

Senate Bill 183

By: Senators Beach of the 21st, Walker III of the 20th, Martin of the 9th and Miller of the 49th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated,
2 relating to the State Road and Tollway Authority, so as to provide for definitions; to provide
3 for powers of the authority; to provide for submission of an annual report on toll collections
4 to the General Assembly; to provide for letting of contracts by competitive bids; to revise
5 provisions relating to designation of moneys as trust funds; to provide for confirmation and
6 validation of revenue bonds; to provide for related matters; to repeal conflicting laws; and
7 for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, relating to the
11 State Road and Tollway Authority, is amended in Code Section 32-10-60, relating to
12 definitions, by revising paragraphs (5), (6.1), and (8) as follows:

13 "(5) 'Project' means land public transportation systems, including: (A) one or more roads
14 or bridges or a system of roads, bridges, and tunnels or improvements thereto included
15 on an approved state-wide transportation improvement program on the Developmental
16 Highway System as set forth in Code Section 32-4-22, as now or hereafter amended, or
17 a comprehensive transportation plan pursuant to Code Section 32-2-3 or which are toll
18 access roads, bridges, or tunnels, with access limited or unlimited as determined by the
19 authority, and such buildings, structures, parking areas, appurtenances, and facilities
20 related thereto, including but not limited to approaches, cross streets, roads, bridges,
21 tunnels, and avenues of access for such system; ~~and~~ (B) any program for mass
22 transportation or mass transportation facilities as approved by the authority and the
23 department and such buildings, structures, parking areas, appurtenances, and facilities
24 related thereto, including, but not limited to, approaches, cross streets, roads, bridges,
25 tunnels, and avenues of access for such facilities; and (C) any project undertaken pursuant
26 to a public-private initiative as authorized pursuant to Code Section 32-2-78."

27 "(6.1) 'Revenue' or 'revenues' shall mean any and all moneys received from the collection
 28 of tolls authorized by Code Sections 32-10-64 and 32-10-65, any federal highway or
 29 transit funds and reimbursements, any other federal highway or transit assistance received
 30 from time to time by the authority, any other moneys of the authority pledged for such
 31 purpose, ~~and~~ any other moneys received by the authority pursuant to the Georgia
 32 Transportation Infrastructure Bank, and any moneys received pursuant to a public-private
 33 initiative as authorized pursuant to Code Section 32-2-78."

34 "(8) 'Self-liquidating' means that, in the judgment of the authority, the revenues and
 35 earnings to be derived by the authority from any project or combination of projects or
 36 from any other revenues available to the authority, together with any maintenance, repair,
 37 operational services, funds, rights of way, engineering services, and any other in-kind
 38 services to be received by the authority from appropriations of the General Assembly, the
 39 department, other state agencies or authorities, the United States government, or any
 40 county or municipality; or from disbursements from any person, firm, corporation,
 41 limited liability company, or other type of entity shall be sufficient to provide for the
 42 maintenance, repair, and operation and to pay the principal and interest of revenue bonds
 43 which may be issued for the cost of such project, projects, or combination of projects."

44

SECTION 2.

45 Said article is further amended in Code Section 32-10-63, relating to general powers of the
 46 authority, by revising paragraphs (5), (8), and (14) as follows:

47 "(5) To make such contracts, leases, or conveyances as the legitimate and necessary
 48 purposes of this article shall require, including but not limited to contracts for
 49 construction or maintenance of projects, provided that the authority shall consider the
 50 possible economic, social, and environmental effects of each project, and the authority
 51 shall assure that possible adverse economic, social, and environmental effects relating to
 52 any proposed project have been fully considered in developing such project and that the
 53 final decision on the project is made in the best overall public interest, taking into
 54 consideration the need for fast, safe, and efficient transportation, public services, and the
 55 cost of eliminating or minimizing adverse economic, social, and environmental effects.
 56 Furthermore, in order to assure that adequate consideration is given to economic, social,
 57 and environmental effects of any tollway project under consideration, the authority shall:

58 (A) Follow the processes required for federal-aid highway projects, as determined by
 59 the National Environmental Policy Act of 1969, as amended, except that final approval
 60 of the adequacy of such consideration shall rest with the Governor, as provided in
 61 subparagraph (C) of this paragraph, acting as the chief executive of the state, upon

62 recommendation of the commissioner, acting as chief administrative officer of the
63 Department of Transportation;

64 (B) In the location and design of any project, avoid the taking of or disruption of
65 existing public parkland or public recreation areas unless there are no prudent or
66 feasible project location alternates. The determination of prudence and feasibility shall
67 be the responsibility of the authority as part of the consideration of the overall public
68 interest;

69 (C) Not approve and proceed with acquisition of rights of way and construction of a
70 project until: (i) there has been held, or there has been offered an opportunity to hold,
71 a public hearing or public hearings on such project in compliance with requirements of
72 the Federal-aid Highway Act of 1970, as amended, except that neither acquisition of
73 right of way nor construction shall be required to cease on any federal-aid project which
74 has received federal approval pursuant to the National Environmental Policy Act of
75 1969, as amended, and is subsequently determined to be eligible for construction as an
76 authority project utilizing, in whole or in part, a mix of federal funds and authority
77 funds; and (ii) the adequacy of environmental considerations has been approved by the
78 Governor, for which said approval of the environmental considerations may come in
79 the form of the Governor's acceptance of a federally approved environmental document;
80 and

