

Senate Bill 134

By: Senators Thompson of the 33<sup>rd</sup>, Stokes of the 43<sup>rd</sup>, Tanksley of the 32<sup>nd</sup>, Hooks of the 14<sup>th</sup> and Meyer von Bremen of the 12<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 32 of the Official Code of Georgia Annotated, the "Georgia Code of Public  
2 Transportation," so as to change provisions relating to the name, powers, and operations of  
3 the State Tollway Authority; to provide that the new name of the authority shall be the State  
4 Road and Tollway Authority; to change provisions relating to use of federal funds and  
5 performance of federal duties by the Department of Transportation; to authorize construction  
6 of all or parts of the Developmental Highway System by the State Road and Tollway  
7 Authority; to authorize receipt of certain federal funds by the authority; to define and  
8 redefine certain terms relating to the authority; to provide for the scope of projects of the  
9 authority and the operations and financing of the authority; to authorize the authority to  
10 receive and administer certain federal assistance; to provide for the issuance of bonds by the  
11 authority and the repayment of such bonds from certain sources; to provide for related  
12 matters; to amend numerous provisions of the Official Code of Georgia Annotated so as to  
13 change certain references to the State Tollway Authority to reflect the new name of the  
14 authority; to provide an effective date; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**PART I**  
17 style="text-align:center">**SECTION 1-1.**

18 Title 32 of the Official Code of Georgia Annotated, the "Georgia Code of Public  
19 Transportation," is amended by striking paragraphs (5) and (7) of subsection (a) of Code  
20 Section 32-2-2, relating to powers and duties of the Department of Transportation, and  
21 inserting in their respective places new paragraphs to read as follows:

22 "(5) The department shall have the authority to negotiate, let, and enter into contracts  
23 with the Georgia Highway Authority, the State Road and Tollway Authority, any person,  
24 any state agency, or any county or municipality of the state for the construction or  
25 maintenance of any public road or any other mode of transportation or for the benefit of

1 or pertaining to the department or its employees in such manner and subject to such  
2 express limitations as may be provided by law;"

3 "(7) The department shall be ~~the~~ a proper agency of the state to discharge all duties  
4 imposed on the state by any act of Congress allotting federal funds to be expended for  
5 public road and other transportation purposes in this state. The department shall have the  
6 authority to accept and use federal funds; to enter into any contracts or agreements with  
7 the United States or its agencies or subdivisions relating to the planning, financing,  
8 construction, improvement, operation, and maintenance of any public road or other mode  
9 or system of transportation; and to do all things necessary, proper, or expedient to achieve  
10 compliance with the provisions and requirements of all applicable federal-aid acts and  
11 programs. Nothing in this title is intended to conflict with any federal law; and, in case  
12 of such conflict, such portion as may be in conflict with such federal law is declared of  
13 no effect to the extent of the conflict;"

#### 14 **SECTION 1-2.**

15 Said Title 32 is further amended by striking paragraph (1) of subsection (d) of Code Section  
16 32-2-61, relating to limitations on contracting powers of the Department of Transportation,  
17 and inserting in its place a new paragraph to read as follows:

18 "(d)(1) The department is prohibited from negotiating any contract for the construction  
19 or maintenance of a public road involving the expenditure of \$50,000.00 or more except  
20 any contract:

21 (A) With counties, municipalities, and state agencies, provided that such negotiated  
22 contract shall be made at the average bid price of the same kind of work let to contract  
23 after advertisement during a period of 60 days prior to the making of the contract;

24 (B) With a railroad company or utility concerning relocation of its tracks or facilities  
25 where the same are not then located on a public road and such relocation is necessary  
26 as an incident to the construction or improvement of a public road. However, nothing  
27 contained in this subsection shall be construed as requiring the department to furnish  
28 a site or right of way for railroad or railway lines or tracks or utility facilities required  
29 to be removed from a public road. Furthermore, this subsection shall not prevent the  
30 department from assisting in the removal and relocation of publicly owned utilities  
31 from locations on public roads as provided in Code Section 32-6-170;

32 (C) For emergency construction or maintenance involving the expenditure of  
33 \$50,000.00 or more when the public interest requires that the work be done without the  
34 delay of advertising for public bids; ~~or~~

35 (D) For the procurement of business, professional, or other services from any person,  
36 firm, or corporation as an independent contractor; or

1 (E) With the State Road and Tollway Authority."

