

House Bill 375 (AS PASSED HOUSE AND SENATE)

By: Representatives Shaw of the 176th, Crawford of the 129th, McCall of the 90th, Borders of the 177th, Jamieson of the 22nd and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 50 of the Official Code of Georgia Annotated, relating to state government,
2 so as to create the Georgia Environmental Training and Education Authority; to provide a
3 short title; to provide for membership; to provide for a director; to provide for purposes and
4 powers; to provide for administrative matters; to provide for the authority to issue bonds; to
5 provide for matters related to such bond issues; to provide for matters relative to the
6 foregoing; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
10 by inserting at the end thereof a new chapter to read as follows:

11 "CHAPTER 35

12 50-35-1.

13 As used in this chapter, the term 'authority' means the Georgia Environmental Training and
14 Education Authority created by this chapter.

15 50-35-2.

16 There is created and established the Georgia Environmental Training and Education
17 Authority.

18 50-35-3.

19 (a) The authority shall be under the direction and supervision of a board of directors to be
20 composed of seven members as follows:

21 (1) Two members appointed and removed by the Speaker of the House of
22 Representatives, one of whom, at the time of his or her appointment, shall be the manager

1 of a county water and sewer authority and one of whom shall be the mayor of a municipal
2 corporation which provides water and waste-water services;

3 (2) Two members appointed and removed by the President of the Senate, one of whom,
4 at the time of his or her appointment, shall be the manager of a city or county water
5 system and one of whom, at the time of his or her appointment, shall be a municipal
6 employee responsible for the provision of water and waste-water services;

7 (3) The executive director and the deputy director of the Georgia Soil and Water
8 Conservation Commission; and

9 (4) The executive director of the Georgia Environmental Facilities Authority.

10 (b) Members of the authority shall not be entitled to compensation for the duties they
11 perform as members of the institute. Each member shall, however, be entitled to
12 reimbursement for travel and other necessary expenses incurred in the performance of
13 official duties.

14 50-35-4.

15 There may be a director of the authority who shall be appointed and removed by the board
16 of directors. The board of directors shall set the salary of the director.

17 50-35-5.

18 The purposes for which the authority is founded shall be to enhance and expand the state's
19 ability to provide basic and advanced training and education and, where applicable, to
20 certify persons in the following areas without replacing any existing mechanisms for
21 accomplishing this training:

22 (1) Proficiency in the treatment and testing of drinking water;

23 (2) Proficiency in the treatment and testing of waste water;

24 (3) Proficiency as a laboratory analyst for purposes of the treatment of drinking water
25 and waste water;

26 (4) Proficiency in meeting Georgia's National Pollutant Discharge Elimination System
27 permit requirement;

28 (5) Proficiency in designing, implementing, and inspecting for best management
29 practices to meet Georgia's requirements under Chapter 7 of Title 16, the 'Erosion and
30 Sedimentation Act of 1975'; and

31 (6) Proficiency in technology necessary to assist public and private entities in complying
32 with the provisions of Article 2 of Chapter 5 of Title 12, the 'Georgia Water Quality
33 Control Act,' and Part 5 of Article 3 of such chapter, the 'Georgia Safe Drinking Water
34 Act.'

1 50-35-6.

2 (a) In furtherance of its purposes, the authority shall have the following powers:

3 (1) To have a seal and alter the same at its pleasure;

4 (2) To make and execute contracts, lease agreements, and all other instruments necessary
5 or convenient to exercise the powers of the authority or to further the public purposes for
6 which it was created;

7 (3) To apply for and to accept any gifts, bequests, or grants or loan guarantees or loans
8 of funds or property or financial or other aid in any form from the federal government or
9 any agency or instrumentality thereof or from the state or any agency or instrumentality
10 thereof or from any other source for any or all of the purposes specified in this chapter
11 and to comply, subject to the provisions of this chapter, with the terms and conditions
12 thereof;

13 (4) To contract with state agencies or any local government for the use by the authority
14 of any property, facilities, or services of the state or any such state agency or local
15 government;

16 (5) To contract with state agencies, any local government, or any private entity for the
17 provision of the services for which the authority was created; and

18 (6) To do all things necessary or convenient to carry out the powers conferred by this
19 chapter.

20 (b) The director shall have the following powers and duties:

21 (1) To maintain such offices within the state as the director and institute may deem
22 necessary;

23 (2) To appoint assistants, clerks, and other employees as the director may deem
24 necessary and to fix their compensation;

25 (3) To cooperate with individuals and with state, local, and other agencies, both public
26 and private, and to obtain upon request and utilize the services of all governmental
27 departments and agencies;

28 (4) To accept gifts, bequests, grants, or other public or private payments on behalf of the
29 state and to pay such moneys into the state treasury; and

30 (5) To oversee training and education in furtherance of the purposes of this chapter.