81 (D) Let by public competitive bid upon plans and specifications approved by the chief
82 engineer or his or her successors all contracts for the construction of projects, except
83 as otherwise provided for projects authorized under any provisions of Code Sections
84 32-2-78 through 32-2-81;"

85 "(8)(A) To borrow money for any of its corporate purposes, to issue negotiable revenue
86 bonds payable from revenues of such projects, and to provide for the payment of the
87 same and for the rights of the holders thereof; and

88 (B) To enter into credit enhancement or liquidity agreements with any person, firm,
89 corporation, limited liability company, or other type of entity for the planning, design,
90 construction, acquisition of land for, financing, refinancing, operating, maintaining, or
91 carrying out of any project. Such credit enhancement or liquidity agreements may be
92 secured by the authority's loan agreements, deeds to secure debt, security agreements,
93 contracts, or other instruments or funds derived from tolls, fees, or other charges, upon
94 such terms and conditions as the authority shall determine reasonable, including
95 provision for the establishment and maintenance of reserves and insurance funds,
96 provided that the obligation of the authority under any such agreements shall not be
97 general obligation of the authority, but shall be a limited obligation of the authority
98 payable from a specific source of funds identified for such purpose. Any such

99 agreements may further include provisions for guaranty, insurance, construction, use,
 100 operation, maintenance, and financing of a project as the authority may deem necessary
 101 or desirable;"

102 "(14)(A) To pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any
 103 property of the authority, including but not limited to real property, fixtures, personal
 104 property, intangible property, revenues, income, charges, fees, or other funds and to
 105 execute any lease, trust indenture, trust agreement, resolution, agreement for the sale
 106 of the authority's bonds, loan agreement, mortgage, deed to secure debt, trust deed,
 107 security agreement, assignment, or other agreement or instrument as may be necessary
 108 or desirable, in the judgment of the authority, to secure such bonds; and

109 (B) To acquire, accept, or retain equitable interests, security interests, or other interests
 110 in any property, real or personal, by deed to secure debt, assignment, security
 111 agreement, pledge, conveyance, contract, lien, loan agreement, or other consensual
 112 transfer, with any such instrument terminating when the bonds for the project are
 113 retired, in order to secure repayment under a credit enhancement or liquidity agreement
 114 and taking into consideration the public benefit to be derived from such transfer; and"

115 **SECTION 3.**

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

117 "32-10-65.2.

118 The authority shall submit an annual report to the House Committee on Transportation and
 119 the Senate Transportation Committee detailing the amount of funds collected pursuant to
 120 the exercise of the authority's toll powers and how such funds have been used or disposed
 121 of by the authority."

122 **SECTION 4.**

123 Said article is further amended by revising Code Section 32-10-68, relating to letting of
 124 contracts by competitive bid, as follows:

125 "32-10-68.

126 All contracts of the authority for the construction of any project authorized by this article
 127 shall be let to the reliable bidder submitting the lowest sealed bid upon plans and
 128 specifications approved by the department, except as otherwise provided for projects
 129 authorized under any provisions of Code Sections 32-2-78 through 32-2-81. The
 130 procedures for letting such bids shall conform to those prescribed for the department in
 131 Code Sections 32-2-64 through 32-2-72 and 32-2-78 through 32-2-81."

132 **SECTION 5.**

133 Said article is further amended by revising Code Section 32-10-73, relating to designation
134 of moneys received pursuant to article as trust funds, as follows:

135 "32-10-73.

136 All moneys received pursuant to the authority of this article, whether as proceeds from the
137 sale of revenue bonds or as revenues, tolls, and earnings, shall be deemed to be trust funds
138 to be held and applied solely as provided in this article. The bondholders paying or entitled
139 to receive the benefits of such bonds shall have a lien on all such funds until applied as
140 provided for in any resolution or trust indenture of the authority, provided that revenue
141 bonds issued for the use and benefit of a person, firm, corporation, limited liability
142 company, or other type of private entity shall be a limited obligation of the authority and
143 in the event of default, the remedies of the bondholders shall be limited to the funds
144 identified in the resolution or trust indenture and not the funds held by the authority as trust
145 funds or otherwise."

146 **SECTION 6.**

147 Said article is further amended by revising Code Section 32-10-107, relating to confirmation
148 and validation of revenue bonds, as follows:

149 "32-10-107.

150 Bonds of the authority shall be confirmed and validated in accordance with Article 3 of
151 Chapter 82 of Title 36, the 'Revenue Bond Law.' The petition for validation shall also
152 make any person, firm, corporation, limited liability company, or other type of private
153 entity a party defendant to such action, if such person, firm, corporation, limited liability
154 company, or other type of private entity has or will contract with the authority with respect
155 to the project for which revenue bonds are to be issued and are sought to be validated. The
156 bonds, when validated, and the judgment of validation shall be final and conclusive with
157 respect to the validity of such bonds and against the authority issuing the same and against
158 all other persons or entities, regardless of whether such persons or entities were parties to
159 such validation proceedings."

160 **SECTION 7.**

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