

Senate Bill 125

By: Senators Mullis of the 53rd, Rogers of the 21st, Zamarripa of the 36th, Whitehead, Sr. of the 24th, Stephens of the 27th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 50 and 12 of the Official Code of Georgia Annotated, relating respectively
2 to state government and conservation and natural resources, so as to change provisions
3 relating to the Department of Economic Development; to promote tourism through a
4 state-wide tourism marketing program and a more focused administrative structure; to
5 provide for implementation and for coordination of other agencies by the Department of
6 Economic Development; to provide corresponding amendments to powers of the Board of
7 Economic Development; to provide for a Georgia Tourism Foundation and the solicitation
8 and disbursement of contributions; to transfer the assignment for administrative purposes of
9 certain venues and authorities with tourism roles to the Department of Economic
10 Development; to provide for appointment of the board of the Music Hall of Fame Authority;
11 to provide for an effective date; to repeal conflicting laws, and for related purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

14 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
15 by adding at the end of Article 1 of Chapter 7, relating generally to the Department of
16 Economic Development, a new Code Section 50-7-17 to read as follows:

17 "50-7-17.

18 (a) Statement of policy and short title. The General Assembly finds that it is in the state's
19 interest to present a cohesive and vibrant message for the promotion of tourism in Georgia.
20 This Code section, therefore, shall be known and may be cited as the 'New Georgia
21 Foundation for Tourism Act.'

22 (b) Definitions. As used in this Code section, the term:

23 (1) 'Agency' means any officer, board, department, agency, commission, bureau,
24 authority, public corporation, instrumentality, or other entity of state government when
25 engaged in an activity conducive to marketing which promotes tourism.

26 (2) 'Coordinate' and 'coordination' include issuing rules, policies, standards, definitions,
27 specifications, coordination, and other guidance and direction.

1 (3) 'Department' means the Department of Economic Development.

2 (4) 'Implement' and 'implementation' include planning, writing, drafting, designing,
3 study, and market analysis; solicitation and acceptance of gifts, contributions, and
4 cooperation; contracting, procurement, retention of consultants, outsourcing, similar
5 activities, and other activities within the ordinary meaning of the term in this context.

6 (5) 'Market' and 'marketing' include promotion, advertising, signage, public relations,
7 press relations, branding, and use of a 'look;' creation, use, and licensing of trademark,
8 copyright, and other intellectual property; discounts; and other activities of similar nature
9 or within the term as it is commonly understood.

10 (c) Establishment of State-wide Tourism Marketing Program.

11 (1) *Generally.* For promotion of tourism in Georgia, the department may establish,
12 implement, and provide for implementing a State-wide Tourism Marketing Program, with
13 common and consistent features for implementation by the department and agencies.
14 Within the State-wide Tourism Marketing Program, the department may establish or
15 authorize various themes and component programs, but such themes and component
16 programs must have common and consistent features with the State-wide Tourism Market
17 Program.

18 (2) *Emphases.* As important and substantial components of the State-wide Tourism
19 Marketing Program, the department will place particular emphasis on branding and on
20 the state's great heritage and culture.

21 (3) *Sharing of powers.* In marketing and implementation of marketing for tourism, the
22 department may exercise its powers under paragraphs (9) and (11) of Code Section
23 50-7-8 and may authorize and delegate to agencies all or parts of such powers for their
24 own implementation.

25 (d) Coordination.

26 (1) *Generally.* The department will implement the State-wide Tourism Marketing
27 Program and will also coordinate its implementation by individual agencies.

28 (2) *Delegation and agency retention.* The department may delegate marketing
29 implementation activities to agencies in promotion of tourism and may allow agencies
30 to retain marketing and implementation activities in the course of its coordination. The
31 department will coordinate agencies such that they retain a measure of independence and
32 freedom of action in marketing their own specific activities and functions, consistently
33 with the State-wide Tourism Marketing Program.

34 (3) *Cooperation.* In addition to the specific administrative instructions of this Code
35 section, the department, the Georgia Technology Authority, the Department of
36 Administrative Services, and agencies and other departments and state authorities will
37 assist and cooperate with one another for the purposes of this Code section.

1 (4) *Budget.* The department may establish an annual budget covering all the costs of
 2 establishing and implementing the State-wide Tourism Marketing Program and determine
 3 an equitable basis for prorating all or part of the annual costs among the agencies, subject
 4 to approval by the Governor. Upon approval, the Governor may direct that the necessary
 5 pro rata share of the agencies assessed be made available for expenditure by the
 6 department in the same manner as appropriated funds.

7 (5) *Exclusion from APA.* Coordination of marketing and implementation of marketing
 8 for promotion of tourism will not be subject to the 'Georgia Administrative Procedure
 9 Act,' Article 1 of Chapter 13 of Title 50.

10 (6) *Agency publications.* Without limitation, the department may determine when the
 11 publication of official reports and similar documents, and the production of similar
 12 material in other media (such as film, video, sound, and other electronic forms) are
 13 deemed conducive to promoting tourism. Agencies will then publish or produce such
 14 material and information using themes, 'look,' and other marketing elements promulgated
 15 by the department for the State-wide Tourism Marketing Program.

16 (e) Georgia Tourism Foundation.

