

House Bill 315 (COMMITTEE SUBSTITUTE)

By: Representatives Newton of the 123rd, Rynders of the 152nd, Burns of the 159th, Jones of the 47th, and Hatchett of the 150th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 80 of Title 36 of the Official Code of Georgia Annotated,
2 relating to general provisions applicable to counties, municipal corporations, and other
3 governmental entities, so as to provide for certain agreements from consultants who enter
4 into contracts or arrangements with counties, municipalities, and other local governmental
5 entities to prepare or develop specifications or requirements for bids, requests for proposals,
6 procurement orders, or purchasing orders; to provide definitions; to provide for applicability;
7 to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to
11 general provisions applicable to counties, municipal corporations, and other governmental
12 entities, is amended by adding a new Code section to read as follows:

13 "36-80-28.

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

15 (1) 'Consultant' means an individual or company that is paid or engaged to develop or
16 draft specifications or requirements for a solicitation or to serve in a consultative role
17 during the bid or proposal evaluation or negotiation process.

18 (2) 'Local government' means a county, municipal corporation, consolidated government,
19 or board of education, or any authority of a county, municipal corporation, consolidated
20 government, or board of education whether created by or pursuant to a general state law,
21 a local act of the General Assembly, or a local constitutional amendment.

22 (b) Consultants who enter into contracts or arrangements with counties, municipalities,
23 school boards, and other local governmental entities to prepare or develop specifications
24 or requirements for bids, requests for proposals, procurement orders, or purchasing orders
25 for such county, municipality, school board, or other local governmental entity shall, at the

26 time of entering into such contract or arrangement, execute an agreement which provides
 27 that:

28 (1) The consultant shall avoid any appearance of impropriety and shall follow all policies
 29 and procedures of the county, municipality, school board, or other local governmental
 30 entity with whom the consultant is entering into contract or arrangement;

31 (2) The consultant shall immediately disclose to such county, municipality, school board,
 32 or other local governmental entity any material transaction or relationship, including, but
 33 not limited to, that of the consultant, the consultant's employees, or the consultant's agents
 34 or subsidiaries, that reasonably could be expected to give rise to a conflict of interest,
 35 including, but not limited to, past, present, or known prospective engagements,
 36 involvement in litigation or other dispute, client relationships, or other business or
 37 financial interest, and shall immediately disclose any material transaction or relationship
 38 subsequently discovered during the pendency of the contract or arrangement; and

39 (3) An acknowledgment that any violation or threatened violation of the agreement may
 40 cause irreparable injury to the county, municipality, school board, or other local
 41 governmental entity, entitling such county, municipality, school board, or other local
 42 governmental entity to seek injunctive relief in addition to all other legal remedies.

43 (c) Any violation or threatened violation of the agreement may cause irreparable injury to
 44 the county, municipality, or other local governmental entity, entitling such county,
 45 municipality, or other local governmental entity to seek injunctive relief in addition to all
 46 other legal remedies.

47 (d)(1) This Code section shall not apply to economic development activities that are
 48 confidential pursuant to Article 4 of Chapter 18 of Title 50.

49 (2) This Code section shall not apply to any development authority which shall include
 50 any authority created by law or by constitutional amendment for one or more counties or
 51 municipalities, or any combination thereof, for the purpose of promoting the development
 52 of trade, commerce, industry, and employment opportunities or for other purposes and,
 53 without limiting the generality of the foregoing, shall specifically include all authorities
 54 created pursuant to Chapter 62 of this title.

55 (3) An attorney who provides legal services to the county, municipality, school board,
 56 or other local government entity shall only be required to disclose the existence of a
 57 conflict under this Code section and not the details of such conflict.

58 (e)(1) Unless disclosed as part of the bid or offer, any supply, material, or contractual
 59 service to be purchased by a local government through formal sealed bids or offers in
 60 response to a request for proposals may not be bid upon or the subject of an offer from
 61 any person who developed the specifications for such request for bids or proposals or
 62 from any third party contracting with such person.

63 (2) Any person may bring an action to declare null and void any purchase in violation
64 of this Code section or to seek injunctive relief and damages against a person who makes
65 a bid or proposal in violation of this Code section."

66 **SECTION 2.**

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