119 Said title is further amended in Code Section 32-2-82, relating to alternative contracting
120 method, by revising subsection (g) as follows:

121 "~~(g) Not later than 90 days after~~ Following the end of a fiscal year in which the department
122 has executed a contract to deliver a project using an alternative contracting method, the
123 department shall provide to the Governor, ~~Lieutenant Governor~~ President of the Senate,
124 Speaker of the House of Representatives, and chairpersons of the House and Senate
125 Transportation Committees a summary report containing a summary of all contracts that
126 utilized an alternative contracting method. Such report shall include a comparative benefit
127 analysis of projects undertaken under this Code section. The department shall include a
128 summary of projects undertaken utilizing the contracting methods provided for in this Code
129 section in the annual fiscal year report required by subsection (a) of Code Section
130 32-2-41.2. ~~This~~ The report required by this Code section shall be made available to the
131 public."

132 **SECTION 9.**

133 Said title is further amended in Code Section 32-7-4, relating to procedure for disposition of
134 property, by revising paragraph (2) of subsection (a) and subsection (b) as follows:

135 "(2)(A) When an entire parcel acquired by the department, a county, or a municipality,
136 or any interest therein, is being disposed of, it may be acquired under the right created
137 in paragraph (1) of this subsection at such price as may be agreed upon, but in no event
138 less than the price paid for its acquisition. When only remnants or portions of the
139 original acquisition are being disposed of, they may be acquired for a price no less than
140 15 percent under the market value thereof at the time the department, county, or
141 municipality decides the property is no longer needed. The department shall use a real
142 estate appraiser with knowledge of the local real estate market who is licensed in
143 Georgia to establish the fair market value of the property prior to listing such property.

144 (B) The provisions of subparagraph (A) of this paragraph notwithstanding, if the value
 145 of the property to be disposed is ~~\$75,000.00~~ \$150,000.00 or less as determined by
 146 department estimate, the department, county, or municipality may negotiate the sale.
 147 On July 1, 2027, and each July 1 thereafter, the department shall be authorized to
 148 annually adjust the value threshold established in this subparagraph; provided, however,
 149 that such adjustment shall not result in an increase by more than the annual rate of
 150 inflation as measured by the Consumer Price Index as reported by the Bureau of Labor
 151 Statistics of the United States Department of Labor.

152 (C) The provisions of this paragraph to the contrary notwithstanding, the department
 153 shall be authorized to negotiate the sale of the property to be disposed with an adjacent
 154 property owner, provided that such property is acquired for a price no less than 15
 155 percent under the market value thereof at the time the department decides the property
 156 is no longer needed."

157 "(b)(1)(A) Unless a sale of the property is made pursuant to paragraph (2) or (3) of this
 158 subsection, ~~such~~ sale of property no longer needed by the department shall be made to
 159 the bidder submitting the highest of the sealed bids received after public advertisement
 160 for such bids for two weeks. If the highest of the sealed bids received is less than but
 161 within 15 percent of the established market value, the department may accept that bid
 162 and convey the property in accordance with the provisions of subsection (c) of this
 163 Code section. The department or the county or municipality shall have the right to
 164 reject any and all bids, in its discretion, to ~~readvertise;~~ republish the advertisement or
 165 to abandon the sale.

166 (B) ~~Such~~ The public advertisement required by this subsection shall be ~~inserted~~
 167 published once a week in such newspapers or other publication, or both, as will ensure
 168 adequate publicity, the first ~~insertion~~ publication to be at least two weeks prior to the
 169 opening of bids, the second to follow one week after the first publication. Such
 170 advertisement shall include but not be limited to the following items:

