

Senate Bill 390

By: Senators Clay of the 37th and Moody of the 27th

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 create the Major Airport Operations Board;  
3 to provide for its membership, duties, powers, and responsibilities; to transfer certain  
4 authority pertaining to major airports from counties, municipalities, and other political  
5 subdivisions to such board; to provide a short title; to provide legislative findings and  
6 declarations; to provide for related matters; to provide an effective date; to repeal conflicting  
7 laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 3 of Title 6 of the Official Code of Georgia Annotated, relating to powers of local  
11 governments as to air facilities, is amended by adding a new Article 3 to read as follows:

12 **"ARTICLE 3**

13 6-3-30.

14 This article shall be known and may be cited as the 'Major Airport Operations Act.'

15 6-3-31.

16 The General Assembly finds and declares that the construction, equipment, improvement,  
17 maintenance, and operation of major airports or landing fields which are located in this  
18 state, owned by political subdivisions, and used for public commercial aviation may  
19 significantly affect the public welfare not only of such political subdivisions but also the  
20 state as a whole. The General Assembly further finds and declares that, for reasons of  
21 safety, security, economy, and efficiency, the public welfare of this state is best served by  
22 having authority over such activities for such major airports or landing fields vested in a  
23 board created by the General Assembly for such purpose as provided by this article.

1 6-3-32.

2 If any airport or landing field which is located in this state, owned by a county,  
3 municipality, or other political subdivision of this state, and used for public commercial  
4 aviation has in excess of 400,000 takeoffs and landings in any calendar year, then, as to  
5 such airport or landing field, on and after July 1 immediately following such calendar year  
6 the authority otherwise provided to such county, municipality, or other political subdivision  
7 under Code Section 6-3-25 shall be transferred to, vested in, and exercised exclusively by  
8 the Major Airport Operations Board created by this article; provided, however, that the  
9 expense of any construction, equipment, improvement, maintenance, and operation of such  
10 airport shall remain a responsibility of the county, municipality, or other political  
11 subdivision; and provided, further, that such Major Airport Operations Board is expressly  
12 denied the authority to condemn, issue bonds, or levy taxes for airport or landing fields  
13 purposes.

14 6-3-33.

15 (a) There is created the Major Airport Operations Board, which shall be a body corporate  
16 and politic and an instrumentality of the State of Georgia.

17 (b) The board shall consist of the following members:

18 (1) The head of the executive branch of government of each political subdivision which  
19 owns any airport or landing field, the management of which is transferred to the board  
20 by Code Section 6-3-32, who shall serve ex officio;

21 (2) The presiding officer of the legislative branch of government of each political  
22 subdivision which owns any airport or landing field, the management of which is  
23 transferred to the board by Code Section 6-3-32, who shall serve ex officio;

24 (3) If a political subdivision referred to in paragraphs (1) and (2) of this subsection is a  
25 municipality, the head of the executive branch of government of each county within  
26 which lies any part of such airport or landing field, the management of which is  
27 transferred to the board by Code Section 6-3-32, who shall serve ex officio; and

28 (4) Three members to be appointed by a majority of those members of the board who  
29 serve ex officio pursuant to paragraphs (1) and (2) of this subsection, selected from a list  
30 of at least three nominees for each such position to be submitted by the State  
31 Transportation Board for such purpose; provided, however, that each such set of three  
32 nominees shall consist of at least two persons with experience in public commercial  
33 aviation; and provided, further, that at all times at least two of the members serving  
34 pursuant to appointment under this paragraph shall be persons with experience in public  
35 commercial aviation. If any appointment under this paragraph has not been made by a  
36 majority of those members serving ex officio pursuant to paragraphs (1) and (2) of this

1 subsection within 30 days after a list of nominees for such position has been submitted  
2 by the State Transportation Board in accordance with this paragraph, then the State  
3 Transportation Board shall forthwith make the appointment. The lists of nominees for  
4 initial members of the board shall be submitted by the State Transportation Board not  
5 later than June 1, 2004.

6 (c)(1) One member appointed pursuant to paragraph (4) of subsection (b) of this Code  
7 section shall be designated by the State Transportation Board to serve for an initial term  
8 of office ending June 30, 2006, and until his or her successor is appointed and qualified.

9 (2) One member appointed pursuant to paragraph (4) of subsection (b) of this Code  
10 section shall be designated by the State Transportation Board to serve for an initial term  
11 of office ending June 30, 2008, and until his or her successor is appointed and qualified.

