

House Bill 1089 (AS PASSED HOUSE AND SENATE)

By: Representatives Royal of the 140th and O`Neal of the 117th

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 provide for additional powers and duties of the Office of Treasury and Fiscal
3 Services; to provide for the lending certain securities by the director of such office; to
4 provide that certain securities lending transactions shall constitute authorized investments by
5 the Georgia State Financing and Investment Commission and the Georgia Environmental
6 Facilities Authority; to provide for the lending of certain securities by the Georgia
7 Environmental Facilities Authority; to provide an effective date; to repeal conflicting laws;
8 and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
12 by striking subsection (a) of Code Section 50-5A-7, relating to duties of the Office of
13 Treasury and Fiscal Services generally, and inserting in its place a new subsection (a) to read
14 as follows:

15 "(a) It shall be the power and duty of the Office of Treasury and Fiscal Services:

16 (1) To receive and keep safely all moneys which shall from time to time be paid to the
17 treasury of this state, and to pay all warrants legally drawn on the treasury by the
18 Governor and countersigned by the Comptroller General or, in the Comptroller General's
19 absence, by the deputy comptroller general, and to pay all drafts of the President of the
20 Senate and the Speaker of the House of Representatives for sums lawfully due the
21 members and officers of their respective bodies;

22 (2) To keep good and sufficient accounting records of every sum of money received into,
23 or disbursed from, the state treasury, utilizing an accounting system in conformity with
24 generally accepted accounting principles and approved by the state auditor;

1 (3) To keep a true and faithful record of all warrants drawn by the Governor on the
2 treasury and all drafts drawn on the treasury by the President of the Senate and the
3 Speaker of the House of Representatives;

4 (4) To keep a true and faithful record of the accounts with all designated state
5 depositories in which the state's money is deposited, showing the principal amount and
6 the interest earned in each depository;

7 (5) To keep safely certificates of stock, securities, state bonds, and other evidences of
8 debt and to manage and control the same for the purposes to which they are pledged;

9 (6) To invest all state and custodial funds, subject to the limitations of subsection (b) of
10 this Code section and Chapter 17 of this title;

11 (7) To invest all health insurance funds, subject to the limitations of subsection (b) of this
12 Code section and Chapter 17 of this title;

13 (8) To invest all self-insurance, liability, indemnification, tort claims, workers'
14 compensation, or related funds, subject to the limitations of subsection (b) of this Code
15 section and Chapter 17 of this title; ~~and~~

16 (9) To invest all other funds in its possession, subject to the limitations of subsection (b)
17 of this Code section and Chapter 17 of this title; and

18 (10) To lend securities in its possession, subject to the limitations of subsection (b) of
19 this Code section and Chapter 17 of this title."

20 SECTION 2.

21 Said title is further amended by striking subsection (b) of Code Section 50-17-27, relating
22 to application and investment of certain proceeds by the Georgia State Financing and
23 Investment Commission and the Georgia Environmental Facilities Authority, and inserting
24 in its place a new subsection (b) to read as follows:

25 "(b) Proceeds received from the sale of bonds evidencing general obligation debt shall be
26 held in trust by the commission and disbursed promptly by the commission in accordance
27 with the original purpose set forth in the authorization of the General Assembly and in
28 accordance with rules and regulations established by the commission. Bond proceeds and
29 other proceeds held by the commission shall be as fully invested as is practical, consistent
30 with the proper application of such proceeds for the purposes intended. Investments shall
31 be limited to general obligations of the United States or of subsidiary corporations of the
32 United States government fully guaranteed by such government, or to obligations issued
33 by the Federal Land Bank, Federal Home Loan Bank, Federal Intermediate Credit Bank,
34 Bank for Cooperatives, Federal Farm Credit Banks regulated by the Farm Credit
35 Administration, Federal Home Loan Mortgage Corporation, Federal National Mortgage
36 Association, or to tax exempt obligations issued by any state, county, municipal

