

House Bill 436

By: Representatives Lunsford of the 110th, Keen of the 179th, O'Neal of the 146th, Smith of the 129th, Roberts of the 154th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 23 of Title 50 of the Official Code of Georgia Annotated, relating to the
2 Georgia Environmental Facilities Authority, so as to rename the Georgia Environmental
3 Facilities Authority as the Georgia Environment and Infrastructure Financing Authority and
4 provide for the powers and duties of the latter authority; to change certain provisions relating
5 to a short title; to change certain provisions relating to legislative intent and assumption of
6 rights, duties, and assets of the Georgia Development Authority; to change certain provisions
7 relating to creation of the Georgia Environmental Facilities Authority, members, quorum,
8 travel and expenses, legal services, members' accountability, recordkeeping, and authority
9 assignment; to change certain provisions relating to definitions; to change certain provisions
10 relating to purpose, powers, and duties of the Georgia Environmental Facilities Authority;
11 to change certain provisions relating to loans to local governments and repayment; to change
12 certain provisions relating to lease agreements; to change certain provisions relating to
13 review of contracts and agreements with local governments by the Environmental Protection
14 Division; to change certain provisions relating to a definition relative to the Division of
15 Energy Resources; to change certain provisions relating to creation and executive director
16 of the Division of Energy Resources; to change certain provisions relating to powers and
17 duties of the Division of Energy Resources; to amend the Official Code of Georgia
18 Annotated so as to make conforming changes to certain references to the former Georgia
19 Environmental Facilities Authority; to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **PART I**
22 **SECTION 1-1.**

23 Chapter 23 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia
24 Environmental Facilities Authority, is amended by striking Code Section 50-23-1, relating
25 to a short title, and inserting in lieu thereof the following:

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1 "50-23-1.

2 This article shall be known and may be cited as the 'Georgia ~~Environmental Facilities~~
3 Environment and Infrastructure Financing Authority Act."

4 **SECTION 1-2.**

5 Said chapter is further amended by striking Code Section 50-23-2, relating to legislative
6 intent and assumption of rights, duties, and assets of the Georgia Development Authority,
7 and inserting in lieu thereof the following:

8 "50-23-2.

9 (a) It is found and declared that the availability of adequate ~~environmental facilities~~
10 infrastructure is an important element in the ability of a community to provide for the
11 continuing economic growth and development that provide jobs for the state's citizens. It
12 is also recognized that many communities lack the financial resources to provide for the
13 needed ~~facilities~~ infrastructure that ~~both protect~~ protects the environment, conserves land,
14 and ~~provide~~ provides for ~~such~~ future economic expansion. Financial assistance is an
15 important aid for ~~the local~~ governments in meeting these needs and it is declared in the
16 public interest and for the public benefit and good and is so desired as a matter of
17 legislative intent.

18 (b) It is the purpose and intent of this article to provide an instrumentality to assist in
19 acquiring, constructing, extending, rehabilitating, repairing, and renewing of infrastructure,
20 environmental facilities, and state and community land conservation projects and to assist
21 in the financing of such needs by providing grants, loans, bonds, and other assistance to
22 ~~local governments and instrumentalities of the state~~.

23 (c) The authority shall receive all assets of the Georgia ~~Development~~ Environmental
24 Facilities Authority held immediately prior to the creation of the Georgia ~~Environmental~~
25 ~~Facilities~~ Environment and Infrastructure Financing Authority ~~except those assets received~~
26 ~~under the provisions of Public Law 499, Eighty-first Congress, Second Session, or funds~~
27 ~~or assets derived from such funds or assets~~. The authority shall be responsible for any
28 contracts, leases, agreements, or other obligations entered into regarding the environmental
29 facilities projects of the Georgia ~~Development~~ Environmental Facilities Authority prior to
30 the creation of the Georgia ~~Environmental Facilities~~ Environment and Infrastructure
31 Financing Authority, and the Georgia ~~Environmental Facilities~~ Environment and
32 Infrastructure Financing Authority is substituted as party to any such contract, agreement,
33 lease, or other obligation and shall be responsible for performance thereon as if it had been
34 the original party and shall be entitled to all benefits and rights of enforcement by any other
35 parties to such contracts, agreements, leases, or other obligations."