31 50-35-7.

32 (a) The authority shall keep suitable and proper books and records of all receipts, income,
33 and expenditures of every kind.

34 (b) The authority shall be assigned to the Department of Natural Resources for
35 administrative purposes only pursuant to Code Section 50-4-3. The authority shall each

1 year submit to the Department of Natural Resources and the members of the Department
2 of Natural Resources Board a complete financial disclosure.

3 (c) The authority shall transfer to the general fund of the state treasury any funds of the
4 authority determined by the authority to be in excess of those needed for the corporate
5 purposes of the authority.

6 50-35-8.

7 (a) The authority shall have the power and is authorized from time to time to issue bonds,
8 in such principal amounts as it may determine to be necessary to pay all or a portion of the
9 cost of any project or environmental facilities and to provide amounts necessary for any
10 corporate purposes, including incidental expenses in connection with the issuance of the
11 bonds.

12 (b) In addition, the authority shall have the power and is authorized to issue bonds in such
13 principal amounts as the authority deems appropriate, such bonds to be primarily secured
14 by a pool of obligations issued by local governments when the proceeds of the local
15 government obligations are applied to local environmental facility projects.

16 (c) The authority shall have the power from time to time to refund any bonds by the
17 issuance of new bonds whether the bonds to be refunded have or have not matured and may
18 issue bonds partly to refund bonds then outstanding and partly for any other corporate
19 purpose.

20 (d) Bonds issued by the authority may be general or limited obligations payable solely out
21 of particular revenues or other moneys of the authority as may be designated in the
22 proceedings of the authority under which the bonds shall be authorized to be issued, subject
23 to any agreements entered into between the authority and state agencies, local government,
24 or private parties and subject to any agreements with the holders of outstanding bonds
25 pledging any particular revenues or moneys.

26 (e)(1) The authority is authorized to obtain from any department, agency, or corporation
27 of the United States of America or governmental insurer, including the state, any
28 insurance or guaranty, to the extent now or hereafter available, as to or for the payment
29 or repayment of interest or principal, or both, or any part thereof on any bonds or notes
30 issued by the authority or on any obligations of federal, state, or local governments
31 purchased or held by the authority; and to enter into any agreement or contract with
32 respect to any such insurance or guaranty, except to the extent that the same would in any
33 way impair or interfere with the ability of the authority to perform and fulfill the terms
34 of any agreement made with the holders of the bonds or notes of the authority.

35 (2) Bonds issued by the authority shall be authorized by resolution of the authority, be
36 in such denominations, bear such date or dates, and mature at such time or times as the

1 authority determines to be appropriate, except that bonds and any renewal thereof shall
2 mature within 25 years of the date of their original issuance. Such bonds shall be subject
3 to such terms of redemption, bear interest at such rate or rates payable at such times, be
4 in such form, either coupon or registered, as to principal or interest or both principal and
5 interest, carry such registration privileges, be executed in such manner, be payable in
6 such medium of payment at such place or places, and be subject to such terms and
7 conditions as such resolution of the authority may provide. Bonds may be sold at public
8 or private sale for such price or prices as the authority shall determine.

9 (3) Any resolution or resolutions authorizing bonds or any issue of bonds may contain
10 provisions which may be a part of the contract with the holders of the bonds thereby
11 authorized as to:

12 (A) Pledging all or part of its revenues, together with any other moneys, securities,
13 contracts, or property, to secure the payment of the bonds, subject to such agreements
14 with bondholders as may then exist;

15 (B) Setting aside of reserves and the creation of sinking funds and the regulation and
16 disposition thereof;

17 (C) Limiting the purpose to which the proceeds from the sale of bonds may be applied;

18 (D) Limiting the right of the authority to restrict and regulate the use of any project or
19 part thereof in connection with which bonds are issued;

20 (E) Limiting the issuance of additional bonds, the terms upon which additional bonds
21 may be issued and secured, and the refunding of outstanding or other bonds;

22 (F) Setting the procedure, if any, by which the terms of any contract with bondholders
23 may be amended or abrogated, including the proportion of bondholders which must
24 consent thereto and the manner in which such consent may be given;

25 (G) Creating special funds into which any revenues or other moneys may be deposited;

26 (H) Setting the terms and provisions of any trust, deed, or indenture or other agreement
27 under which the bonds may be issued;

28 (I) Vesting in a trustee or trustees such properties, rights, powers, and duties in trust
29 as the authority may determine, which may include any or all of the rights, powers, and
30 duties of the trustee appointed by the bondholders pursuant to Code Section 50-10-11
31 and limiting or abrogating the rights of the bondholders to appoint a trustee under such
32 Code section or limiting the rights, duties, and powers of such trustee;

