

House Bill 193 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 91 of Title 36 of the Official Code of Georgia Annotated,
2 relating to public works contracting and bidding requirements, so as to increase the dollar
3 values of certain public works construction contracts exempt from bidding requirements; to
4 provide for an exception to competitive bidding requirements for rapid transit authorities
5 making certain purchases from vendors that are under contract with certain governmental
6 entities; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 91 of Title 36 of the Official Code of Georgia Annotated, relating to
10 public works contracting and bidding requirements, is amended by revising Code
11 Section 36-91-22, relating to exceptions, use of inmate labor, and emergency situations, as
12 follows:

13 "36-91-22.

14 (a) The requirements of this chapter shall not apply to public works construction projects,
15 when the same can be performed at a cost of less than ~~\$100,000.00~~ \$250,000.00. Public

16 works construction projects shall not be subdivided in an effort to evade the provisions of
17 this chapter.

18 (b) Any governmental entity having a correctional institution shall have the power and
19 authority to purchase material for and use inmate labor in performing public works
20 construction projects; and in such cases, this chapter shall not apply. Any governmental
21 entity may contract with a governmental entity having a correctional institution for the use
22 of inmate labor from such institution and use the inmates in the performance of any public
23 works construction project; and in such cases, this chapter shall not apply.

24 (c) In the event that the labor used or to be used in a public works construction project is
25 furnished at no expense by the state or federal government or any agency thereof, the
26 governing authority shall have the power and authority to purchase material for such public
27 works construction project and use the labor furnished free to the governmental entity; and
28 in such case, this chapter shall not apply.

29 (d) Where a public works construction contract involves the expenditure of federal
30 assistance or funds, the receipt of which is conditioned upon compliance with federal laws
31 or regulations regarding the procedures for awarding public works construction contracts,
32 a governmental entity shall comply with such federal requirements and shall not be
33 required to comply with the provisions of this chapter that differ from the federal
34 requirements. The governmental entity shall provide notice that federal procedures exist
35 for the award of such contracts in the advertisement required by subsection (b) of Code
36 Section 36-91-20. The availability and location of such federal requirements shall be
37 provided to any person requesting such information.

38 (e) The requirements of this chapter shall not apply to public works construction projects
39 necessitated by an emergency; provided, however, that the nature of the emergency shall
40 be described in the minutes of the governing authority. Any contract let by a county
41 pursuant to this subsection shall be ratified, as soon as practicable, on the minutes of the
42 governing authority, and the nature of the emergency shall be described therein.

43 (f) Except as otherwise provided in Chapter 4 of Title 32, the requirements of this chapter
44 shall not apply to public works construction projects subject to the requirements of
45 Chapter 4 of Title 32.

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

51 (h) The requirements of this chapter shall not apply to sole source public works
52 construction contracts.

53 (i) The requirements of this chapter shall not apply to hospital authorities; provided,
54 however, that a public works construction contract entered into by a hospital authority shall
55 be subject to the requirements of this chapter if, in connection with such contract, the
56 hospital authority either:

57 (1) Incurs indebtedness and secures such indebtedness by pledging amounts to be
58 received by such authority from one or more counties or municipalities through an
59 intergovernmental contract entered into in accordance with Code Section 31-7-85; or

60 (2) Receives funds from the state or one or more counties or municipalities for the
61 purpose of financing a public works construction project, which moneys are not for
62 reimbursement of health services provided."

63 **SECTION 2.**

64 Said article is further amended by adding a new Code section to read as follows:

65 "36-91-25.

66 (a) Any rapid transit authority may, without competitive bidding, purchase any goods,
67 supplies, equipment, other property, or services from any vendor that, at the time of such
68 purchase, has in effect a contract or schedule for the sale thereof to a county or qualified

69 municipality located within the service area of such rapid transit authority, provided that
70 such purchase is made pursuant to the price, terms, and conditions of such contract or
71 schedule in effect and such rapid transit authority receives all the benefits thereof.

72 (b) The total amount of purchases made or contracted for pursuant to this Code section by
73 any rapid transit authority shall not exceed \$250,000.00 for any year."

74 **SECTION 3.**

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