1 corporation, district, or political subdivision, or civil division or public instrumentality of
 2 any such government or unit of such government, or to prime bankers' acceptances, or to
 3 the units of any unit investment trusts the assets of which are exclusively invested in
 4 obligations of the type described ~~above~~ in this subsection, or to the shares of any mutual
 5 fund the investments of which are limited to securities of the type described ~~above~~ in this
 6 subsection and distributions from which are treated for federal income tax purposes in the
 7 same manner as the interest on said obligations, provided that at the time of investment
 8 such obligations or the obligations held by any such unit investment trust or the obligations
 9 held or to be acquired by any such mutual fund are limited to obligations which are rated
 10 within one of the top two rating categories of any nationally recognized rating service or
 11 any rating service recognized by the commissioner of banking and finance, and no others,
 12 or to securities lending transactions involving securities of the type described in this
 13 subsection. Income earned on any such investments or otherwise earned by the
 14 commission shall be retained by the commission and used to purchase and retire any public
 15 debt or any bonds or obligations issued by any public agency, public corporation, or
 16 authority which are secured by a contract to which the second paragraph of Article IX,
 17 Section VI, Paragraph I(a) of the Constitution of Georgia of 1976 is applicable and may be
 18 used to pay operating expenses of the commission. However, in order to provide for
 19 contingencies, efficiency, and flexibility, the commission may agree by contract or grant
 20 agreement with county and independent school systems that income earned during grant
 21 administration on a direct appropriation of state funds to the commission for public school
 22 capital outlay will be applied to the capital outlay purposes of the appropriation.
 23 Otherwise, the interest on direct appropriations to the commission shall be deposited into
 24 the treasury."

25 **SECTION 3.**

26 Said title is further amended by striking subsection (b) of Code Section 50-17-63, relating
 27 to regulation of deposit, withdrawal, investment, and reporting of demand funds by the
 28 Office of Treasury and Fiscal Services, and inserting in its place a new subsection (b) to read
 29 as follows:

30 "(b) All departments, boards, bureaus, and other agencies of the state shall report to the
 31 board, on such forms and at such times as the board may prescribe, such information as the
 32 board may reasonably require concerning deposits and withdrawals pursuant to this Code
 33 section and shall enable the board to determine compliance with this Code section. Interest
 34 earned on state funds withdrawn from the state treasury on approved budgets shall be
 35 remitted to the Office of Treasury and Fiscal Services by each department, board, bureau,
 36 or agency and placed in the general fund. The board may permit the director to invest in

1 any one or more of the following: bankers' acceptances; commercial paper; bonds, bills,
 2 certificates of indebtedness, notes, or other obligations of the United States and its
 3 subsidiary corporations and instrumentalities or entities sanctioned or authorized by the
 4 United States government including, but not limited to, obligations or securities issued or
 5 guaranteed by Banks for Cooperatives regulated by the Farm Credit Administration, the
 6 Commodity Credit Corporation, Farm Credit Banks regulated by the Farm Credit
 7 Administration, Federal Assets Financing Trusts, the Federal Financing Bank, Federal
 8 Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National
 9 Mortgage Association, the Financial Assistance Corporation chartered by the Farm Credit
 10 Administration, the Government National Mortgage Association, the Import-Export Bank,
 11 Production Credit Associations regulated by the Farm Credit Administration, the
 12 Resolution Trust Corporation, and the Tennessee Valley Authority; obligations of
 13 corporations organized under the laws of this state or any other state but only if the
 14 corporation has a market capitalization equivalent to \$100 million; provided, however, that
 15 such obligation shall be listed as investment grade by a nationally recognized rating
 16 agency; bonds, notes, warrants, and other securities not in default which are the direct
 17 obligations of the government of any foreign country which the International Monetary
 18 Fund lists as an industrialized country and for which the full faith and credit of such
 19 government has been pledged for the payment of principal and interest, provided that such
 20 securities are listed as investment grade by a nationally recognized rating agency; and,
 21 provided, further, such securities are fully negotiable and transferable; or obligations
 22 issued, assumed, or guaranteed by the International Bank for Reconstruction and
 23 Development or the International Financial Corporation, provided that such securities are
 24 listed as investment grade by a nationally recognized rating agency and are fully negotiable
 25 and transferable; provided, however, that interest earned on the investment of motor fuel
 26 tax revenues shall be defined as motor fuel tax revenues and shall be appropriated in
 27 conformity with and pursuant to Article III, Section IX, Paragraph VI(b) of the Constitution
 28 of Georgia. The board may also permit the director to lend any of the securities of the type
 29 identified in this subsection subject to the limitations of subsection (b) of Code Section
 30 50-5A-7 and Chapter 17 of this title."