2 **SECTION 1-3.**

3 Said Title 32 is further amended by striking subsection (c) of Code Section 32-4-22, relating  
4 to the Developmental Highway System, and inserting in its place a new subsection to read  
5 as follows:

6 "(c) The Developmental Highway System shall be under the control and supervision of the  
7 board, subject to the provisions of this Code section or any other Act of the General  
8 Assembly; provided, however, that the State Road and Tollway Authority is authorized to  
9 construct all or any part of such system and to enter into agreements with the department,  
10 pursuant to Code Section 32-2-61, for such purpose."

11 **SECTION 1-4.**

12 Said Title 32 is further amended by striking subsection (a) of Code Section 32-5-1, relating  
13 to receipt of federal funds, and inserting in its place a new subsection to read as follows:

14 "(a) The director of the Office of Treasury and Fiscal Services is designated ~~the~~ a proper  
15 authority to receive any of the federal-aid funds apportioned by the federal government  
16 under 23 U.S.C. and to receive any other federal funds apportioned to the State of Georgia  
17 for public road and other public transportation purposes, unless designated otherwise by  
18 the federal government and except as such funds may be directed by the federal  
19 government to the State Road and Tollway Authority."

20 **SECTION 1-5.**

21 Said Title 32 is further amended by striking Code Section 32-5-2, relating to appropriation  
22 of federal funds, and inserting in its place a new Code section to read as follows:

23 "32-5-2.

24 All federal funds received by the director of the Office of Treasury and Fiscal Services  
25 under Code Section 32-5-1 are continually appropriated to the department for the purpose  
26 specified in the grants of such funds except as such funds may be directed by the federal  
27 government to the State Road and Tollway Authority, provided that no federal funds or  
28 funds appropriated to the department shall be expended for procurement of rights of way  
29 for a road to be constructed on a county road system except as otherwise provided by law  
30 or by agreement between the federal government and the department."

**SECTION 1-6.**

Said Title 32 is further amended by striking paragraph (2) and paragraphs (5) through (8) of Code Section 32-10-60, relating to definitions applicable to the State Tollway Authority, and inserting in their respective places new paragraphs to read as follows:

"(2) 'Authority' means the State Tollway Authority created by the 'State Tollway Authority Act,' Ga. L. 1953, Jan.-Feb. Sess., p. 302, as amended particularly by Ga. L. 1972, p. 179, and on and after the date of the year 2001 change of the authority's name also means the State Road and Tollway Authority."

"(5) 'Project' means land public transportation systems, including: (A) one or more roads or bridges or a system of roads, bridges, and tunnels with access limited or unlimited as determined by the authority and such buildings, structures, parking areas, appurtenances, and facilities related thereto, including but not limited to approaches, cross streets, roads, bridges, tunnels, and avenues of access for such system; and (B) any program for mass transportation or mass transportation facilities as determined by the authority and such buildings, structures, parking areas, appurtenances, and facilities related thereto, including, but not limited to, approaches, cross streets, roads, bridges, tunnels, and avenues of access for such facilities.

(6) 'Relocation expenses' means all necessary relocation expenses, replacement housing expenses, relocation advisory services, expenses incident to the transfer of real property, and litigation expenses of any individual, family, business, farm operation, or nonprofit organization displaced by authority projects to the extent authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Uniform Relocation Act Amendments of 1987, Title IV of Public Law 100-17.

