

Senate Bill 514

By: Senators Cagle of the 49th, Starr of the 44th and Lee of the 29th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 and Title 50 of the Official Code of Georgia Annotated, relating to state government, so as
3 to authorize the issuance of commercial paper; to authorize the issuance of general obligation
4 bonds bearing interest at variable rates; to provide for procedures, conditions, and limitations;
5 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
6 other purposes.

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

8 **SECTION 1.**

9 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
10 by adding a new article at the end of Chapter 82, relating to bonds, to be designated Article
11 10, to read as follows:

12 "ARTICLE 10

13 36-82-240.

14 As used in this article, the term:

15 (1) 'Governing body' means the board, commission, council, or other local legislative
16 body of governmental entity.

17 (2) 'Governmental entity' means any school district, independent school system, county,
18 municipal corporation, consolidated city-county government, or other political
19 subdivision of the state, any local authority, local body corporate, or local public
20 corporation created by or pursuant to the Constitution of Georgia or any general, local,
21 or special Act of the General Assembly, or any special district or community
22 improvement district of the state. The term 'governmental entity' does not include 'state
23 authorities' as defined in paragraph (9) of Code Section 50-17-21.

1 36-82-241.

2 (a) Whenever a governmental entity is authorized by law to issue bonds, notes, or
3 certificates, including but not limited to general obligation bonds, revenue bonds, bond
4 anticipation notes, tax anticipation notes, or revenue anticipation certificates, such
5 governmental entity is authorized to issue such obligation in the form of commercial paper
6 notes. The issuance of commercial paper notes shall be subject to the same restrictions and
7 provisions under the laws of this state which would be applicable to the issuance of the
8 type of bond, note, or certificate in lieu of which the commercial paper notes are being
9 issued. The governing body of any governmental entity may designate the commercial
10 paper notes issued under this article to be in registered form or bearer form and may
11 provide for payment by wire transfers or electronic funds transfer in accordance with the
12 federal Electronic Fund Transfer Act, 15 U.S.C., Section 1693, et seq. The authority
13 granted by this article to issue commercial paper notes shall not be construed to permit the
14 governmental entity to increase or otherwise alter any debt limits.

15 (b) To secure commercial paper notes authorized under this article, a governmental entity
16 may:

17 (1) Pledge its anticipated taxes, grants, other revenue, the proceeds of any bonds, notes,
18 or other permanent financing, or any combination thereof;

19 (2) Segregate any pledged funds in separate accounts that may be held by the
20 governmental entity or third parties;

21 (3) Enter into contracts with third parties to obtain standby lines of credit or other
22 financial commitments designated to provide additional security for commercial paper
23 notes authorized by this article;

24 (4) Establish any reserves deemed necessary for the payment of the commercial paper
25 notes; and

26 (5) Adopt ordinances or resolutions and enter into agreements containing covenants,
27 including covenants to issue bonds, notes, or other permanent financing and provisions
28 for protection and security of the owners of commercial paper notes, which shall
29 constitute enforceable contracts with such owners.

30 (c) Commercial paper notes authorized by this article may be in any form and contain any
31 terms, including provisions for redemption at the option of the owner and provisions for
32 the varying of interest rates in accordance with any index, banker's loan rate, or other
33 standard.

34 (d) The governing body shall adopt an ordinance or resolution finding that issuance of the
35 obligations in the form of commercial paper notes is necessary and desirable, directing the
36 designated officer to arrange for preparation of the requisite number of suitable notes, and
37 specifying other provisions relating to the commercial paper notes including the following:

1 (1) For each program of commercial paper notes authorized, the final date of maturity
2 and the total aggregate principal amount of the commercial paper notes authorized to be
3 outstanding at any one time up to the maturity date. The ordinance or resolution may
4 provide that the commercial paper notes may be issued and renewed from time to time
5 until the final maturity date and that the amount issued from time to time may be set by
6 a designated officer of the governmental entity up to the maximum amount authorized
7 to be outstanding at any one time. The ordinance or resolution shall include methods of
8 setting the dates, numbers, and denominations of the commercial paper notes;

9 (2) The method of setting the interest rates and interest payment dates applicable to the
10 commercial paper notes. Commercial paper notes may bear a stated rate of interest
11 payable only at maturity, which rate or rates may be determined at the time of sale of
12 each unit of commercial paper notes;

13 (3) The maximum effective rate of interest the commercial paper notes shall bear;

14 (4) The manner of sale;

15 (5) The discount, if any, the governmental entity may allow;

16 (6) Any provisions for the redemption of the commercial paper notes prior to the stated
17 maturity;

18 (7) The technical form and language of the commercial paper notes; and

19 (8) All other terms and conditions of the commercial paper notes and of their execution,
20 issuance, and sale deemed necessary and appropriate by the governing body.

