

Senate Bill 85

By: Senators Starr of the 44th and Hecht of the 34th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 62 of Title 36 of the Official Code of Georgia Annotated, known as the
2 "Development Authorities Law," so as to change the provision relating to the definition of
3 the term "project"; to change the taxable status of certain projects; to provide for powers of
4 developmental authorities; to provide for cumulative powers of developmental authorities;
5 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and
6 for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 62 of Title 36 of the Official Code of Georgia Annotated, known as the
10 "Development Authorities Law," is amended by striking paragraph (6) of Code Section
11 36-62-2, relating to definitions, and inserting in its place the following:

12 ~~"(6) 'Project' includes:~~

13 ~~(A) Any one or more buildings or structures to be used in the production,~~
14 ~~manufacturing, processing, assembling, storing, or handling of any agricultural,~~
15 ~~manufactured, mining, or industrial product or any combination of the foregoing, in~~
16 ~~every case with all necessary or useful furnishings, machinery, equipment, parking~~
17 ~~facilities, landscaping, and facilities for outdoor storage, all as determined by the~~
18 ~~authority, which determination shall be final and not subject to review; and there may~~
19 ~~be included as part of any such project all improvements necessary to the full utilization~~
20 ~~thereof, including site preparation, roads and streets, sidewalks, water supply, outdoor~~
21 ~~lighting, belt line railroad sidings and lead tracks, bridges, causeways, terminals for~~
22 ~~railroad, automotive, and air transportation, transportation facilities incidental to the~~
23 ~~project, and the dredging and improving of harbors and waterways, none of which~~
24 ~~foregoing descriptive words shall be construed to constitute a limitation, provided that~~
25 ~~none of the improvements described in this sentence shall be the primary purpose of~~
26 ~~any project;~~

1 ~~(B) The acquisition, construction, leasing, or equipping of new industrial facilities or~~
2 ~~the improvement, modification, acquisition, expansion, modernization, leasing,~~
3 ~~equipping, or remodeling of existing industrial facilities located or to be located within~~
4 ~~the area of operation of the authority;~~

5 ~~(C) The acquisition, construction, improvement, or modification of any property, real~~
6 ~~or personal, which any industrial concern might desire to use, acquire, or lease in~~
7 ~~connection with the operation of any plant or facility located or to be located within the~~
8 ~~area of operation of the authority;~~

9 ~~(D) The acquisition, construction, improvement, or modification of any property, real~~
10 ~~or personal, used as air or water pollution control facilities which any federal, state, or~~
11 ~~local agency having jurisdiction in the premises shall have certified as necessary for the~~
12 ~~continued operation of the industry or industries which the same is to serve and which~~
13 ~~is necessary for the public welfare, provided that for the purposes of this subparagraph,~~
14 ~~the term 'air pollution control facility' means any property used, in whole or in~~
15 ~~substantial part, to abate or control atmospheric pollution or contamination by~~
16 ~~removing, altering, disposing of, or storing atmospheric pollutants or contaminants, if~~
17 ~~such facility is in furtherance of applicable federal, state, or local standards for~~
18 ~~abatement or control of atmospheric pollutants or contaminants; and provided, further,~~
19 ~~that for the purpose of this subparagraph, the term 'water pollution control facility'~~
20 ~~means any property used, in whole or in substantial part, to abate or control water~~
21 ~~pollution or contamination by removing, altering, disposing, or storing pollutants,~~
22 ~~contaminants, wastes, or heat, including the necessary intercepting sewers, outfall~~
23 ~~sewers, pumping, power, and other equipment, holding ponds, lagoons, and~~
24 ~~appurtenances thereto, if such facility is in the furtherance of applicable federal, state,~~
25 ~~or local standards for the abatement or control of water pollution or contamination;~~

26 ~~(E) The acquisition, construction, improvement, or modification of any property, real~~
27 ~~or personal, used as or in connection with a sewage disposal facility or a solid waste~~
28 ~~disposal facility which any federal, state, or local agency having jurisdiction in the~~
29 ~~premises shall have certified as necessary for the continued operation of the industries~~
30 ~~which the same is to serve and which is necessary for the public welfare, provided that~~
31 ~~if such facility is to be operated by, or is to serve related facilities of, a political~~
32 ~~subdivision or municipal corporation of this state or an agency, authority, or~~
33 ~~instrumentality thereof, for its general constituency, the certification need only state that~~
34 ~~such facility is necessary for the public welfare; provided, further, that for the purposes~~
35 ~~of this subparagraph, the term 'sewage disposal facility' means any property used for~~
36 ~~the collection, storage, treatment, utilization, processing, or final disposal of sewage;~~
37 ~~for the purposes of this subparagraph, the term 'solid waste disposal facility' means any~~