1 submit such books together with a statement of the authority's financial position to an
 2 independent auditing firm selected by the authority on or about the close of the state's
 3 fiscal year for the purpose of obtaining a certified audit of the authority's finances.

4 (d) The authority is assigned to the Department of Community Affairs for administrative
 5 purposes only."

6 SECTION 1-4.

7 Said chapter is further amended by striking Code Section 50-23-4, relating to definitions, and
 8 inserting in lieu thereof the following:

9 "50-23-4.

10 As used in this ~~chapter~~ article, the term:

11 (1) 'Authority' means the Georgia ~~Environmental Facilities~~ Environment and
 12 Infrastructure Financing Authority.

13 (2) 'Bond' includes revenue bond, bond, note, or other obligation.

14 (2.1) 'Community land conservation project' has the meaning provided by Code Section
 15 36-22-2.

16 (2.2) 'Conservation easement' means a conservation easement established in accordance
 17 with Code Section 44-10-2.

18 (2.3) 'Conservation land' has the meaning provided by Code Section 36-22-2.

19 (3) 'Cost of project' or 'cost of any project' means:

20 (A) All costs of acquisition, by purchase or otherwise, construction, assembly,
 21 installation, modification, renovation, extension, or rehabilitation incurred in
 22 connection with any project or any part of any project;

23 (B) All costs of real property, fixtures, or personal property used in or in connection
 24 with or necessary for any project or for any facilities related thereto, including but not
 25 limited to, the cost of all land, interests in land, estates for years, easements including
 26 but not limited to conservation easements, rights, improvements, water rights, rights of
 27 way, and connections for utility services; the cost of fees, franchises, permits,
 28 approvals, licenses, and certificates; the cost of securing any such franchises, permits,
 29 approvals, licenses, or certificates; the cost of preparation of any application therefor;
 30 and the cost of all fixtures, machinery, equipment, furniture, and other property used
 31 in or in connection with or necessary for any project;

32 (C) All financing charges, bond insurance, and loan or loan guarantee fees and all
 33 interest on revenue bonds, notes, or other obligations of the authority which accrue or
 34 are paid prior to and during the period of construction of a project and during such
 35 additional period as the authority may reasonably determine to be necessary to place
 36 such project in operation;

1 (D) All costs of engineering including but not limited to preliminary engineering
 2 studies, surveying, planning, traffic studies, environmental assessments, financial
 3 analyses, and architectural, legal, and accounting services and all expenses incurred by
 4 engineers, surveyors, planners, environmental scientists, fiscal analysts, architects,
 5 attorneys, accountants, and any other necessary technical personnel in connection with
 6 any project;

7 (E) All expenses for inspection of any project;

8 (F) All fees of fiscal agents, paying agents, and trustees for bondholders under any
 9 bond resolution, trust agreement, indenture of trust, or similar instrument or agreement;
 10 all expenses incurred by any such fiscal agents, paying agents, and trustees; and all
 11 other costs and expenses incurred relative to the issuance of any bonds, revenue bonds,
 12 notes, or other obligations for any project, including bond insurance;

13 (G) All fees of any type charged by the authority in connection with any project;

14 (H) All expenses of or incidental to determining the feasibility or practicability of any
 15 project;

16 (I) All costs of plans and specifications for any project;

17 (J) All costs of title insurance and examinations of title with respect to any project;

18 (K) Repayment of any loans for the advance payment of any part of any of the
 19 foregoing costs, including interest thereon and any other expenses of such loans;

20 (L) Administrative expenses of the authority and such other expenses as may be
 21 necessary or incidental to any project or the financing thereof or the placing of any
 22 project in operation; and

23 (M) The establishment of a fund or funds for the creation of a debt service reserve, a
 24 renewal and replacement reserve, or such other funds or reserves as the authority may
 25 approve with respect to the financing and operation of any project and as may be
 26 authorized by any bond resolution, trust agreement, indenture, or trust or similar
 27 instrument or agreement pursuant to the provisions of which the issuance of any
 28 revenue bonds, notes, or other obligations of the authority may be authorized.