(6.1) 'Revenue' or 'revenues' shall mean any and all moneys received from the collection of tolls authorized by Code Sections 32-10-64 and 32-10-65, any federal highway or transit funds and reimbursements, any other federal highway or transit assistance received from time to time by the authority, and any other moneys of the authority pledged for such purpose.

(7) 'Revenue bonds,' or 'revenue bond,' 'bonds,' or 'bond' means ~~those negotiable revenue~~ any bonds, notes, interim certificates, reimbursement anticipation notes, or other evidences of indebtedness of the authority authorized by Part 2 of this article including without limitation obligations issued to refund any of the foregoing.

(8) 'Self-liquidating' means that, in the judgment of the authority, the revenues and earnings to be derived by the authority from any project or combination of projects or from any other revenues available to the authority, together with any maintenance, repair, operational services, funds, rights of way, engineering services, and any other in-kind services to be received by the authority from appropriations of the General Assembly, the

1 department, other state agencies or authorities, the United States government, or any  
 2 county or municipality, shall be sufficient to provide for the maintenance, repair, and  
 3 operation and to pay the principal and interest of revenue bonds which may be issued for  
 4 the cost of such project, projects, or combination of projects."

5 **SECTION 1-7.**

6 Said Title 32 is further amended by striking Code Section 32-10-61, relating to continuation  
 7 of the State Tollway Authority, and inserting in its place a new Code section to read as  
 8 follows:

9 "32-10-61.

10 The State Tollway Authority shall continue to be a body corporate and politic and an  
 11 instrumentality and public corporation of the state known as the 'State Road and Tollway  
 12 Authority.' It shall have perpetual existence. In said name it may contract and be  
 13 contracted with, sue and be sued, implead and be impleaded, and complain and defend in  
 14 all courts of this state, subject to the limitations of Code Section 32-10-110."

15 **SECTION 1-8.**

16 Said Title 32 is further amended by striking subsection (a) of Code Section 32-10-62, relating  
 17 to membership of the State Tollway Authority, and inserting in lieu thereof the following:

18 "(a) The members of the authority shall be ex officio the Governor, the commissioner of  
 19 transportation, ~~and~~ the director of the Office of Planning and Budget, one member to be  
 20 appointed by the Lieutenant Governor and to serve during the term of office of the  
 21 Lieutenant Governor and until a successor is duly appointed and qualified, and one member  
 22 to be appointed by the Speaker of the House of Representatives and to serve during the  
 23 term in office of the Speaker of the House of Representatives and until a successor is duly  
 24 appointed and qualified; and membership shall be a separate and distinct duty for which  
 25 they shall receive no additional compensation. All members of the authority shall be  
 26 entitled to all actual expenses necessarily incurred while in the performance of duties on  
 27 behalf of the authority. The authority shall elect one of its members as chairman. It shall  
 28 also elect a secretary and a treasurer, who need not necessarily be members of the  
 29 authority. The authority may make such bylaws for its government as is deemed necessary  
 30 but it is under no duty to do so. A majority of the members of the authority shall constitute  
 31 a quorum necessary for the transaction of business, and a majority vote of those present at  
 32 any meeting at which there is a quorum shall be sufficient to do and perform any action  
 33 permitted to the authority by this article."

**SECTION 1-9.**

Said Title 32 is further amended by striking paragraphs (7), (13), and (14) of Code Section 32-10-63, relating to powers of the State Tollway Authority, and inserting in their respective places new paragraphs to describe powers of the State Road and Tollway Authority and to read as follows:

"(7) To accept and administer any federal highway or federal transit funds and any other federal highway or transit assistance received from time to time for the State of Georgia and to accept, with the approval of the Governor, loans and grants, either or both, of money or materials or property of any kind from the United States government or the State of Georgia or any political subdivision, authority, agency, or instrumentality of either of them, upon such terms and conditions as the United States government or the State of Georgia or such political subdivision, authority, agency, or instrumentality of either of them shall impose;"

"(13) To make reasonable regulations for the installation, construction, maintenance, repairs, renewal, and relocation of pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances of any public utility in, on, along, over, or under any project; and

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

~~(14)~~(15) To do all things necessary or convenient to carry out the powers expressly given in this article."