21 (e) The governing body, in the ordinance or resolution authorizing the issuance of
22 commercial paper notes under this article, may delegate to any elected or appointed official
23 or employee of the governmental entity the authority to determine maturity dates, principal
24 amounts, redemption provisions, interest rates, and other terms and conditions of such
25 commercial paper notes that are not appropriately determined at the time of enactment or
26 adoption of the authorizing ordinance or resolution, which delegated authority shall be
27 exercised subject to such parameters, limitations, and criteria as may be set forth in such
28 ordinance or resolution.

29 (f) Any commercial paper notes may be sold at negotiated sale at a price below the par
30 value thereof.

31 (g) For purposes of determining the principal amount of debt outstanding in connection
32 with complying with any limitations on the amount of debt outstanding for a governmental
33 entity, commercial paper notes shall be deemed outstanding at any time during the term of
34 a program of commercial paper notes in an amount equal to the maximum amount
35 authorized in the ordinance or resolution.

36 (h) The renewal and reissuance from time to time of the commercial paper notes pursuant
37 to a commercial paper note program in an amount up to the maximum amount authorized

1 by the ordinance or resolution shall be deemed to be a refunding of the previously maturing
2 amount."

3 **SECTION 2.**

4 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
5 in Code Section 50-17-23, relating to general obligation and guaranteed revenue debts, by
6 adding a new subsection at the end thereof, to be designated subsection (d), to read as
7 follows:

8 "(d) *Variable rate debt.*

9 (1) As used in this subsection, the term 'variable rate debt' means general obligation debt
10 bearing interest at a variable interest rate.

11 (2) Variable rate debt may be incurred in the following manner:

12 (A) For purposes of calculating the highest annual debt service requirements for
13 variable rate debt, interest may be calculated at the maximum rate of interest that may
14 be payable during any one fiscal year, after taking into account any credits permitted
15 in the related bond resolution, indenture, or other instrument against such amount;

16 (B) Any resolution authorizing general obligation debt which is variable rate debt, in
17 lieu of stating the rate or rates at which such variable rate debt shall bear interest and
18 the price or prices at which such variable rate bonds shall be initially sold or
19 remarketed, in the event of purchase and subsequent resale, may provide that such
20 interest rates and prices may vary from time to time depending on criteria established
21 in the approving resolution, which criteria may include, without limitation, references
22 to indices or variations in interest rates as may, in the judgment of a remarketing agent,
23 be necessary to cause variable rate debt to be remarketable from time to time at a price
24 equal to its principal amount and may provide for the appointment of a bank, trust
25 company, investment bank, or other financial institution to serve as remarketing agent
26 for such purposes. The resolution for any variable rate debt may provide that alternate
27 interest rates or provisions for establishing alternate interest rates, different security or
28 claim priorities, or different call or amortization provisions will apply during such times
29 as the variable rate debts are held by a person providing credit or liquidity enhancement
30 arrangements for such debt as authorized in subparagraph (C) of this paragraph. The
31 resolution may also provide for such variable rate debt to bear interest at rates
32 established pursuant to a process generally known as an auction rate process and may
33 provide for appointment of one or more financial institutions or investment banks to
34 serve as auction agents and broker-dealers in connection with the establishment of such
35 interest rates and sale and remarketing of such debt;

1 (C) In connection with the issuance of any variable rate debt, the state may enter into
 2 arrangements to provide additional security and liquidity for such debt, including
 3 without limitation, bond or interest rate insurance or letters of credit, bond purchase
 4 contracts, or other arrangements whereby funds are available to retire or purchase such
 5 variable rate debt, thereby assuring the ability of owners of the variable rate debt to sell
 6 or redeem such debt. The state may enter into contracts and may agree to pay fees to
 7 persons providing such arrangements, but only under circumstances where the
 8 appropriate officer has certified that he or she reasonably expects that the total interest
 9 paid or to be paid on the variable rate debt, together with the fees for the arrangements,
 10 being treated as if interest, would not, taken together, cause the debt to bear interest,
 11 calculated to its stated maturity, at a rate in excess of the rate that the debt would bear
 12 in the absence of such arrangements; and

13 (D) The state may enter into qualified interest rate management agreements with
 14 respect to any variable rate debt. Net payments for such qualified interest rate
 15 management agreements shall constitute interest on the variable rate debt and shall be
 16 paid from the same source as payments on the variable rate debt. During the term of any
 17 qualified interest rate management agreement, annual debt service requirements of the
 18 variable rate debt may be calculated taking into account any amounts to be paid or
 19 received pursuant to the terms of such qualified interest rate management agreement."

20 SECTION 3.

21 Said title is further amended by adding a new article at the end of Chapter 17, relating to state
 22 debt, investment, and depositories, to be designated Article 4, to read as follows:

23 "ARTICLE 4

24 50-17-90.

25 As used in this article, the term:

26 (1) 'Governing body' means, with respect to the state, the Georgia State Financing and
 27 Investment Commission, and with respect to a state authority, such authority's board.