31 **SECTION 4.**

32 Said title is further amended by striking subsection (b) of Code Section 50-23-5, relating to
 33 powers of the Georgia Environmental Facilities Authority, and inserting in its place a new
 34 subsection (b) to read as follows:

35 "(b) The authority shall have power:

- 1 (1) To sue and be sued in all courts of this state, the original jurisdiction and venue of
2 such actions being the Superior Court of Fulton County;
- 3 (2) To have a seal and alter the same at its pleasure;
- 4 (3) 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 purpose for
6 which the authority is created, such contracts, leases, or instruments to include contracts
7 for construction, operation, management, or maintenance of projects and facilities owned
8 by local government, the authority, or by the state or any state authority; and any and all
9 local governments, departments, institutions, authorities, or agencies of the state are
10 authorized to enter into contracts, leases, agreements, or other instruments with the
11 authority upon such terms and to transfer real and personal property to the authority for
12 such consideration and for such purposes as they deem advisable;
- 13 (4) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or
14 personal property of every kind and character, or any interest therein, in furtherance of
15 the public purpose of the authority;
- 16 (5) To appoint an executive director who shall be executive officer and administrative
17 head of the authority. The executive director shall be appointed and serve at the pleasure
18 of the authority. The executive director shall hire officers, agents, and employees,
19 prescribe their duties and qualifications and fix their compensation, and perform such
20 other duties as may be prescribed by the authority. Such officers, agents, and employees
21 shall serve at the pleasure of the executive director;
- 22 (6) To finance projects by loan, loan guarantee, grant, lease, or otherwise, and to pay the
23 cost of any project from the proceeds of bonds, revenue bonds, notes, or other obligations
24 of the authority or any other funds of the authority or from any contributions or loans by
25 persons, corporations, partnerships, whether limited or general, or other entities, all of
26 which the authority is authorized to receive, accept, and use;
- 27 (7) To make loans, through the acquisition of bonds, revenue bonds, notes, or other
28 obligations, and to make grants to local governments to finance projects and to pay the
29 cost of any project by local government and to adopt rules, regulations, and procedures
30 for making such loans and grants;
- 31 (8) To borrow money to further or carry out its public purpose and to issue revenue
32 bonds, notes, or other obligations to evidence such loans and to execute leases, trust
33 indentures, trust agreements for the sale of its revenue bonds, notes, or other obligations,
34 loan agreements, mortgages, deeds to secure debt, trust deeds, security agreements,
35 assignments, and such other agreements or instruments as may be necessary or desirable
36 in the judgment of the authority, and to evidence and to provide security for such loans;

1 (9) To issue revenue bonds, bonds, notes, or other obligations of the authority, to receive
2 payments from the Department of Community Affairs, and to use the proceeds thereof
3 for the purpose of:

4 (A) Paying or loaning the proceeds thereof to pay, all or any part of, the cost of any
5 project or the principal of and premium, if any, and interest on the revenue bonds,
6 bonds, notes, or other obligations of any local government issued for the purpose of
7 paying in whole or in part, the cost of any project and having a final maturity not
8 exceeding three years from the date of original issuance thereof;

9 (B) Paying all costs of the authority incidental to, or necessary and appropriate to,
10 furthering or carrying out the purposes of the authority; and

