

Senate Bill 200

By: Senators Gooch of the 51st, Beach of the 21st, Ginn of the 47th, Miller of the 49th, Dugan of the 30th and others

**AS PASSED SENATE**

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 power to contract by the Georgia Department of Transportation, so as  
3 to require the department to develop a procedure for appealing the rejection of a contract bid;  
4 to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to  
8 exercise of power to contract by the Georgia Department of Transportation, is amended by  
9 revising Code Section 32-2-69, relating to bidding process and award of contract, as follows:  
10 "32-2-69.

11 (a) Except as authorized by Code Sections 32-2-79 and 32-2-80, the department shall  
12 award ~~the contract~~ contracts to the lowest reliable bidder, provided that the department  
13 shall have the right to reject any and all such bids whether such right is reserved in the  
14 public notice or not and, in such case, the department may readvertise, perform the work  
15 itself, or abandon the project.

16 (b) If only one bid is received, the department shall open and read the bid. If the bid is at  
17 or below the department's cost estimate for the project as certified by the chief engineer,  
18 such cost estimate shall be read immediately and publicly. If the bid exceeds the  
19 department's cost estimate for the project, the department may negotiate with the bidder to  
20 establish a fair and reasonable price for the contract, provided that the resulting negotiated  
21 contract price is not greater than the bid and that the department's cost estimate is disclosed  
22 to the bidder prior to the beginning of the negotiations. For purposes of this Code section,  
23 posting of a bid on the department's website shall be equivalent to having read the bid.

24 (c) If the department made errors in the bidding documents which resulted in an  
25 unbalanced bid, the department may negotiate with the lowest reliable bidder to correct  
26 such errors, provided that the lowest reliable bidder is not changed.

27 (d) If the lowest reliable bidder is released by the department because of an obvious error  
28 or if the lowest reliable bidder refuses to accept the contract and thereby forfeits the bid  
29 bond, the department may award the contract to the next lowest reliable bidder, readvertise,  
30 perform the work itself, or abandon the project.

31 ~~(e) For purposes of this Code section, posting of a bid on the department's website shall~~  
32 ~~be equivalent to having read the bid.~~

33 ~~(f) The signed, notarized affidavit required in subsection (b) of Code Section 13-10-91~~  
34 ~~shall be submitted to the department prior to the award of any contract.~~

35 (f) The department shall provide by rule and regulation for a procedure to appeal the  
36 rejection of any bid for contracts the department is authorized to enter into under this Code  
37 section."

38 **SECTION 2.**

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