28 (2) 'State authority' shall mean 'state authority' as defined in paragraph (9) of Code
 29 Section 50-17-21.

30 50-17-91.

31 (a) Whenever the state or any state authority is authorized by law to incur bonds, notes,
 32 or certificates, including but not limited to general obligation bonds, guaranteed revenue
 33 bonds, revenue bonds, bond anticipation notes, tax anticipation notes, or revenue

1 anticipation certificates, the state or state authority is authorized to issue such obligation
2 in the form of commercial paper notes. The issuance of commercial paper notes shall be
3 subject to the same restrictions and provisions under the laws of this state which would
4 be applicable to the issuance of the type of bond, note, or certificate in lieu of which the
5 commercial paper notes are being issued. The state or state authority may designate the
6 commercial paper notes issued under this article to be in registered form or bearer form
7 and may provide for payment by wire transfers or electronic funds transfer in accordance
8 with the federal Electronic Fund Transfer Act, 15 U.S.C., Section 1693, et seq. The
9 authority granted by this article to issue commercial paper notes shall not be construed
10 to permit the state or state authority to increase or otherwise alter any debt limits.

11 (b) To secure commercial paper notes authorized under this article, the state or state
12 authority may:

13 (1) Pledge its anticipated taxes, grants, other revenue, the proceeds of any bonds, notes,
14 or other permanent financing, or any combination thereof;

15 (2) Segregate any pledged funds in separate accounts that may be held by the state, state
16 authority, or third parties;

17 (3) Enter into contracts with third parties to obtain standby lines of credit or other
18 financial commitments designated to provide additional security for commercial paper
19 notes authorized by this article;

20 (4) Establish any reserves deemed necessary for the payment of the commercial paper
21 notes; and

22 (5) Adopt resolutions and enter into agreements containing covenants, including
23 covenants to issue bonds, notes, or other permanent financing and provisions for
24 protection and security of the owners of commercial paper notes, which shall constitute
25 enforceable contracts with such owners.

26 (c) Commercial paper notes authorized by this article may be in any form and contain any
27 terms, including provisions for redemption at the option of the owner and provisions for
28 the varying of interest rates in accordance with any index, banker's loan rate, or other
29 standard.

30 (d) The governing body shall adopt a resolution finding that issuance of the obligations in
31 the form of commercial paper notes is necessary and desirable, directing the designated
32 officer to arrange for preparation of the requisite number of suitable notes, and specifying
33 other provisions relating to the commercial paper notes including the following:

34 (1) For each program of commercial paper notes authorized, the final date of maturity
35 and the total aggregate principal amount of the commercial paper notes authorized to be
36 outstanding at any one time up to the maturity date. The resolution may provide that the
37 commercial paper notes may be issued and renewed from time to time until the final

1 maturity date and that the amount issued from time to time may be set by a designated
2 officer of the governmental entity up to the maximum amount authorized to be
3 outstanding at any one time. The resolution shall include methods of setting the dates,
4 numbers, and denominations of the commercial paper notes;

5 (2) The method of setting the interest rates and interest payment dates applicable to the
6 commercial paper notes. Commercial paper notes may bear a stated rate of interest
7 payable only at maturity, which rate or rates may be determined at the time of sale of
8 each unit of commercial paper notes;

9 (3) The maximum effective rate of interest the commercial paper notes shall bear;

10 (4) The manner of sale;

11 (5) The discount, if any, the state or state authority may allow;

12 (6) Any provisions for the redemption of the commercial paper notes prior to the stated
13 maturity;

14 (7) The technical form and language of the commercial paper notes; and

15 (8) All other terms and conditions of the commercial paper notes and of their execution,
16 issuance, and sale deemed necessary and appropriate by the state or state authority.

17 (e) The governing body, in the resolution authorizing the issuance of commercial paper
18 notes under this article, may delegate to any elected or appointed official of the state or
19 state authority the authority to determine maturity dates, principal amounts, redemption
20 provisions, interest rates, and other terms and conditions of such commercial paper notes
21 that are not appropriately determined at the time of enactment or adoption of the
22 authorizing resolution, which delegated authority shall be exercised subject to such
23 parameters, limitations, and criteria as may be set forth in such resolution.

24 (f) Any commercial paper notes may be sold at negotiated sale at a price below the par
25 value thereof.

26 (g) For purposes of determining the principal amount of debt outstanding in connection
27 with complying with any limitations on the amount of debt outstanding for a governmental
28 entity, commercial paper notes shall be deemed outstanding at any time during the term of
29 a program of commercial paper notes in an amount equal to the maximum amount
30 authorized in the resolution.

31 (h) The renewal and reissuance from time to time of the commercial paper notes pursuant
32 to a commercial paper note program in an amount up to the maximum amount authorized
33 by the resolution shall be deemed to be a refunding of the previously maturing amount."

1 **SECTION 4.**

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

4 **SECTION 5.**

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