**SECTION 1-10.**

Said Title 32 is further amended by striking subsection (a) of Code Section 32-10-64, relating to general toll powers of the State Tollway Authority, and inserting in lieu thereof the following:

"(a) For the purpose of earning sufficient revenue to make possible, in conjunction with other funds available to the authority, the financing of the construction or acquisition of projects of the authority with revenue bonds, the authority is authorized and empowered to collect tolls on each and every project which it shall cause to be constructed or acquired. It is found, determined, and declared that the necessities of revenue bond financing are such that the authority's toll earnings on each project or projects, in conjunction with other

1 funds available to the authority, must exceed the actual maintenance, repair, and normal  
 2 reserve requirements of such projects, together with monthly or yearly sums needed for the  
 3 sinking fund payments upon the principal and interest obligations of financing such project  
 4 or projects; however, within the framework of these legitimate necessities of the authority  
 5 and subject to all bond resolutions, trust indentures, and all other contractual obligations  
 6 of the authority, the authority is charged with the duty of the operation of ~~each project~~ all  
 7 projects in the aggregate at the most reasonable possible level of toll charges; and,  
 8 furthermore, the authority is charged with the responsibility of a reasonable and equitable  
 9 adjustment of such toll charges as between the various classes of users of any given  
 10 project."

#### 11 **SECTION 1-11.**

12 Said Title 32 is further amended by striking paragraph (6) of Code Section 32-10-72, relating  
 13 to the authority fund of the State Tollway Authority, and inserting in lieu thereof the  
 14 following:

15 ~~"(6) Investment at the highest interest rate obtainable in United States government~~  
 16 ~~securities of guaranteed convertibility or maturities not in excess of two years, provided~~  
 17 ~~that all funds so invested and all earnings of such funds shall always be available to and~~  
 18 ~~ultimately expended for the other purposes of this Code section in any manner it~~  
 19 ~~determines to be in its best interest."~~

#### 20 **SECTION 1-12.**

21 Said Title 32 is further amended by striking Code Section 32-10-90, relating to power of the  
 22 State Tollway Authority to issue bonds, and inserting in its place a new Code section to read  
 23 as follows:

24 "32-10-90.

25 The authority shall have the power and is authorized, at one time or from time to time, to  
 26 provide by resolution for the issuance of negotiable revenue bonds of the authority for the  
 27 purpose of paying all or any part of the cost, as defined in paragraph (4) of Code Section  
 28 32-10-60, of any one or a combination of projects. The principal and interest of such  
 29 revenue bonds shall be payable from and may be secured by a pledge of tolls and other  
 30 revenues of all or any part of the project financed in whole or in part with the proceeds of  
 31 such issue or with the proceeds of bonds refunded or to be refunded by such issue or by a  
 32 pledge of any other revenues of the authority that are legally available for such purpose.

33 The bonds of each issue shall be dated, shall bear interest as provided for in Code Section  
 34 32-10-91, shall mature not later than 40 years from the date of issue, shall be payable in  
 35 such media of payments as to both principal and interest as may be determined by the

1 authority, and may be made redeemable before maturity, at the option of the authority, at  
 2 such price or prices and under such terms and conditions as may be fixed by the authority  
 3 in the resolution providing for the issuance of the bonds."

#### 4 SECTION 1-13.

5 Said Title 32 is further amended by striking Code Section 32-10-92, relating to the form of  
 6 bonds of the State Tollway Authority, and inserting in lieu thereof the following:

7 "32-10-92.

8 The authority shall determine the form of the bonds, including any interest coupons to be  
 9 attached thereto, and shall fix the denomination or denominations of the bonds and the  
 10 place or places of payment of principal and interest thereof, which may be at any bank or  
 11 trust company inside or outside the state. The bonds may be issued in coupon or registered  
 12 form or both, as the authority may determine, and provision may be made for the  
 13 registration of any coupon bond as to principal alone and also as to both principal and  
 14 interest. The use of depositories or immobilized or book-entry delivery systems, or both,  
 15 may be authorized by the authority."