12 (3) One member appointed pursuant to paragraph (4) of subsection (b) of this Code  
13 section shall be designated by the State Transportation Board to serve for an initial term  
14 of office ending June 30, 2010, and until his or her successor is appointed and qualified.

15 (4) Terms of each appointed member, other than an initial term provided by  
16 paragraph (1), (2), or (3) of this subsection, shall be for six years beginning on July 1  
17 immediately following the expiration of the previous term of office and until their  
18 successors are appointed and qualified. Appointed members shall be eligible for  
19 renomination and reappointment; provided, however, that no such member shall serve  
20 more than two terms consecutively. Any vacancy in the office of an appointed member  
21 shall be filled in the same manner as the original appointment, and the person so  
22 appointed shall serve the unexpired term of the member whose vacancy is being filled.  
23 The list of nominees for any successor shall be submitted by the State Transportation  
24 Board not later than 60 days prior to the expiration of the term of office, and the list of  
25 nominees to fill any vacancy shall be submitted by the State Transportation Board not  
26 later than 30 days after the office becomes vacant.

27 (d) A majority of the total number of members of the board provided by subsection (b)  
28 of this Code section shall constitute a quorum for the transaction of business, and a  
29 majority vote of those members present at any meeting when there is a quorum shall be  
30 sufficient to take any action permitted to the board under this Code section. No vacancy  
31 on the board shall prevent the board from carrying out its duties unless such vacancy results  
32 in a lack of a quorum, except that a majority vote of those members serving ex officio  
33 pursuant to paragraphs (1) and (2) of subsection (b) of this Code section shall be sufficient  
34 for purposes of making appointments under paragraph (4) of subsection (b) of this Code  
35 section.

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

4 (f) The members of the board shall not receive a salary, but appointed members shall  
5 receive the same expense allowance provided for members of certain boards by subsection  
6 (b) of Code Section 45-7-21 while in the performance of their duties on behalf of the board.  
7 Employees of the board shall receive such reasonable compensation for their services as  
8 determined by the members of the board.

9 (g) The board shall have perpetual existence. Any change in name or composition of the  
10 board shall in no way affect the vested rights of any person under this article or impair the  
11 obligations of any contracts existing under this article.

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

17 (i) The board shall have all of the powers necessary, proper, or convenient to carry out and  
18 effectuate the purposes and provisions of this article, including without limitation the  
19 authority vested in the board by Code Section 6-3-32. Without limiting the generality of  
20 the foregoing, the powers of the board shall include the powers:

21 (1) To bring and defend actions;

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

23 (3) To make and execute contracts, agreements, and other instruments necessary, proper,  
24 or convenient to exercise the powers of the board and to further the public purpose for  
25 which the board is created, including, but not limited to, contracts for construction of  
26 airport facilities, leases of airport facilities, operation of airport facilities, agreements for  
27 loans to finance projects, and contracts with respect to the use of airport facilities,  
28 including negotiated contracts with air carriers and vendors for the use of airport  
29 facilities;

30 (4) To borrow money to further or to carry out its public purpose and to execute notes,  
31 other obligations, leases, trust indentures, trust agreements, agreements for the sale of its  
32 notes, other obligations, loan agreements, mortgages, deeds to secure debt, trust deeds,  
33 security agreements, assignments, and such other agreements or instruments as may be  
34 necessary or desirable, in the judgment of the board, to evidence and to provide security  
35 for such borrowing; provided, however, that such notes or other obligations shall not be  
36 deemed to be a debt of the State of Georgia or a pledge of the faith and credit of the state  
37 and shall be payable solely from funds of the board established for such purpose;

