

House Bill 1084

By: Representative Irvin of the 45th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 6 of the Official Code of Georgia Annotated, relating to powers
2 of local governments as to air facilities, so as to require local governments that own certain
3 air facilities and airports to transfer the management, operation, and maintenance of such air
4 facilities and airports to the Georgia Airport Management Authority; to create and establish
5 the Georgia Airport Management Authority; to provide for its membership, duties, powers,
6 and responsibilities; to provide legislative findings; to provide for related matters; to provide
7 an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 The General Assembly finds that the management, operation, and maintenance of large
11 airports located in Georgia and owned by political subdivisions of the state has a direct effect
12 on the economy of the state and the metropolitan Atlanta area in particular. The General
13 Assembly further finds that the effective management, operation, and maintenance of such
14 facilities is in the best interests of the state. The General Assembly finds that it is in the
15 public interest for the management, operation, and maintenance of such large airports to be
16 handled by an independent authority on behalf of such political subdivisions.

17 **SECTION 2.**

18 Chapter 3 of Title 6 of the Official Code of Georgia Annotated, relating to powers of local
19 governments as to air facilities, is amended by adding a new Code Section 6-3-29 to read as
20 follows:

21 "6-3-29.

22 The management, operation, and maintenance of all air facilities and airports that are
23 owned by political subdivisions of this state, located within the territorial boundaries of the
24 state, and used for public commercial aviation, including, but not limited to, domestic and
25 international air carrier operations, air taxi operations, and general aviation operations,

1 shall be transferred by such political subdivisions to the Georgia Airport Management
2 Authority as of July 1 following any calendar year in which such airport has in excess of
3 250,000 takeoffs and landings and handles more than 5 million passengers."

4 **SECTION 3.**

5 Said chapter is further amended by adding a new Code Section 6-3-30 to read as follows:
6 "6-3-30.

7 (a) There is created the Georgia Airport Management Authority. The authority shall be
8 an instrumentality of the State of Georgia. The authority shall consist of nine members.
9 Three members shall be appointed by the Governor, three members shall be appointed by
10 the Atlanta Regional Commission, and three members shall be appointed by the mayor of
11 the City of Atlanta. Members of the authority shall be citizens of this state and shall have
12 extensive experience in business, aviation, law, or accounting. No person holding an
13 elected public office shall be eligible for appointment to the authority. The initial members
14 shall take office on May 1, 2002. One member appointed by the Governor, one member
15 appointed by the Atlanta Regional Commission, and one member appointed by the mayor
16 of the City of Atlanta shall serve initial terms of office beginning May 1, 2002, and
17 extending until June 30, 2004, and until their successors are appointed and qualified. One
18 member appointed by the Governor, one member appointed by the Atlanta Regional
19 Commission, and one member appointed by the mayor of the City of Atlanta shall serve
20 initial terms of office beginning May 1, 2002, and extending until June 30, 2006, and until
21 their successors are appointed and qualified. One member appointed by the Governor, one
22 member appointed by the Atlanta Regional Commission, and one member appointed by
23 the mayor of the City of Atlanta shall serve initial terms of office beginning May 1, 2002,
24 and extending until June 30, 2008, and until their successors are appointed and qualified.
25 The appointing authority shall specify the terms of each appointee when making such
26 initial appointments. After the initial terms of office, members shall serve six-year terms
27 beginning on July 1 immediately following the expiration of the previous term of office
28 and until their successors are appointed and qualified. Members shall be eligible for
29 reappointment. Any vacancy shall be filled by the authority that appointed the member
30 whose seat was vacated and the person so appointed shall serve the unexpired term of the
31 member whose vacancy is being filled.

32 (b) Six members of the commission shall constitute a quorum for the transaction of
33 business, and a majority vote of those members present at any meeting when there is a
34 quorum shall be sufficient to take any action permitted to the authority under this Code
35 section. No vacancy on the authority shall prevent the authority from carrying out its
36 duties unless such vacancy results in a lack of a quorum.