1 ~~property used for the collection, storage, treatment, utilization, processing, or final~~
2 ~~disposal of solid waste; for the purposes of this subparagraph, the term 'solid waste'~~
3 ~~means garbage, refuse, or other discarded solid materials, including solid waste~~
4 ~~materials resulting from industrial and agricultural operations and from community~~
5 ~~activities but does not include solids or dissolved materials in domestic sewage or other~~
6 ~~significant pollutants in water resources, such as salt, dissolved or suspended solids in~~
7 ~~industrial waste-water effluents, and dissolved materials in irrigation return flows; and~~
8 ~~for the purposes of this subparagraph, the word 'garbage' includes putrescible wastes,~~
9 ~~including animal and vegetable matters, animal offal and carcasses, and recognizable~~
10 ~~industrial by-products but excludes sewage and human wastes; and the word 'refuse'~~
11 ~~includes all nonputrescible wastes;~~

12 ~~(F) The acquisition, construction, improvement, or modification of any property, real~~
13 ~~or personal or both, used as a peak shave facility, provided that 'peak shave facility'~~
14 ~~shall have the meaning generally accepted and understood in the natural gas distribution~~
15 ~~industry as that term is generally understood to describe a storage facility for the~~
16 ~~purpose of avoiding undesirable consequences in the distribution system during peak~~
17 ~~periods of consumption; and any project involving a 'peak shave facility' may be~~
18 ~~undertaken as otherwise provided in this chapter;~~

19 ~~(G) The acquisition, construction, leasing, improvement, or modification of any~~
20 ~~facilities and any property, real or personal or both, useful or necessary in the~~
21 ~~transportation of persons or property by air, provided that such projects shall not~~
22 ~~include the creation of airports or airport terminal facilities or improvements thereon,~~
23 ~~except as incidentally related to the furnishing of transportation of persons or property~~
24 ~~by air as provided in this subparagraph; such projects may include, but shall not be~~
25 ~~limited to, aircraft, aircraft maintenance and reconditioning equipment, aircraft~~
26 ~~communications equipment and facilities for the maintenance and repair of such~~
27 ~~equipment, ground support equipment and facilities used by aircraft, any necessary or~~
28 ~~useful real or personal property or rights to such property, all licenses, storage facilities~~
29 ~~including storage and distribution facilities for fuel, and the acquisition, modernization,~~
30 ~~or expansion of existing facilities or systems for transportation of persons or property~~
31 ~~by air, all as determined by the authority, which determination shall be final and not~~
32 ~~subject to review; such projects for the transportation of persons or property by air are~~
33 ~~authorized to assist state and local governments to secure adequate systems of~~
34 ~~transportation of passengers for hire as authorized by law and for the development of~~
35 ~~trade, commerce, industry, and employment opportunities; and such projects for the~~
36 ~~transportation of persons or property by air may be undertaken to the same extent and~~
37 ~~on the same conditions as otherwise provided in this chapter for other facilities, except~~

1 that such projects may be authorized only for air transportation systems which are not
2 eligible to receive subsidies from the federal government at the time the project is
3 undertaken, only where the corporate headquarters, the general maintenance, repair,
4 support, and communication facilities, the general reservations, scheduling, and
5 dispatch facilities, and the personal residence of the majority of the employees are all
6 located within the geographic jurisdiction of the authority, and only if the aircraft are
7 routinely dispatched from and returned to the geographic jurisdiction of the authority,
8 provided that the operation of flight equipment and incidental ground support facilities
9 and equipment and the location of employees of such a project outside of the
10 geographic jurisdiction of the authority shall not be prohibited if the conditions
11 specified in this subparagraph are met, and provided, further, that no city, county,
12 political subdivision, or any development authority may ever operate any such facility
13 and the same must be acquired and operated by a private company or individual who
14 shall guarantee the repayment of any obligations assumed, who shall be fully
15 responsible for all operating expenses and losses, and who shall be taxable as any other
16 private undertaking would be;

17 (H) ~~The acquisition, construction, improvement, or modification of any property, real
18 or personal, which shall be suitable for or used as or in connection with:~~