- 1 (5) To apply for and accept loans and grants, either or both, of money, materials, or  
2 property of any kind from the United States government or the State of Georgia or any  
3 political subdivision, authority, agency, or instrumentality of either of them, upon such  
4 terms and conditions as the United States government or the State of Georgia or such  
5 political subdivision, authority, agency, or instrumentality of either of them shall impose;
- 6 (6) To hold, use, administer, and expend such sum or sums as may be received as income  
7 or gifts or as may be appropriated by a county, municipality, or other political subdivision  
8 for any of the purposes of the board;
- 9 (7) To enter into agreements with the federal government or any agency or corporation  
10 thereof to use the facilities of the federal government or agency or corporation thereof in  
11 order to further or carry out the public purposes of the board;
- 12 (8) To extend credit or make loans to any person, corporation, partnership, limited or  
13 general, or other entity for the costs of any project, which credit or loans may be  
14 evidenced or secured by loan agreements, notes, mortgages, deeds to secure debt, trust  
15 deeds, security agreements, assignments, or other instruments or by rentals, revenues,  
16 fees, or charges, upon such terms and conditions as the board shall determine to be  
17 reasonable in connection with such extension of credit or loans, including provision for  
18 the establishment and maintenance of reserve funds, and, in the exercise of powers  
19 granted in connection with any project, the board shall have the right and power to  
20 require the inclusion in any such loan agreement, note, mortgage, deed to secure debt,  
21 trust deed, security agreement, assignment, or other instrument of such provisions or  
22 requirements for guarantee of any obligations, insurance, construction, use, operation,  
23 maintenance, and financing of a project and such other terms and conditions as the board  
24 may deem necessary or desirable;
- 25 (9) To receive and use the proceeds of any tax levied by the State of Georgia or any  
26 county or municipality thereof to pay the costs of any project or for any other purpose for  
27 which the board may use its own funds pursuant to this Code section;
- 28 (10) To receive and administer gifts, grants, and devises of money and property of any  
29 kind and to administer trusts;
- 30 (11) To use any real property, personal property, or fixtures or any interest therein and  
31 to rent or lease such property to or from others or make contracts with respect to the use  
32 thereof;
- 33 (12) To acquire, accept, or retain equitable interests, security interests, or other interests  
34 in any real property, personal property, or fixtures by loan agreement, note, mortgage,  
35 deed to secure debt, trust deed, security agreement, assignment, pledge, conveyance,  
36 contract, lien, loan agreement, or other consensual transfer in order to secure the  
37 repayment of any moneys loaned or credit extended by the board;

1 (13) To appoint, select, and employ officers, agents, and employees, including airport  
2 managers, engineers, surveyors, architects, urban or city planners, construction experts,  
3 fiscal agents, attorneys, and others, and to fix their compensation and pay their expenses.  
4 The board shall have exclusive authority to appoint, select, and employ any airport  
5 manager for any airport under the board's jurisdiction;

6 (14) 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 (15) 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 (16) To request that the political subdivision for which the board is managing, operating,  
14 and maintaining an airport acquire through the exercise of the power of eminent domain  
15 any real property or rights or interests therein, including easements, as necessary or  
16 convenient for the accomplishment of the purposes of this article;

17 (17) 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 board. Except  
19 as otherwise provided by the federal Aviation and Transportation Security Act, Public  
20 Law 107-71, such security force shall have the duty to protect persons and property  
21 located within the boundaries of the airport facilities and properties and to control  
22 pedestrian and vehicular traffic on such property, and to protect the public peace, health,  
23 and safety. For these purposes, members of the security force shall be peace officers and  
24 shall have authority equivalent to the authority of law enforcement officers of the county  
25 in which such officers are discharging their duties;

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

29 (19) To do all things necessary, proper, or convenient to carry out the powers conferred  
30 by this article, including the adoption of rules and regulations.

31 (j) It is found, determined, and declared that the creation of the board and the carrying out  
32 of its corporate purposes are in all respects for the benefit of the people of this state and  
33 constitute a public purpose and that the board will be performing an essential governmental  
34 function in the exercise of the powers conferred on it by this article. The State of Georgia  
35 covenants that the board shall not be required to pay any taxes or assessments upon any of  
36 the property acquired by it or under its jurisdiction, control, possession, or supervision or  
37 upon facilities erected, maintained, or acquired by it or any fees, rentals, or other charges

1 for the use of such facilities or other income received by the board; provided, however, that  
2 in no event shall these exemptions extend to any lessee or other private person or entity.

3 (k) The Attorney General shall provide legal counsel and representation for the board. The  
4 provisions of Code Sections 45-15-13 through 45-15-16 shall be fully applicable to the  
5 board the same as if it were a state authority named therein.

6 (l) Nothing contained in this article shall be construed to impair any rights afforded the  
7 state under the Constitution of the United States nor to waive any immunities of the state.

8 (m) Members and employees of the board shall be subject to the applicable provisions of  
9 Chapter 10 of Title 45."

10 **SECTION 2.**

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

13 **SECTION 3.**

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