11 (C) Paying all costs of the authority incurred in connection with the issuance of the
12 revenue bonds, bonds, notes, or other obligations;

13 (10) To collect fees and charges in connection with its loans, commitments, management
14 services, and servicing including, but not limited to, reimbursements of costs of
15 financing, as the authority shall determine to be reasonable and as shall be approved by
16 the authority;

17 (11) Subject to any agreement with bondholders, to invest moneys of the authority not
18 required for immediate use to carry out the purposes of this chapter, including the
19 proceeds from the sale of any bonds and any moneys held in reserve funds, in obligations
20 which shall be limited to the following:

21 (A) Bonds or other obligations of the state or bonds or other obligations, the principal
22 and interest of which are guaranteed by the state;

23 (B) Bonds or other obligations of the United States or of subsidiary corporations of the
24 United States government fully guaranteed by such government;

25 (C) Obligations of agencies of the United States government and its subsidiary
26 corporations and instrumentalities or entities sanctioned or authorized by the United
27 States government including, but not limited to, the Federal Land Bank, the Federal
28 Home Loan Bank, the Federal Intermediate Credit Bank, Farm Credit Banks regulated
29 by the Farm Credit Administration, the Federal Home Loan Mortgage Corporation, the
30 Federal National Mortgage Association, and the Bank for Cooperatives;

31 (D) Bonds or other obligations issued by any public housing agency or municipality
32 in the United States, which bonds or obligations are fully secured as to the payment of
33 both principal and interest by a pledge of annual contributions under an annual
34 contributions contract or contracts with the United States government, or project notes
35 issued by any public housing agency, urban renewal agency, or municipality in the
36 United States and fully secured as to payment of both principal and interest by a
37 requisition, loan, or payment agreement with the United States government;

1 (E) Certificates of deposit of national or state banks or federal savings and loan
2 associations located within the state which have deposits insured by the Federal Deposit
3 Insurance Corporation or any Georgia deposit insurance corporation and certificates of
4 deposit of state building and loan associations located within the state which have
5 deposits insured by any Georgia deposit insurance corporation, including the
6 certificates of deposit of any bank, savings and loan association, or building and loan
7 association acting as depository, custodian, or trustee for any such bond proceeds;
8 provided, however, that the portion of such certificates of deposit in excess of the
9 amount insured by the Federal Deposit Insurance Corporation or any Georgia deposit
10 insurance corporation, if any such excess exists, shall be secured by deposit with the
11 Federal Reserve Bank of Atlanta, Georgia, or with any national or state bank located
12 within the state, of one or more of the following securities in an aggregate principal
13 amount equal at least to the amount of such excess:

14 (i) Direct and general obligations of the state or of any county or municipality in the
15 state;

16 (ii) Obligations of the United States or subsidiary corporations included in
17 subparagraph (B) of this paragraph;

18 (iii) Obligations of agencies of the United States government included in
19 subparagraph (C) of this paragraph; or

20 (iv) Bonds, obligations, or project notes of public housing agencies, urban renewal
21 agencies, or municipalities included in subparagraph (D) of this paragraph;

22 (F) Interest-bearing time deposits, repurchase agreements, reverse repurchase
23 agreements, rate guarantee agreements, or other similar banking arrangements with a
24 bank or trust company having capital and surplus aggregating at least \$50 million or
25 with any government bond dealer reporting to, trading with, and recognized as a
26 primary dealer by the Federal Reserve Bank of New York having capital aggregating
27 at least \$50 million or with any corporation which is subject to registration with the
28 Board of Governors of the Federal Reserve System pursuant to the requirements of the
29 Bank Holding Company Act of 1956, provided that each such interest-bearing time
30 deposit, repurchase agreement, reverse repurchase agreement, rate guarantee
31 agreement, or other similar banking arrangement shall permit the moneys so placed to
32 be available for use at the time provided with respect to the investment or reinvestment
33 of such moneys;

34 (G) Prime bankers' acceptances; and

35 (H) State operated investment pools.