1 (c) The members of the authority shall select from their membership a chairperson and a
2 vice chairperson at the first meeting held after July 1 in each even-numbered year. The
3 authority shall also select a secretary and a treasurer who need not be members of the
4 authority.

5 (d) The members of the authority shall not receive a salary, but shall receive the same
6 expense allowance and travel reimbursement provided for members of certain boards by
7 Code Section 45-7-21 while in the performance of their duties on behalf of the authority.
8 Employees of the authority shall receive such reasonable compensation for their services
9 as determined by the members of the authority.

10 (e) The authority shall have perpetual existence. Any change in name or composition of
11 the authority shall in no way affect the vested rights of any person under this Code section
12 or impair the obligations of any contracts existing under this Code section.

13 (f)(1) The members of the authority shall be accountable in all respects as trustees. The
14 authority shall keep suitable and proper books and records of all receipts, income, and
15 expenditures of every kind and shall submit for inspection and audit all the books and
16 records with a proper statement of the authority's financial position to the state auditor
17 for such other audits and inspections as the state auditor may from time to time require.

18 (2) The authority shall, not less than annually, cause the books, records, and finances of
19 the authority to be audited by a competent, independent, outside auditor who shall
20 prepare a report of such audit which shall be a public record.

21 (g) The authority shall have all of the powers necessary, proper, or convenient to carry out
22 and effectuate the purposes and provisions of this Code section. The powers enumerated
23 in this Code section are cumulative of and in addition to each other and other powers
24 granted elsewhere by law and no such power limits or restricts any other power of the
25 authority. Without limiting the generality of the foregoing, the powers of the authority
26 shall include the powers:

27 (1) To bring and defend actions;

28 (2) To adopt and amend a corporate seal;

29 (3) To make and execute contracts, agreements, and other instruments necessary, proper,
30 or convenient to exercise the powers of the authority and to further the public purpose for
31 which the authority is created, including, but not limited to, contracts for construction of
32 airport facilities, leases of airport facilities, operation of airport facilities, agreements for
33 loans to finance projects, and contracts with respect to the use of airport facilities,
34 including negotiated contracts with air carriers and vendors for the use of airport
35 facilities;

36 (4) To plan, survey, subdivide, improve, administer, construct, erect, acquire, own,
37 repair, remodel, maintain, add to, extend, improve, equip, operate, and manage airport

1 facilities to be located on property managed, operated, and maintained by the authority;
2 the cost of any such project shall be paid from its income, from any grant from the United
3 States government or any agency or instrumentality thereof, or from any grant from this
4 state or any agency or instrumentality thereof;

5 (5) To adopt regulations and fix, alter, charge, negotiate, and collect fares, rates, fees,
6 tolls, and other charges for the use of such airport facilities and services; fix penalties for
7 the violation of said regulations; and establish liens to enforce payment of said charges,
8 fees, and tolls, subject to existing contracts; to make such contracts, leases, or
9 conveyances as the legitimate and necessary purposes of this Code section shall require,
10 including, but not limited to, contracts with private parties for the operation or lease or
11 assignment for operation of space, area, improvements, and equipment on such airport
12 facilities, provided in each case that in so doing the public is not deprived of its rightful,
13 equal, and uniform use thereof;

14 (6) To finance, by loan, grant, lease, or otherwise, and to construct, erect, assemble,
15 purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend,
16 improve, install, sell, equip, expand, add to, operate, or manage airport facilities and to
17 pay the cost of any project from the proceeds of revenue bonds, notes, or other
18 obligations of the authority or any other funds of the authority or from any contributions
19 or loans by persons, corporations, partnerships, limited or general, or other entities, all
20 of which the authority is empowered to receive, accept, and use;

21 (7) To borrow money to further or to carry out its public purpose and to execute revenue
22 bonds, notes, other obligations, leases, trust indentures, trust agreements, agreements for
23 the sale of its revenue bonds, notes, or other obligations, loan agreements, mortgages,
24 deeds to secure debt, trust deeds, security agreements, assignments, and such other
25 agreements or instruments as may be necessary or desirable, in the judgment of the
26 authority, to evidence and to provide security for such borrowing;