33 (J) Defining the acts or omissions to act which may constitute a default in the
34 obligations and duties of the authority to the bondholders and providing for the rights
35 and remedies of the bondholders in the event of such default, including as a matter of
36 right the appointment of a receiver; provided, however, that such rights and remedies

1 shall not be inconsistent with the general laws of the state and other provisions of this
2 article;

3 (K) Limiting the power of the authority to sell or otherwise dispose of any
4 environmental facility or any part thereof or other property, including municipal bonds
5 held by it;

6 (L) Limiting the amount of revenues and other moneys to be expended for operating,
7 administrative, or other expenses of the authority;

8 (M) Providing for the payment of the proceeds of bonds, obligations, revenues, and
9 other moneys to a trustee or other depository and for the method of disbursement
10 thereof with such safeguards and restrictions as the authority may determine; and

11 (N) Establishing any other matters of like or different character which in any way
12 affect the security for the bonds or the rights and remedies of bondholders.

13 (4) In addition to the powers conferred upon the authority to secure its bonds, the
14 authority shall have power in connection with the issuance of bonds to enter into such
15 agreements as the authority may deem necessary, consistent, or desirable concerning the
16 use or disposition of its revenues or other moneys or property, including the mortgaging
17 of any property and the entrusting, pledging, or creation of any other security interest in
18 any such revenues, moneys, or property and the doing of any act, including refraining
19 from doing any act, which the authority would have the right to do in the absence of such
20 agreements. The authority shall have power to enter into amendments of any such
21 agreements within the powers granted to the authority by this article and to perform such
22 agreements. The provisions of any such agreements may be made a part of the contract
23 with the holders of bonds of the authority.

24 (5) Any pledge of or other security interest in revenues, moneys, accounts, contract
25 rights, general intangibles, or other personal property made or created by the authority
26 shall be valid, binding, and perfected from the time when such pledge is made or other
27 security interest attaches without any physical delivery of the collateral or further act, and
28 the lien of any such pledge or other security interest shall be valid, binding, and perfected
29 against all parties having claims of any kind in tort, contract, or otherwise against the
30 authority irrespective of whether or not such parties have notice thereof. No instrument
31 by which such a pledge or security interest is created nor any financing statement need
32 be recorded or filed.

33 (6) All bonds issued by the authority shall be executed in the name of the authority by
34 the chairperson and secretary of the authority and shall be sealed with the official seal or
35 a facsimile thereof. Coupons, if any, shall be executed in the name of the authority by
36 the chairperson of the authority, the facsimile signature of the chairperson and the
37 secretary of the authority may be imprinted in lieu of the manual signature if the authority

1 so directs; and the facsimile of the chairperson's signature shall be used on coupons, if
2 such are attached. Bonds and interest coupons appurtenant thereto bearing the manual
3 or facsimile signature of a person in office at the time such signature was signed or
4 imprinted shall be fully valid, notwithstanding the fact that before or after delivery
5 thereof such person ceased to hold such office.

6 (7) Prior to the preparation of definitive bonds, the authority may issue interim receipts,
7 interim certificates, or temporary bonds exchangeable for definitive bonds upon the
8 issuance of the latter; the authority may provide for the replacement of any bond which
9 shall become mutilated or be destroyed or lost.

10 (8) All bonds issued by the authority under this article may be executed, confirmed, and
11 validated under and in accordance with Article 3 of Chapter 82 of Title 36, except as
12 otherwise provided in this article.

13 (9) The venue for all bond validation proceedings pursuant to this article shall be Fulton
14 County and the Superior Court of Fulton County shall have exclusive final court
15 jurisdiction over such proceedings.

16 (10) Bonds issued by the authority shall have a certificate of validation bearing the
17 facsimile signature of the clerk of the Superior Court of Fulton County and shall state the
18 date on which said bonds were validated; and such entry shall be original evidence of the
19 fact of judgment and shall be received as original evidence in any court of this state.

20 (11) Whether or not the bonds of the authority are of such form and character as to be
21 negotiable instruments, the bonds are made negotiable instruments within the meaning
22 of and for all the purposes of Georgia law subject only to the provisions of the bonds for
23 registration.

24 (12) Neither the members of the authority nor any person executing bonds shall be liable
25 personally thereon or be subject to any personal liability or accountability solely by
26 reason of the issuance thereof.

27 (13) The authority, subject to such agreements with bondholders as then may exist, shall
28 have power out of any moneys available therefor to purchase bonds of the authority,
29 which shall thereupon be canceled, at a price not in excess of the following:

30 (A) If the bonds are then redeemable, the redemption price then applicable plus
31 accrued interest to the next interest payment date; or

32 (B) If the bonds are not then redeemable, the redemption price applicable on the first
33 date after such purchase upon which the bonds become subject to redemption plus
34 accrued interest to the next interest payment date.