29 Any cost, obligation, or expense incurred for any of the purposes specified in this
 30 paragraph shall be a part of the cost of the project and may be paid or reimbursed as such
 31 out of the proceeds of revenue bonds, notes, or other obligations issued by the authority.

32 (3.1) 'Council' means the Georgia Land Conservation Council established by Chapter 22
 33 of Title 36.

34 (4) 'County' means any county created under the Constitution or laws of this state.

35 (5) 'Environmental facilities' means any projects, structures, and other real or personal
 36 property acquired, rehabilitated, constructed, or planned:

1 (A) For the purposes of supplying, distributing and treating water and diverting,
 2 channeling, or controlling water flow and head including, but not limited to, surface or
 3 ground water, canals, reservoirs, channels, basins, dams, aqueducts, standpipes,
 4 penstocks, conduits, pipelines, mains, pumping stations, water distribution systems,
 5 compensating reservoirs, intake stations, waterworks or sources of water supply, wells,
 6 purification or filtration plants or other treatment plants and works, connections, water
 7 meters, mechanical equipment, electric generating equipment, rights of flowage or
 8 division and other plant structures, equipment, conveyances, real or personal property
 9 or rights therein and appurtenances, furnishings, accessories, and devices thereto
 10 necessary or useful and convenient for the collection, conveyance, distribution,
 11 pumping, treatment, storing, or disposing of water;

12 (B) For the purposes of collecting, treating, or disposing of sewage including, but not
 13 limited to, main, trunk, intercepting, connecting, lateral, outlet, or other sewers, outfall,
 14 pumping stations, treatment and disposal plants, ground water recharge basins,
 15 backflow prevention devices, sludge dewatering or disposal equipment and facilities,
 16 clarifiers, filters, phosphorus removal equipment and other plants, soil absorption
 17 systems, innovative systems or equipment, structures, equipment, vehicles,
 18 conveyances, real or personal property or rights therein, and appurtenances thereto
 19 necessary or useful and convenient for the collection, conveyance, pumping, treatment,
 20 neutralization, storing, and disposing of sewage; and

21 (C) For the purposes of collecting, treating, recycling, composting, or disposing of
 22 solid waste, including, but not limited to, trucks, dumpsters, intermediate reception
 23 stations or facilities, transfer stations, incinerators, shredders, treatment plants, landfills,
 24 landfill equipment, barrels, binders, barges, alternative technologies and other plant
 25 structures, equipment, conveyances, improvements, real or personal property or rights
 26 therein, and appurtenances, furnishings, accessories, and devices thereto necessary or
 27 useful and convenient for the collection, treatment, or disposal of solid waste.

28 (6) 'Environmental services' means the provision, collectively or individually, of water
 29 facilities, sewerage facilities, solid waste facilities, or management services.

30 (6.1) 'Infrastructure' means a highway, air transport, airport, rails, or transit project which
 31 provides public benefits by enhancing mobility and safety, promoting economic
 32 development, or increasing the quality of life and general welfare of the public; mass
 33 transit systems including, but not limited to, monorail and mass transit systems; land
 34 acquisition, rail spurs, access roads, gas and electric lines, equipment or other fixed
 35 assets, infrastructure for businesses creating or retaining jobs, brownfield redevelopment
 36 on publicly owned land, site acquisition, public building and downtown redevelopment,
 37 and port projects, telecommunications equipment, including but not limited to fiber optic

1 or any type of cabling which provides access to the Internet, energy improvements in
 2 public and private construction and buildings including but not limited to educational
 3 facilities, fuel storage systems, public works equipment, and other economic development
 4 purposes for local development; and any improvements necessary to the full utilization
 5 thereof, including site preparation, roads and streets, sidewalks, water supply, outdoor
 6 lighting, belt line railroad sidings and lead tracks, bridges, causeways, terminals for
 7 railroad, automotive, and air transportation, transportation facilities incidental to the
 8 project, and the dredging and improving of harbors and waterways, none of which
 9 foregoing descriptive words shall be construed to constitute a limitation.