27 (8) To accept loans and grants, either or both, of money, materials, or property of any
28 kind from the United States government or the State of Georgia or any political
29 subdivision, authority, agency, or instrumentality of either of them, upon such terms and
30 conditions as the United States government or the State of Georgia or such political
31 subdivision, authority, agency, or instrumentality of either of them shall impose;

32 (9) To hold, use, administer, and expend such sum or sums as may be received as income
33 or gifts or as may be appropriated by authority of the General Assembly for any of the
34 purposes of the authority;

35 (10) To issue revenue bonds, notes, or other obligations of the authority and use the
36 proceeds thereof for the purpose of paying or loaning the proceeds thereof to pay all or
37 any part of the cost of any project and otherwise to further or carry out the public purpose

1 of the authority and to pay all costs of the authority incident to, or necessary and
2 appropriate to, furthering or carrying out such purpose; provided, however, that such
3 bonds, notes, or other obligations shall not be deemed to be a debt of the State of Georgia
4 or a pledge of the faith and credit of the state and shall be payable solely from funds of
5 the authority established for such purpose;

6 (11) To make application directly or indirectly to any federal, state, county, or municipal
7 government or agency or to any other source, public or private, for loans, grants,
8 guarantees, or other financial assistance in furtherance of the authority's public purposes
9 and to accept and use the same upon such terms and conditions as are prescribed by such
10 federal, state, county, or municipal government or agency or other source;

11 (12) To enter into agreements with the federal government or any agency or corporation
12 thereof to use the facilities of the federal government or agency or corporation thereof in
13 order to further or carry out the public purposes of the authority;

14 (13) To extend credit or make loans to any person, corporation, partnership, limited or
15 general, or other entity for the costs of any project, which credit or loans may be
16 evidenced or secured by loan agreements, notes, mortgages, deeds to secure debt, trust
17 deeds, security agreements, assignments, or other instruments or by rentals, revenues,
18 fees, or charges, upon such terms and conditions as the authority shall determine to be
19 reasonable in connection with such extension of credit or loans, including provision for
20 the establishment and maintenance of reserve funds, and, in the exercise of powers
21 granted in connection with any project, the authority shall have the right and power to
22 require the inclusion in any such loan agreement, note, mortgage, deed to secure debt,
23 trust deed, security agreement, assignment, or other instrument of such provisions or
24 requirements for guarantee of any obligations, insurance, construction, use, operation,
25 maintenance, and financing of a project and such other terms and conditions as the
26 authority may deem necessary or desirable;

27 (14) To receive and use the proceeds of any tax levied by the State of Georgia or any
28 county or municipality thereof to pay the costs of any project or for any other purpose for
29 which the authority may use its own funds pursuant to this Code section;

30 (15) To receive and administer gifts, grants, and devises of money and property of any
31 kind and to administer trusts;

32 (16) To use any real property, personal property, or fixtures or any interest therein and
33 to rent or lease such property to or from others or make contracts with respect to the use
34 thereof;

35 (17) To acquire, accept, or retain equitable interests, security interests, or other interests
36 in any real property, personal property, or fixtures by loan agreement, note, mortgage,
37 deed to secure debt, trust deed, security agreement, assignment, pledge, conveyance,

1 contract, lien, loan agreement, or other consensual transfer in order to secure the
2 repayment of any moneys loaned or credit extended by the authority;

3 (18) To appoint, select, and employ officers, agents, and employees, including airport
4 managers, engineers, surveyors, architects, urban or city planners, construction experts,
5 fiscal agents, attorneys, and others, and to fix their compensation and pay their expenses;

6 (19) To make, contract for, or otherwise cause to be made long-range plans or proposals
7 for projects in cooperation with those political subdivisions within which such projects
8 are located or are proposed to be located;

9 (20) To make reasonable regulations for installation, construction, maintenance, repairs,
10 renewal, and relocation of pipes, mains, conduits, cables, wires, towers, poles, and other
11 equipment and appliances of any public utility in, on, along, over, or under any airport
12 facility or project;