36 (12) To acquire or contract to acquire from any person, firm, corporation, local
37 government, federal or state agency, or corporation by grant, purchase, or otherwise,

1 leaseholds, real or personal property, or any interest therein; and to sell, assign, exchange,
2 transfer, convey, lease, mortgage, or otherwise dispose of or encumber the same; and
3 local government is authorized to grant, sell, or otherwise alienate leaseholds, real and
4 personal property, or any interest therein to the authority;

5 (13) To invest any moneys held in debt service funds or sinking funds not restricted as
6 to investment by the Constitution or laws of this state or the federal government or by
7 contract not required for immediate use or disbursement in obligations of the types
8 specified in paragraph (11) of this subsection, provided that, for the purposes of this
9 paragraph, the amounts and maturities of such obligations shall be based upon and
10 correlated to the debt service, which debt service shall be the principal installments and
11 interest payments, schedule for which such moneys are to be applied;

12 (14) To provide advisory, technical, consultative, training, educational, and project
13 assistance services to the state and local government and to enter into contracts with the
14 state and local government to provide such services. The state and local governments are
15 authorized to enter into contracts with the authority for such services and to pay for such
16 services as may be provided them;

17 (15) To make loan commitments and loans to local government and to enter into option
18 arrangements with local government for the purchase of said bonds, revenue bonds,
19 notes, or other obligations;

20 (16) To sell or pledge any bonds, revenue bonds, notes, or other obligations acquired by
21 it whenever it is determined by the authority that the sale thereof is desirable;

22 (17) To apply for and to accept any gifts or grants or loan guarantees or loans of funds
23 or property or financial or other aid in any form from the federal government or any
24 agency or instrumentality thereof, or from the state or any agency or instrumentality
25 thereof, or from any other source for any or all of the purposes specified in this chapter
26 and to comply, subject to the provisions of this chapter, with the terms and conditions
27 thereof;

28 (18) To lease to local governments any authority owned facilities or property or any state
29 owned facilities or property which the authority is managing under contract with the
30 state;

31 (19) To contract with state agencies or any local government for the use by the authority
32 of any property or facilities or services of the state or any such state agency or local
33 government or for the use by any state agency or local government of any facilities or
34 services of the authority and such state agencies and local governments are authorized to
35 enter into such contracts;

36 (20) To extend credit or make loans, including the acquisition of bonds, revenue bonds,
37 notes, or other obligations to the state, any local government, or other entity, including

1 the federal government, for the cost or expense of any project or any part of the cost or
2 expense of any project, which credit or loans may be evidenced or secured by trust
3 indentures, loan agreements, notes, mortgages, deeds to secure debt, trust deeds, security
4 agreements, or assignments, on such terms and conditions as the authority shall determine
5 to be reasonable in connection with such extension of credit or loans, including provision
6 for the establishment and maintenance of reserve funds; and, in the exercise of powers
7 granted by this chapter in connection with any project, the authority shall have the right
8 and power to require the inclusion in any such trust indentures, loan agreement, note,
9 mortgage, deed to secure debt, trust deed, security agreement, assignment, or other
10 instrument such provisions or requirements for guaranty of any obligations, insurance,
11 construction, use, operation, maintenance, and financing of a project and such other terms
12 and conditions as the authority may deem necessary or desirable;

13 (21) As security for repayment of any bonds, revenue bonds, notes, or other obligations
14 of the authority, to pledge, lease, mortgage, convey, assign, hypothecate, or otherwise
15 encumber any property of the authority including, but not limited to, real property,
16 fixtures, personal property, and revenues or other funds and to execute any lease, trust
17 indenture, trust agreement, agreement for the sale of the authority's revenue bonds, notes
18 or other obligations, loan agreement, mortgage, deed to secure debt, trust deed, security
19 agreement, assignment, or other agreement or instrument as may be necessary or
20 desirable, in the judgment of the authority, to secure any such revenue bonds, notes, or
21 other obligations, which instruments or agreements may provide for foreclosure or forced
22 sale of any property of the authority upon default in any obligation of the authority, either
23 in payment of principal, premium, if any, or interest or in the performance of any term
24 or condition contained in any such agreement or instrument;

