

Senate Bill 514

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

**AS PASSED**

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 change certain provisions regarding the creation of tax allocation districts; to change the  
4 definition of redevelopment area; to change certain provisions regarding the allocation of  
5 certain tax allocation increments; to change certain provisions regarding the use of local  
6 general fund moneys with respect to tax allocation bonds; to authorize the issuance of  
7 commercial paper; to authorize the issuance of general obligation bonds bearing interest at  
8 variable rates; to provide for procedures, conditions, and limitations; to provide for related  
9 matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

11 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
12 by striking subparagraphs (F) and (G) of paragraph (7) of Code Section 36-44-3, relating to  
13 definitions regarding redevelopment powers, and inserting in their places new paragraphs  
14 (F), (G), and (H) to read as follows:  
15

16 "(F) Any geographic area designated within the comprehensive plan of a political  
17 subdivision for redevelopment which has previously been developed for commercial,  
18 residential, industrial, office, or similar or ancillary uses and which lies within the  
19 service delivery area of the political subdivision, in which the current condition of the  
20 area is less desirable than the redevelopment of the area for new commercial,  
21 residential, industrial, office, or other uses, or a combination of uses, including the  
22 provision of open space or pedestrian and transit improvements, and any geographic  
23 area that is adversely affected by airport or transportation related noise or other  
24 environmental degradation, contamination, or other environmental factors which the

1 political subdivision has determined to be impairing or retarding the redevelopment of  
 2 the area; or  
 3 (G) Any urbanized or developed area or an area connecting two or more urbanized or  
 4 developed areas that has been subject to some development but which has inadequate  
 5 roadways, bridges, or public transportation or transit facilities incapable of handling the  
 6 volume of traffic or passenger flow in or through the area in a safe and efficient manner  
 7 either at present or following proposed redevelopment; or  
 8 ~~(G)~~(H) Any area combining any factors specified in subparagraphs (A) through ~~(F)~~(G)  
 9 of this paragraph."

## 10 SECTION 2.

11 Said title is further amended by striking Code Section 36-44-8, relating to creation of tax  
 12 allocation districts, and inserting in its place a new Code Section 36-44-8 to read as follows:

13 "36-44-8.

14 In order to create and carry out the purposes of a tax allocation district, the following steps  
 15 are required:

16 (1) Preparation by the redevelopment agency of a redevelopment plan for the proposed  
 17 tax allocation district and its submission for consent to the political subdivision or board  
 18 of education required to consent, if the plan proposes to include in the tax allocation  
 19 increment ad valorem taxes levied by a political subdivision or board of education  
 20 required to consent to such inclusion under Code Section 36-44-9, or if the plan proposes  
 21 to pledge for payment or security for payment of tax allocation bonds and other  
 22 redevelopment costs the general funds of a county required to consent to such inclusion  
 23 under Code Section 36-44-9;

24 (2) Submission of the redevelopment plan, ~~along with a certified copy of any resolution~~  
 25 ~~giving the consent required under paragraph (1) of this Code section,~~ to the local  
 26 legislative body of the political subdivision whose area of operation will include the tax  
 27 allocation district; and

28 (3) Adoption by the local legislative body of a resolution approving the redevelopment  
 29 plan and which:

30 (A) Describes the boundaries of the tax allocation district with sufficient definiteness  
 31 to identify with ordinary and reasonable certainty the territory included. The boundaries  
 32 shall include only those whole units of property assessed for ad valorem property tax  
 33 purposes;

34 (B) Creates the district on December 31 following the adoption of the resolution or on  
 35 December 31 of a subsequent year as determined by the local legislative body;

1 (C) Assigns a name to the district for identification purposes. The first district created  
 2 shall be known as 'Tax Allocation District Number 1,' followed by the name of the  
 3 political subdivision within whose area of operation the district is located;

4 (D) Specifies the estimated tax allocation increment base;

5 (E) Specifies property taxes to be used for computing tax allocation increments;

6 (F) Specifies the property proposed to be pledged for payment or security for payment  
 7 of tax allocation bonds which property may include positive tax allocation increments  
 8 derived from the tax allocation district, all or part of general funds derived from the tax  
 9 allocation district, and any other property from which bonds may be paid under Code  
 10 Section 36-44-14, as determined by the political subdivision subject to the limitations  
 11 of Code Sections 36-44-9 and 36-44-20; and

12 (G) Contains findings that:

13 (i) The redevelopment area on the whole has not been subject to growth and  
 14 development through private enterprise and would not reasonably be anticipated to  
 15 be developed without the approval of the redevelopment plan or includes one or more  
 16 natural or historical assets which have not been adequately preserved or protected and  
 17 such asset or assets would not reasonably be anticipated to be adequately preserved  
 18 or protected without the approval of the redevelopment plan; and

19 (ii) The improvement of the area is likely to enhance the value of a substantial  
 20 portion of the other real property in the district.