13 (21) To request that the political subdivision for which the authority is managing,
14 operating, and maintaining an airport acquire through the exercise of the power of
15 eminent domain any real property or rights or interests therein, including easements, as
16 necessary or convenient for the accomplishment of the purposes of this Code section;

17 (22) To contract for or to provide for and maintain a security force with respect to the
18 airport facilities and properties managed, operated, and maintained by the authority.
19 Such security force shall have the duty to protect persons and property located within the
20 boundaries of the airport facilities and properties and to control pedestrian and vehicular
21 traffic on such property, and to protect the public peace, health, and safety. For these
22 purposes, members of the security force shall be peace officers and shall have authority
23 equivalent to the authority of law enforcement officers of the county in which such
24 officers are discharging their duties;

25 (23) To exercise any power granted by laws of the State of Georgia to public or private
26 corporations which is not in conflict with the Constitution and laws of Georgia; and

27 (24) To do all things necessary, proper, or convenient to carry out the powers conferred
28 by this Code section, including the adoption of rules and regulations.

29 (h) It is found, determined, and declared that the creation of the authority and the carrying
30 out of its corporate purposes are in all respects for the benefit of the people of this state and
31 constitute a public purpose and that the authority will be performing an essential
32 governmental function in the exercise of the powers conferred on it by this Code section.

33 The State of Georgia covenants that the authority shall not be required to pay any taxes or
34 assessments upon any of the property acquired by it or under its jurisdiction, control,
35 possession, or supervision or upon facilities erected, maintained, or acquired by it or any
36 fees, rentals, or other charges for the use of such facilities or other income received by the

1 authority; provided, however, that in no event shall these exemptions extend to any lessee
2 or other private person or entity.

3 (i) The Attorney General shall provide legal counsel and representation for the authority.

4 The provisions of Code Sections 45-15-13 through 45-15-16 shall be fully applicable to the
5 authority. Any action to protect or enforce any rights under this Code section shall be
6 brought in the Superior Court of Fulton County, Georgia, and such court shall have
7 exclusive, original jurisdiction of such actions. Furthermore, the venue for actions brought
8 against the authority shall be in the Superior Court of Fulton County, Georgia, and such
9 court shall have exclusive, original jurisdiction of such actions. Nothing contained herein
10 shall be construed to impair any rights afforded the state under the Constitution of the
11 United States nor to waive any immunities of the state.

12 (j) Every member of the authority and every employee of the authority who knowingly has
13 any interest, direct or indirect, in any contract to which the authority is or is about to
14 become a party, in any other business of the authority, or in any firm or corporation doing
15 business with the authority shall make full disclosure of such interest to the authority in
16 writing and such disclosures shall be public records. For the purposes of this Code section,
17 such interests shall include, but not necessarily be limited to, interests, both direct and
18 indirect, held by the member or employee personally; by a business, partnership,
19 corporation, or other entity in which the member or employee has a direct or indirect
20 ownership interest; by a child, spouse, or parent of the member or employee; and by a
21 business, partnership, corporation, or other entity in which a child, spouse, or parent of the
22 member or employee has a direct or indirect ownership interest. Failure to disclose such
23 an interest shall constitute cause for which a member of the authority may be removed or
24 an employee discharged or otherwise disciplined at the discretion of the authority. The
25 provisions of Article 1 of Chapter 10 of Title 16 and Code Sections 16-10-21, 16-10-22,
26 16-10-92, and 16-10-93 regulating the conduct of officers, employees, and agents of
27 political subdivisions, municipal and other public corporations, and other public
28 organizations shall be applicable to the conduct of members, officers, employees, and
29 agents of the authority. Any contract or transaction of the authority involving a conflict of
30 interest which is not disclosed prior to the authority entering into such contract or
31 transaction or which is in violation of Article 1 of Chapter 10 of Title 16 or Code Section
32 16-10-21, 16-10-22, 16-10-92, or 16-10-93 or any other provision of law regulating
33 conflicts of interest which is applicable to the authority or its members, officers, or
34 employees shall be voidable by the authority."

1

SECTION 4.

2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval.

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SECTION 5.

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