35 (14) In lieu of specifying the rate or rates of interest which bonds to be issued by an
36 authority are to bear, the notice to the district attorney or the Attorney General, the notice
37 to the public of the time, place, and date of the validation hearing, and the petition and

1 complaint for validation may state that the bonds when issued will bear interest at a rate
2 not exceeding a maximum per annum rate of interest, which rate may be fixed or may
3 fluctuate or otherwise change from time to time, specified in such notices and petition
4 and complaint or may state that, in the event the bonds are to bear different rates of
5 interest for different maturity dates, none of such rates will exceed the maximum rate,
6 which rate may be fixed or may fluctuate or otherwise change from time to time, so
7 specified; provided, however, that nothing in this Code section shall be construed as
8 prohibiting or restricting the right of the authority to sell such bonds at a discount, even
9 if in doing so the effective interest cost resulting therefrom would exceed the maximum
10 per annum interest rate specified in such notices and in the petition and complaint.

11 (f) The authority shall not incur bonded indebtedness exceeding \$1 million.

12 50-35-9.

13 The bonds of the authority are made securities in which all public officials and bodies
14 of the state and all municipalities, all insurance companies and associations, and other
15 persons carrying on an insurance business, all banks, bankers, trust companies,
16 savings banks, and savings associations, including savings and loan associations,
17 investment companies and other persons carrying on a banking business, and
18 administrators, guardians, executors, trustees, and other fiduciaries and all other
19 persons whatsoever, who are now or may hereafter be authorized to invest in bonds or
20 other obligations of the state, may properly and legally invest funds including capital
21 in their control or belonging to them. The bonds are also made securities which may
22 be deposited with and may be received by all public officers and bodies of this state
23 and all municipalities for any purposes for which the deposit of bonds or other
24 obligations of this state are now or hereafter may be authorized.

25 50-35-10.

26 The State of Georgia does pledge to and agree with the holders of any bonds issued by
27 the authority pursuant to this article that the state will not alter or limit the rights
28 vested in the authority to fulfill the terms of any agreement made with or for the
29 benefit of the holders of bonds or in any way impair the rights and remedies of
30 bondholders until the bonds, together with the interest thereon, with interest on any
31 unpaid installments of interest, and all costs and expenses in connection with any
32 action or proceeding by or on behalf of such holders, are fully met and discharged or
33 funds for the payment of such are fully provided. The authority is authorized to
34 include this pledge and agreement of the state in any agreement with bondholders.

1 50-35-11.

2 The provisions of this article shall be liberally construed to effect the purposes of this
3 article. The offer, sale, or issuance of bonds, notes, or other obligations by the
4 authority shall not be subject to regulation under Chapter 5 of Title 10, known as the
5 'Georgia Securities Act of 1973.' No notice, proceeding, or publication except those
6 required in this article shall be necessary to the performance of any act authorized in
7 this article; nor shall any such act be subject to referendum.

8 50-35-12.

9 No bonds, notes, or other obligations of and no indebtedness incurred by the authority
10 shall constitute an indebtedness or obligation or a pledge of the faith and credit of the
11 State of Georgia or of its agencies; nor shall any act of the authority in any manner
12 constitute or result in the creation of an indebtedness of the state or its agencies or a
13 cause of action against the state or its agencies; provided, however, the state, to the
14 extent permitted by its Constitution, may guarantee payment of such bonds, notes, or
15 other obligations as guaranteed revenue debt.

16 50-35-13.

17 It is found, determined, and declared that the creation of this authority and the
18 carrying out of its corporate purposes is in all respects for the benefit of the people of
19 the state and that the authority is an institution of purely public charity and will be
20 performing an essential governmental function in the exercise of the power conferred
21 upon it by this article. For such reasons the state covenants with the holders from time
22 to time of the bonds, notes, and other obligations issued under this article that the
23 authority shall not be required to pay any taxes or assessments imposed by the state or
24 any of its counties, municipal corporations, political subdivisions, or taxing districts
25 upon any property acquired by the authority or under its jurisdiction, control,
26 possession, or supervision or leased by it to others, or upon its activities in the
27 operation or maintenance of any such property or on any income derived by the
28 authority in the form of fees, recording fees, rentals, charges, purchase price,
29 installments, or otherwise, and that the bonds, notes, and other obligations of the
30 authority, their transfer, and the income therefrom shall at all times be exempt from
31 taxation within the state. The tax exemption provided in this article shall not include
32 any exemption from sales and use tax on property purchased by the authority or for
33 use by the authority."

1

SECTION 2.

2

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