19 ~~(i) Sports facilities, including private training and related office and other facilities
20 when authorized by the governing authority of the political subdivision or municipal
21 corporation in which the facility is to be constructed and maintained;~~

22 ~~(ii) Convention or trade show facilities;~~

23 ~~(iii) Airports, docks, wharves, mass commuting facilities, parking facilities, or
24 storage or training facilities directly related to any of the foregoing;~~

25 ~~(iv) Facilities for the local furnishing of electric energy or gas;~~

26 ~~(v) Facilities for the furnishing of water, if available, on reasonable demand to
27 members of the general public; and~~

28 ~~(vi) Hotel and motel facilities for lodging which also may provide meals, provided
29 that such facilities are constructed in connection with and adjacent to convention,
30 sports, or trade show facilities. No project as defined by this division shall be exempt
31 from any ad valorem taxation;~~

32 (I) ~~The acquisition or development of land as the site for an industrial park, provided
33 that for purposes of this subparagraph, the term 'development of land' includes the
34 provision of water, sewage, drainage, or similar facilities or transportation, power, or
35 communication facilities which are incidental to use of the site as an industrial park but,
36 except with respect to such facilities, does not include the provision of structures or
37 buildings;~~

1 ~~(J) The acquisition, construction, leasing, or financing of:~~

2 ~~(i) An office building facility and related real and personal property for use by any~~
 3 ~~business enterprise or charitable corporation, association, or similar entity which will~~
 4 ~~further the development of trade, commerce, industry, or employment opportunities~~
 5 ~~in this state and which shall be adjacent to or used in conjunction with any other~~
 6 ~~existing or proposed project defined in this paragraph, which existing or proposed~~
 7 ~~project is located within the area of operation of the authority and which is used or~~
 8 ~~intended to be used by such business enterprise or charitable corporation, association,~~
 9 ~~or similar entity; or~~

10 ~~(ii) A separate office building facility and related real and personal property for use~~
 11 ~~by any business enterprise or charitable corporation, association, or similar entity~~
 12 ~~which will further the development of trade, commerce, industry, or employment~~
 13 ~~opportunities in this state.~~

14 ~~No such office building facility as defined in this subparagraph shall be undertaken by~~
 15 ~~an authority unless the authority determines that the business enterprise or charitable~~
 16 ~~corporation, association, or similar entity to use such facility will be the primary tenant;~~

17 ~~(K) Any one or more buildings or structures used or to be used as a skilled nursing~~
 18 ~~home or intermediate care home subject to regulation and licensure by the Department~~
 19 ~~of Human Resources and all necessary, convenient, or related interests in land,~~
 20 ~~machinery, apparatus, appliances, equipment, furnishings, appurtenances, site~~
 21 ~~preparation, landscaping, and physical amenities;~~

22 ~~(L) The acquisition, construction, design, engineering, improvement, leasing,~~
 23 ~~maintenance, modification, rebuilding, and repair of any facilities and any property~~
 24 ~~utilized in connection with a community antenna television system or any combination~~
 25 ~~of the foregoing, including all necessary or useful land or rights in land and all~~
 26 ~~necessary or useful furnishings, machinery, vehicles, equipment, and parking facilities,~~
 27 ~~all as determined by the authority, which determination shall be final and not subject~~
 28 ~~to review; such projects are authorized to promote the expansion and development of~~
 29 ~~the cable communication industry, to enhance employment opportunities throughout~~
 30 ~~this state, and to encourage local origination programming by community antenna~~
 31 ~~television systems on one or more channels, to include, but not be limited to, public~~
 32 ~~access, government, and education programs; and the installation of such community~~
 33 ~~antenna television systems shall not occur in areas adequately served by private~~
 34 ~~enterprise;~~

35 ~~(M) The acquisition, construction, equipping, improvement, modification, or expansion~~
 36 ~~of any property, real or personal, for use as or in connection with research and~~
 37 ~~development facilities. As used in this subparagraph, the term 'research and~~