- 171 (i) A description sufficient to enable the public to identify the property;
- 172 (ii) The time and place for submission and opening of sealed bids;
- 173 (iii) The right of the department or the county or municipality to reject any one or all
- 174 of the bids;
- 175 (iv) All the conditions of sale; and
- 176 (v) Such further information as the department or the county or municipality may
- 177 deem advisable as in the public interest.
- 178 (2)(A) ~~Such~~ Any sale of property pursuant to this subsection may be made by the
- 179 department or a county or municipality by listing the property through a real estate
- 180 broker licensed under Chapter 40 of Title 43 who has a place of business located in the
- 181 state. ~~Property~~ Any such property shall be listed for a period of at least 30 days. The
- 182 department shall use a real estate appraiser with knowledge of the local real estate
- 183 market who is licensed in Georgia to establish the fair market value of the property
- 184 prior to listing such property. If the highest offer received to purchase such property
- 185 is less than the appraised value but within 15 percent of such value, the department,
- 186 county, or municipality may accept such offer and convey the property in accordance
- 187 with the provisions of subsection (c) of this Code section. All sales shall be approved
- 188 by the commissioner on behalf of the department or shall be approved by the governing
- 189 authority of the county or municipality at a regular meeting that shall be open to the
- 190 public, ~~and public comments shall be allowed at such meeting~~ and that allows for public
- 191 comment regarding such sale.
- 192 (B) Commencing at the time of the listing of the property as provided in
- 193 subparagraph (A) of this paragraph, the department, county, or municipality shall
- 194 provide for a notice to be ~~inserted~~ published once a week for two weeks in the legal
- 195 organ of the county indicating the names of real estate brokers listing the property for
- 196 the department or political subdivision. The department, county, or municipality may

197 ~~advertise~~ publish such advertisement in newspapers, on the ~~Internet~~ internet, or in
198 magazines relating to the sale of real estate or similar publications.

199 (C) The department, county, or municipality shall have the right to reject any and all
200 offers, in its discretion, and to sell such property pursuant to the provisions of
201 paragraph (1) of this subsection.

202 (D) The department shall be authorized to sell property pursuant to this paragraph to
203 the highest bidder utilizing an online public auction after meeting the requirements set
204 forth in this paragraph. If the highest offer received to purchase any property is less
205 than the appraised value but within 15 percent of such value, the department may accept
206 such offer and convey the property in accordance with the provisions of section (c) of
207 this Code section.

208 (3)(A) ~~Such~~ Any sale of property pursuant to this subsection may be made by the
209 department, a county, or a municipality to the highest bidder at a public auction
210 conducted by an auctioneer licensed under Chapter 6 of Title 43. If the highest offer
211 received to purchase such property is less than the appraised value of the property but
212 within 15 percent of such value, the department, county, or municipality may accept
213 such offer and convey the property in accordance with the provisions of subsection (c)
214 of this Code section.

215 (B) The department, county, or municipality shall provide for a notice to be ~~inserted~~
216 published once a week for the two weeks immediately preceding the auction in the legal
217 organ of the county where such property is located including, at a minimum, the
218 following items:

- 219 (i) A description sufficient to enable the public to identify the property;
220 (ii) The time and place of the public auction;
221 (iii) The right of the department or the county or municipality to reject any one or all
222 of the bids;
223 (iv) All the conditions of sale; and

224 (v) Such further information as the department or the county or municipality may
225 deem advisable as in the public interest.

226 The department, county, or municipality may ~~advertise~~ publish such advertisement in
227 magazines relating to the sale of real estate or similar publications.

228 (C) The department, county, or municipality shall have the right to reject any and all
229 offers for such property, in its discretion, and to sell such property pursuant to the
230 provisions of paragraph (1) or (2) of this subsection.

231 (D) The department shall be authorized to sell property pursuant to this paragraph to
232 the highest bidder utilizing an online public auction after meeting the requirements set
233 forth in this paragraph. If the highest offer received to purchase any property is less
234 than the appraised value but within 15 percent of such value, the department may accept
235 such offer and convey the property in accordance with the provisions of section (c) of
236 this Code section."

237 **SECTION 10.**

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