21 If any information required to be included in the resolution approving the redevelopment  
 22 plan under subparagraphs (A) through (G) of this paragraph is contained in the  
 23 redevelopment plan, then the resolution approving the redevelopment plan may  
 24 incorporate by reference that portion of the redevelopment plan containing said  
 25 information; and

26 (4) A certified copy of any resolution giving the consent required under paragraph (1)  
 27 of this Code section must be submitted to the local legislative body of the political  
 28 subdivision whose area of operation will include the tax allocation district prior to  
 29 inclusion of such ad valorem taxes or general funds in calculation of the tax allocation  
 30 increment."

### 31 SECTION 3.

32 Said title is further amended by striking subsection (c) of Code Section 36-44-11, relating  
 33 to allocation of certain tax allocation increments, and inserting in its place a new subsection  
 34 (c) to read as follows:

35 "(c) All positive tax allocation increments received for a tax allocation district shall be  
 36 deposited into a special fund for the district upon receipt by the fiscal officer of the political

1 subdivision. All general funds derived from the tax allocation district which have been  
2 pledged for payment or security for payment of tax allocation bonds and other  
3 redevelopment costs of the tax allocation district shall be deposited upon receipt into the  
4 special fund. Any lease or other contract payments made under the district's redevelopment  
5 plan shall also be deposited upon receipt into the special fund. Moneys derived from  
6 positive tax allocation increments, general fund moneys, and moneys derived from lease  
7 or other contract payments shall be accounted for separately within the special fund.  
8 Moneys shall be paid out of the fund only to pay redevelopment costs of the district or to  
9 satisfy claims of holders of tax allocation bonds issued for the district. The local legislative  
10 body shall irrevocably pledge all or a part of such special fund to the payment of the tax  
11 allocation bonds. The special fund or designated part thereof may thereafter be used only  
12 for the payment of the tax allocation bonds and interest until they have been fully paid, and  
13 a holder of said bonds shall have a lien against the special fund or said designated part  
14 thereof pledged for payment of said bonds and may either at law or in equity protect and  
15 enforce the lien. General funds derived from the tax allocation district may be used for  
16 payment of tax allocation bonds only to the extent that positive tax allocation increments  
17 and lease or other contract payments in the special fund are insufficient at any time to pay  
18 principal and interest due on such bonds. Subject to any agreement with bondholders,  
19 moneys in the fund may be temporarily invested in the same manner as other funds of the  
20 political subdivision. Except as provided in Code Section 36-44-20, general funds derived  
21 from the tax allocation district may be used for payment of tax allocation bonds only to the  
22 extent that positive tax allocation increments and lease or other contract payments in the  
23 special fund are insufficient at any time to pay the principal and interest due on such bonds.  
24 After all redevelopment costs and all tax allocation bonds of the district have been paid or  
25 provided for, subject to any agreement with bondholders, if there remains in the fund any  
26 moneys derived from positive tax allocation increments, they shall be paid over to each  
27 county, municipality, consolidated government, or county or independent board of  
28 education whose ad valorem property taxes were affected by the tax allocation district in  
29 the same manner and proportion as the most recent distribution by the county tax collector  
30 or tax commissioner, municipal official responsible for collecting municipal ad valorem  
31 property taxes, or consolidated government official responsible for collecting consolidated  
32 government ad valorem property taxes. If there remains in the fund any other moneys, they  
33 shall be paid over to each political subdivision which contributed to the fund in proportion  
34 to the respective total contribution each made to the fund."



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 6.

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 7.

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."

**SECTION 8.**

(a) Except as otherwise provided in subsection (b) of this section, this Act shall become effective upon approval of this Act by the Governor or upon its becoming law without such approval.

(b) Sections 2, 3, and 4 of this Act shall become effective on July 1, 2004.

**SECTION 9.**

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