

House Bill 1228

By: Representative Smith of the 18th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 91 of Title 36 of the Official Code of Georgia Annotated,
2 relating to general provisions for public works bidding, so as to provide procedures for the
3 acquisition of certain professional services by local governments; to provide definitions; to
4 provide exceptions; to amend Part 2 of Article 3 of Chapter 4 of Title 32 of the Official Code
5 of Georgia Annotated, relating to the exercise by counties of power to contract generally, so
6 as to revise provisions related to the acquisition of certain professional services; to amend
7 Part 2 of Article 4 of Chapter 4 of Title 32 of the Official Code of Georgia Annotated,
8 relating to the exercise by municipalities of power to contract generally, so as to revise
9 provisions related to the acquisition of certain professional services; to provide for related
10 matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 1 of Chapter 91 of Title 36 of the Official Code of Georgia Annotated, relating to
14 general provisions for public works bidding, is amended by adding a new Code section to
15 read as follows:

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16 "36-91-3.

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

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

19 (2) 'Professional services' means:

20 (A) The practice of architecture, as defined in paragraph (11) of Code Section 43-4-1;

21 (B) The practice of professional engineering and structural engineering, as defined in
22 paragraphs (10) and (12) of Code Section 43-15-2; or

23 (C) The practice of landscape architecture, as defined in paragraph (3) of Code
24 Section 43-23-1.

25 (3) 'Project' shall have the same meaning as provided for in Code Section 50-22-2.

26 (b) Except as otherwise provided in this Code section, a local government shall use the
27 process provided for in Chapter 22 of Title 50 for the acquisition of professional services.

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

31 (d) Local governments shall not require estimates of fees for professional services as part
32 of, or concurrent with, a competitive bid or proposal process for professional services, nor
33 shall such fee estimates be required prior to the commencement of negotiations with the
34 responsive offeror deemed most qualified to perform such professional services.

35 (e) A local government may enter into multiparty on-demand services contracts for a
36 specifically delineated range of professional services with not more than five professional
37 services providers so long as such providers are competitively selected based on
38 qualifications under the provisions of this Code section.

39 (f) Notwithstanding any other provisions of this Code section to the contrary, a local
40 government having a satisfactory existing working relationship, as determined at the sole
41 discretion of such local government, with a professional services provider may expand the

42 scope of those services with such provider so long as such expanded services are within the
43 technical competency of the existing provider.
44 (g) Notwithstanding any other provisions of this chapter to the contrary, procedures other
45 than those provided for in this Code section may be used for the acquisition of professional
46 services if the local government estimates that the cost will not exceed the values provided
47 for in paragraph (5) of Code Section 50-22-2 and no local government ordinance otherwise
48 requires utilization of a competitive selection process for professional services."

49 **SECTION 2.**

50 Part 2 of Article 3 of Chapter 4 of Title 32 of the Official Code of Georgia Annotated,
51 relating to the exercise by counties of power to contract generally, is amended by revising
52 Code Section 32-4-63, relating to limitations on power to contract and at least two estimates
53 required for certain expenditures, as follows:

54 "32-4-63.

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

56 (1) Involving the expenditure of less than \$200,000.00;

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

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

63 (4) Subject to Article 6 of Chapter 6 of this title, with a railroad or railway company or
64 a publicly or privately owned utility concerning relocation of its line, tracks, or facilities
65 where the same are not then located in a public road and such relocation or
66 grade-crossing elimination is necessary as an incident to the construction of a new public
67 road or to the reconstruction or maintenance of an existing public road. Nothing

68 contained in this paragraph shall be construed as requiring a county to furnish a site or
 69 right of way for railroad or railway lines or tracks of public utility facilities required to
 70 be removed from a public road;

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

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

75 (7) Otherwise expressly authorized by law; or

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

77 (b) Other than for the acquisition of professional services in accordance with the
 78 provisions of Code Section 36-91-3, no ~~No~~ contract involving an expenditure of more than
 79 \$20,000.00 but less than \$200,000.00 shall be awarded under this Code section without the
 80 submission of at least two estimates.

81 (c) A county shall use the process provided for in Code Section 36-91-3 for the acquisition
 82 of professional services."

83 **SECTION 3.**

84 Part 2 of Article 4 of Chapter 4 of Title 32 of the Official Code of Georgia Annotated,
 85 relating to the exercise by municipalities of power to contract generally, is amended by
 86 revising Code Section 32-4-113, relating to limitations on power to contract and at least two
 87 estimates required for certain expenditures, as follows:

88 "32-4-113.

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

90 (1) Involving the expenditure of less than \$200,000.00;

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

- 93 (3) With a railroad or railway company or a publicly or privately owned utility as
94 authorized by Article 6 of Chapter 6 of this title;
- 95 (4) For engineering or other kinds of professional or specialized services;
- 96 (5) For emergency maintenance requiring immediate repairs to a public road, including
97 but not limited to bridge repairs, snow and ice removal, and repairs due to flood
98 conditions; or
- 99 (6) Otherwise expressly authorized by law.
- 100 (b) Other than for the acquisition of professional services in accordance with the
101 provisions of Code Section 36-91-3, no No contract involving an expenditure of more than
102 \$20,000.00 but less than \$200,000.00 shall be awarded under this Code section without the
103 submission of at least two estimates.
- 104 (c) A municipality shall use the process provided for in Code Section 36-91-3 for the
105 acquisition of professional services."

106 **SECTION 4.**

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