

House Bill 516

By: Representatives McCollum of the 30th, Jasperse of the 11th, Ballinger of the 23rd, Carpenter of the 4th, and Hagan of the 156th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated,
2 relating to exercise of the power to contract by the Department of Transportation, so as to
3 increase the minimum amount for a public road construction or maintenance contract that
4 prohibits negotiation; to provide for exceptions to public comment and hearing on projects
5 involving public-private partnerships in certain instances; to provide for an exception to vote
6 approval for such projects; to provide for related matters; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to
11 exercise of the power to contract by the Department of Transportation, is amended in Code
12 Section 32-2-61, relating to limitations on power to contract, by revising subsection (d) as
13 follows:

14 "(d)(1) The department is prohibited from negotiating any contract for the construction or
15 maintenance of a public road involving the expenditure of ~~\$200,000.00~~ \$500,000.00 or
16 more except any contract:

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- 17 (A) With counties, municipalities, and state agencies, provided that such negotiated
18 contract shall be made at the average bid price of the same kind of work let to contract
19 after advertisement during a period of 60 days prior to the making of the contract;
- 20 (B) With a railroad company or utility concerning relocation of its tracks or facilities
21 where the same are not then located on a public road and such relocation is necessary
22 as an incident to the construction or improvement of a public road. However, nothing
23 contained in this subsection shall be construed as requiring the department to furnish
24 a site or right of way for railroad or railway lines or tracks or utility facilities required
25 to be removed from a public road. Furthermore, this subsection shall not prevent the
26 department from assisting in the removal and relocation of publicly owned utilities
27 from locations on public roads as provided in Code Section 32-6-170;
- 28 (C) For emergency construction or maintenance involving the expenditure of
29 ~~\$200,000.00~~ \$500,000.00 or more when the public interest requires that the work be
30 done without the delay of advertising for public bids;
- 31 (D) For the procurement of business, professional, or other services from any person,
32 firm, or corporation as an independent contractor;
- 33 (E) With the State Road and Tollway Authority; or
- 34 (F) Through the provisions of a design-build contract as provided for in Code
35 Section 32-2-81.
- 36 (2) A department contract negotiated and made with a political subdivision, as authorized
37 by subparagraph (A) of paragraph (1) of this subsection, may be subcontracted to any
38 person or political subdivision. It may be performed with inmate labor, except in the case
39 of a public work constructed with federal aid, or the forces of such political subdivision
40 or those of a political subdivision to which such contract has been subcontracted.
41 However, the department shall have the authority to furnish planning, contract plans,
42 specifications, and engineering supervision over a public road being constructed by a
43 political subdivision or by its subcontractor. Any subcontract made under authority of

44 this subsection shall not constitute the basis of any claim against the department, nor shall
45 such subcontract be considered an assignment of the rights of the political subdivision
46 under its contract with the department."

47 **SECTION 2.**

48 Said article is further amended in Code Section 32-2-80, relating to public-private
49 partnerships (P3s), by revising paragraph (2) of subsection (b) and subsection (f) as follows:

50 "(2) For every project undertaken pursuant to this Code section, the department shall
51 accept written public comment, solicited in the same manner as provided for in the
52 request for proposal, for a period of 30 days beginning at least ten days after the public
53 notice of the request for proposal is made pursuant to paragraph (1) of this subsection;
54 provided, however, that such requirement shall not apply when the public has been
55 afforded the opportunity for comment during the environmental phase of a project. In
56 addition, the department shall hold at least one public hearing, which may be held by
57 teleconference, not later than the conclusion of the period for public comment; provided,
58 however, that such requirement shall not apply when a public hearing has been held
59 during the environmental phase of a project."

60 "(f) The commissioner shall be authorized to delegate such duties and responsibilities
61 under this Code section as he or she deems appropriate from time to time; provided,
62 however, that the final approval of contracts provided for in this Code section shall be by
63 action of the board unless the board has previously approved the proposal based upon a
64 determination that the proposal provided the apparent best value to the state upon contract
65 terms that are most satisfactory and advantageous to the state."

66 **SECTION 3.**

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