17 (1) *Establishment.* There is hereby established the Georgia Tourism Foundation, existing
 18 as a public corporation and instrumentality of the state, exclusively limited to the
 19 following charitable and public purposes and powers:

20 (A) To solicit and accept contributions of money and in-kind contributions of services
 21 and property for the State-wide Tourism Marketing Program;

22 (B) To make and disburse contributions to the department for such purposes;

23 (C) To seek recognition of tax exempt status by the United States Internal Revenue
 24 Service and to seek confirmation concerning the deductibility of contributions;

25 (D) To formulate recommendations for the State-wide Tourism Marketing Program;

26 (E) Subject to approval of the Governor, to create subsidiaries with like character and
 27 powers but with limited missions keyed to particular component programs and activities
 28 of the department's State-wide Tourism Marketing Program; and

29 (F) To provide for additional officers and governance through bylaws which are
 30 consistent with the goals of lessening the government burden in promoting tourism,
 31 establishing and maintaining tax exempt status, and soliciting deductible contributions.

32 (2) *Members.* The governance of the Georgia Tourism Foundation shall be in members,
 33 consisting of:

34 (A) The commissioner of economic development, who will be chairperson;

35 (B) The commissioner of natural resources;

36 (C) Each of the executive directors of the Jekyll Island-State Park Authority, Stone
 37 Mountain Memorial Association, Lake Lanier Islands Authority, Agricultural

1 Exposition Authority, North Georgia Mountains Authority, and Southwest Georgia
2 Railroad Excursion Authority;

3 (D) One representative each from the Aviation, Music, Sports, and Golf Halls of Fame;
4 and

5 (E) Additional private members appointed by the Governor under foundation bylaws.

6 The chairpersons of the Senate Economic Development Committee and the House
7 Economic Development and Tourism Committee shall serve as ex officio nonvoting
8 members of the foundation.

9 (3) *Administration.* The Georgia Tourism Foundation will be attached to the department
10 for administrative purposes. The Attorney General will be the attorney for the foundation.

11 The department may solicit and accept contributions from the foundation and authorize
12 agencies to do so. The department may cooperate and contract with the foundation for
13 their mutual benefit and authorize agencies to do so. Upon any dissolution of the
14 foundation, its assets will devolve in trust to the department or its successor for use only
15 for marketing to promote tourism for Georgia.

16 (4) *Public purpose.* The creation of the Georgia Tourism Foundation and the carrying
17 out of its corporate purposes are in all respects for the benefit of the people of this state
18 and constitute a public and charitable purpose. Further, the foundation will be performing
19 an essential governmental function in the exercise of the powers conferred upon it by this
20 Code section. Accordingly, the foundation shall not be subject to taxation or assessment
21 in any manner, including without limitation taxation or assessment upon any transaction,
22 income, money, or other property or activity. The exemptions granted in this Code
23 section may not be extended to any private person or entity."

24 SECTION 2.

25 Said Title 50 is further amended by striking paragraph (9) of Code Section 50-7-8, relating
26 to powers of the Board of Economic Development, and inserting in its place a new paragraph
27 to read as follows:

28 "(9) To solicit and receive gifts, donations, or contributions from any person, firm, or
29 corporation in furtherance of the services, purposes, duties, responsibilities, or functions
30 vested in the board;"

31 SECTION 3.

32 Said Title 50 is further amended by striking paragraph (11) of said Code Section 50-7-8 and
33 inserting in its place a new paragraph to read as follows:

34 "(11) To authorize the Department of Economic Development to participate with public
35 and private groups, organizations, and businesses in joint ~~advertising and promotional~~

1 marketing projects that promote the economic and tourist development of the State of
 2 Georgia and make efficient use of state appropriated ~~advertising and promotional~~
 3 marketing funds. In connection with such projects, the department may receive supplies,
 4 materials, equipment, services, and other personal property and intangible benefits. It
 5 may also issue licenses to others for the use of property in its custody or control,
 6 including intellectual property and other personal property, but may not become a joint
 7 owner. In acquisitions under this paragraph, the department shall be exempt from the
 8 provisions of ~~Chapter~~ Chapters 5 and 25 of this title. By way of illustration and not
 9 limitation, the department may allow the use of its logo in advertising and on uniforms
 10 provided by cooperating entities for wear by department employees. The board shall
 11 adopt and amend its policies, regulations, rules, and procedures as necessary to
 12 implement this provision and shall not be subject to Chapter 13 of this title, the 'Georgia
 13 Administrative Procedure Act,' in doing so. In this paragraph, 'marketing' means
 14 promotion, advertising, signage, public relations, press relations, branding, and use of
 15 a 'look'; creation, use, and licensing of trademark, copyright, and other intellectual
 16 property; discounts; and other activities of similar nature or within the term as it is
 17 commonly understood. The department will utilize competitive procedures and the
 18 Georgia Registry whenever in its reasonable discretion it is in the best interest of the state
 19 to do so. The Georgia Technology Authority will retain its authority over technology but
 20 will defer to the department in matters of marketing of economic development and
 21 implementation in such overlapping areas as creation of kiosks and web page design and
 22 operation. The Department of Administrative Services will retain its authority over
 23 purchasing in areas not peculiarly germane to marketing implementation, such as printing
 24 and shipping, but will defer to the department in matters of marketing of economic
 25 development and implementation in overlapping areas."

26 SECTION 4.

27 Said Title 50 is further amended by striking subsection (b) of Code Section 50-12-64,
 28 relating to the Golf Hall of Fame, and inserting in its place a new subsection (b) to read as
 29 follows:

30 "(b) The board is assigned to the ~~Department of Administrative Services~~ Department of
 31 Economic Development for administrative purposes only, as specified in Code Section
 32 50-4-3."