1 ~~development facilities' means any property used in whole or in substantial part in~~
 2 ~~conducting basic and applied research for commercial, industrial, or governmental~~
 3 ~~institutions in connection with institutions of higher education, which research is~~
 4 ~~determined by the authority to contribute to the development and promotion of trade,~~
 5 ~~commerce, industry, and employment opportunities for the public good and general~~
 6 ~~welfare in furtherance of the purposes for which the authority was created. The~~
 7 ~~authority's determination as to such matters shall be final and not subject to review; and~~
 8 ~~(N) The acquisition, construction, installation, modification, renovation, or~~
 9 ~~rehabilitation of land, interests in land, buildings, structures, facilities, or other~~
 10 ~~improvements and the acquisition, installation, modification, renovation, rehabilitation,~~
 11 ~~or furnishing of fixtures, machinery, equipment, furniture, or other property of any~~
 12 ~~nature whatsoever used on, in, or in connection with any such land, interest in land,~~
 13 ~~building, structure, facility, or other improvement, all for the essential public purpose~~
 14 ~~of the development of trade, commerce, industry, and employment opportunities. A~~
 15 ~~project may be for any industrial, commercial, business, office, parking, public, or other~~
 16 ~~use, provided that a majority of the members of the authority determines, by a duly~~
 17 ~~adopted resolution, that the project and such use thereof would further the public~~
 18 ~~purpose of this chapter.~~

19 (6) 'Project' means the acquisition, construction, installation, modification, renovation
 20 or rehabilitation of land, interests in land, buildings, structures, facilities, or other
 21 improvements and the acquisition, installation, modification, renovation, rehabilitation,
 22 or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature
 23 whatsoever either separately or to be used on, in, or in connection with any such land,
 24 interest in land, building, structure, facility, or other improvement, all for the essential
 25 public purpose of the development of trade, commerce, industry, and employment
 26 opportunities. A project may be for any industrial, commercial, business, office, parking,
 27 public, charitable, educational, or other use, provided that a majority of the members of
 28 the authority determines, by a duly adopted resolution, that the project and such use
 29 thereof would further the public purpose of this chapter."

30 SECTION 2.

31 Said chapter is further amended by striking Code Section 36-62-3, relating to constitutional
 32 authority for the chapter, finding of public purpose, and tax exemption, and inserting in its
 33 place the following:

34 "36-62-3.

35 This chapter is passed pursuant to authority granted the General Assembly by Article IX,
 36 Section VI, Paragraph III of the Constitution of this state. Each authority created by this

1 chapter is created for nonprofit and public purposes, and it is found, determined, and
 2 declared that the creation of each such authority and the carrying out of its corporate
 3 purposes is in all respects for the benefit of the people of this state and that the authority
 4 is an institution of purely public charity and will be performing an essential governmental
 5 function in the exercise of the power conferred upon it by this chapter. For such reasons,
 6 the state covenants, from time to time, with the holders of the bonds issued under this
 7 chapter that such authority shall be required to pay no taxes or assessments imposed by the
 8 state or any of its counties, municipal corporations, political subdivisions, or taxing districts
 9 upon any property acquired by the authority or under its jurisdiction, control, possession,
 10 or supervision or leased by it to others (~~other than property leased for the purposes of a~~
 11 ~~'project' as defined in subparagraph (J) or (K) of paragraph (6) of Code Section 36-62-2,~~
 12 ~~which shall be taxable by the state and its counties, municipal corporations, political~~
 13 ~~subdivisions, and taxing districts~~) or upon its activities in the operation or maintenance of
 14 any such property or on any income derived by the authority in the form of fees, recording
 15 fees, rentals, charges, purchase price, installments, or otherwise, and that the bonds of such
 16 authority, their transfer, and the income therefrom shall at all times be exempt from
 17 taxation within this state. The tax exemption provided in this Code section shall not
 18 include any exemption from sales and use tax on property purchased by the authority or for
 19 use by the authority."

20 SECTION 3.

21 Said chapter is further amended by striking paragraphs (16) and (17) of Code Section
 22 36-62-6, relating to general powers of authorities, and inserting the following:

23 "(16) To expend for the promotion of industry, agriculture, and trade within its area of
 24 operations any funds of the authority determined by the authority to be in excess of those
 25 needed for the other corporate purposes of the authority; and

26 (17) To exercise any power granted by the laws of this state to public or private
 27 corporations that is not in conflict with the public purpose of the authority; and

28 ~~(17)~~(18) To do all things necessary or convenient to carry out the powers expressly
 29 conferred by this chapter.

30 The powers enumerated in each paragraph of this Code section are cumulative of and in
 31 addition to those other powers enumerated in this Code section and in this chapter, and no
 32 such power limits or restricts any other power of the authority."

33 SECTION 4.

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

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SECTION 5.

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