#### 16 SECTION 1-14.

17 Said Title 32 is further amended by striking Code Section 32-10-108, relating to transfer of  
 18 projects to state highway system free from tolls, and inserting in lieu thereof the following:

19 "32-10-108.

20 Upon payment in full of all bonds, interest coupons, and obligations of every nature  
 21 whatsoever for the payment of which the revenues of any given project or projects have  
 22 been pledged, in whole or in part, either originally or subsequently, either primarily or  
 23 secondarily, directly or indirectly or otherwise, or upon the setting aside in trust, for the  
 24 benefit of bondholders or other obligees, of a sufficient amount for the payment of all such  
 25 bonds and other obligations and the interest thereon to the maturity thereof, such project  
 26 or projects, if deemed by the department to be in a safe and satisfactory condition of repair  
 27 and traffic capacity, ~~shall~~ may become part of the state highway system and thereafter shall  
 28 be maintained by the department free of tolls. In the event such project or projects to be  
 29 transferred are not in good condition, in the judgment of the department, the department  
 30 shall be charged with the duty of immediately advising the authority in writing what will  
 31 be necessary to accomplish such safe and satisfactory condition of repair and traffic  
 32 capacity; and the authority thereafter shall apply sufficient revenue from such project or  
 33 projects to the accomplishment of such safe condition of repair and traffic capacity; and,  
 34 upon its accomplishment, such project or projects shall become toll free as provided in this  
 35 Code section. Upon the fulfillment of all conditions necessary to the cessation of tolls upon



1 any ~~given~~ such project, the authority shall convey by deed all right, title, and interest in and  
 2 to such project to the department for and in consideration of \$1.00, which the treasurer of  
 3 the department is authorized to pay from any department funds available to him for any  
 4 department expenditure."

5 **PART II**

6 **SECTION 2-1.**

7 Each of the following Code sections and parts of Code sections of the Official Code of  
 8 Georgia Annotated is amended by striking the term "State Tollway Authority" and inserting  
 9 in its place the term "State Road and Tollway Authority":

- 10 (1) In six places in Code Section 12-7-7.1, relating to preparation and implementation of  
 11 sediment control plans under the "Erosion and Sedimentation Act of 1975";  
 12 (2) In two places in paragraph (9) of subsection (a) of Code Section 12-7-17, relating to  
 13 exemptions from the "Erosion and Sedimentation Act of 1975";  
 14 (3) In one place in Code Section 32-1-8, relating to prohibited construction or maintenance  
 15 of private roads by public agencies;  
 16 (4) In three places in subsection (a) of Code Section 32-2-75, relating to retainage under  
 17 state road, highway, and bridge contracts;  
 18 (5) In one place in Code Section 32-10-65.1, relating to expiration of tolls established  
 19 under article;  
 20 (6) In one place in subsection (b) of Code Section 32-10-71, relating to acquisition,  
 21 maintenance, and operation of tollway projects by the State Tollway Authority;  
 22 (7) In one place in subsection (f) of Code Section 36-60-21, relating to local government  
 23 contracts for toll roads and bridges;  
 24 (8) In one place in paragraph (7) of subsection (a) of Code Section 40-16-2, relating to  
 25 responsibilities of the Department of Motor Vehicle Safety;  
 26 (9) In one place in Code Section 45-15-13, relating to representation of state authorities  
 27 by Attorney General;  
 28 (10) In one place in paragraph (9) of Code Section 50-17-21, relating to definitions of  
 29 terms under the the "Georgia State Financing and Investment Commission Act"; and  
 30 (11) In one place in paragraph (2) of subsection (b) of Code Section 50-17-22, relating to  
 31 the State Financing and Investment Commission.

1

**PART III**

2

**SECTION 3-1.**

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

5

**SECTION 3-2.**

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