25 (22) To receive and use the proceeds of any tax levied by a local government to pay all
26 or any part of the cost of any project or for any other purpose for which the authority may
27 use its own funds pursuant to this chapter;

28 (23) To use income earned on any investment for such corporate purposes of the
29 authority as the authority in its discretion shall determine, including, but not limited to,
30 the use of repaid principal and earnings on funds, the ultimate source of which was an
31 appropriation to a budget unit of the state to make loans for solid waste projects;

32 (24) To cooperate and act in conjunction with industrial, commercial, medical, scientific,
33 public interest, or educational organizations; with agencies of the federal government and
34 this state and local government; with other states and their political subdivisions; and
35 with joint agencies thereof and such state agencies, local government, and joint agencies
36 are authorized and empowered to cooperate and act in conjunction, and to enter into

1 contracts or agreements with the authority and local government to achieve or further the
2 policies of the state declared in this chapter;

3 (25) To adopt bylaws governing the conduct of business by the authority, the election
4 and duties of officers of the authority, and other matters which the authority determines
5 to deal with in its bylaws;

6 (26) To exercise any power granted by the laws of this state to public or private
7 corporations which is not in conflict with the public purpose of the authority;

8 (27) To do all things necessary or convenient to carry out the powers conferred by this
9 chapter;

10 (28) To designate three or more of its number to constitute an executive committee who,
11 to the extent provided in such resolution or in the bylaws of the authority, shall have and
12 may exercise the powers of the authority in the management of the affairs and property
13 of the authority and the exercise of its powers;

14 (29) To procure insurance against any loss in connection with its property and other
15 assets or obligations or to establish cash reserves to enable it to act as self-insurer against
16 any and all such losses;

17 (30) To administer funds granted to the state by the administrator of the federal
18 Environmental Protection Agency pursuant to Title VI of the Federal Water Pollution
19 Control Act and Title XIV of the federal Safe Drinking Water Act, as now or hereafter
20 amended, for the purpose of providing assistance to municipalities or counties or any
21 combination thereof or to any public authority or, if authorized by law, any private
22 agency, commission, or institution for construction of treatment works as that term is
23 defined in Section 212 of the federal Clean Water Act of 1977, P.L. 95-217, which are
24 publicly owned. The authority is further authorized to administer funds granted to the
25 state by the administrator of the federal Environmental Protection Agency pursuant to
26 Title XIV of the federal Safe Drinking Water Act, as now or hereafter amended, for the
27 purpose of providing assistance to municipalities or counties or any combination thereof
28 or any public or, if authorized by law, any private authority, agency, commission, or
29 institution for the construction of public drinking water works as such term is defined in
30 Section 1401 of the federal Safe Drinking Water Act Amendments of 1986, P.L. 99-339.
31 The authority is further authorized to administer funds granted to the state by the
32 administrator of the federal Environmental Protection Agency pursuant to 33 U.S.C.A.
33 Section 1381, et seq., for the purpose of providing financial assistance for any eligible
34 water pollution control project. The authority shall deposit any such funds received from
35 the administrator of the federal Environmental Protection Agency into a separate water
36 pollution control revolving fund or a drinking water revolving fund transferred to the
37 authority from the Environmental Protection Division of the Department of Natural

1 Resources or hereafter established. The forms and administration of such funds shall be
2 established by the authority in accordance with federal requirements; ~~and~~

3 (31) To contract with the director of the Environmental Protection Division of the
4 Department of Natural Resources for the implementation and operation, in whole or in
5 part, of any drought protection program; and

6 (32) To lend any of the securities of the type described in this subsection."

7 **SECTION 5.**

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

10 **SECTION 6.**

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