10 (7) 'Local government' or 'local governing authority' means any municipal corporation
 11 or county or any local water or sewer or sanitary district and any state or local authority,
 12 board, or political subdivision created by the General Assembly or pursuant to the
 13 Constitution and laws of the state.

14 (8) 'Management services' means technical, administrative, instructional, or
 15 informational services provided to any current or potential loan recipient in, but not
 16 limited to, the areas of service charge structure; accounting, capital improvements
 17 budgeting or financing; financial reporting, treasury management, debt structure or
 18 administration or related fields of financial management; contract or grant administration;
 19 management of water, sewer, or solid waste systems; and economic development
 20 administration or strategies. Management services may be furnished either directly,
 21 on-site, or through other written or oral means of communication and may consist of
 22 reports, studies, presentations, or other analyses of a written or oral nature.

23 (9) 'May' means permission and not command.

24 (10) 'Municipal corporation' or 'municipality' means any city or town in this state.

25 (11) 'Obligation' means any bond, revenue bond, note, lease, contract, evidence of
 26 indebtedness, debt, or other obligation of the authority, the state, or local governments
 27 which are authorized to be issued under this ~~chapter~~ article or under the Constitution or
 28 other laws of this state, including refunding bonds.

29 (12) 'Project' means the acquisition, construction, installation, modification, renovation,
 30 repair, extension, renewal, replacement, or rehabilitation of land, interest in land,
 31 buildings, structures, facilities, or other improvements and the acquisition, installation,
 32 modification, renovation, repair, extension, renewal, replacement, rehabilitation, or
 33 furnishing of fixtures, machinery, equipment, furniture, or other property of any nature
 34 whatsoever used on, in, or in connection with any such land, interest in land, building,
 35 structure, facility, or other improvement, all for the essential public purpose of providing
 36 infrastructure, environmental facilities, and environmental services to meet public health
 37 and environmental standards and to aid the development of trade, commerce, industry,

1 agriculture, and employment opportunities, or projects authorized by the Georgia
 2 Regional Transportation Authority created by Chapter 32 of this title as defined in such
 3 chapter, where the authority has been directed to issue revenue bonds, bonds, notes, or
 4 other obligations to finance such project or the cost of a project in whole or in part,
 5 provided that the authority's power with respect to such projects authorized by the
 6 Georgia Regional Transportation Authority shall be limited to providing such financing
 7 and related matters as authorized by the Georgia Regional Transportation Authority. The
 8 term 'project' shall also include state land conservation projects and community land
 9 conservations projects.

10 (13) 'Revenue bond' includes bond, note, or other obligation.

11 (14) 'Self-liquidating project' means any project or combination of projects if, in the
 12 judgment of the authority, the revenues, rents, or earnings to be derived by the authority
 13 therefrom will be sufficient to pay the cost of maintaining, repairing, and operating the
 14 project and to pay the principal and interest of revenue bonds which may be issued for
 15 the cost of such project, projects, or combination of projects.

16 (15) 'Sewerage facility' means any environmental facility described in subparagraph (B)
 17 of paragraph (5) of this Code section, defining 'environmental facilities.'

18 (15.5) 'Solid waste facility' means any environmental facility described in subparagraph
 19 (C) of paragraph (5) of this Code section, defining 'environmental facilities.'

20 (15.6) 'State land conservation project' has the meaning provided by Code Section
 21 36-22-2.

22 (16) 'Water facility' means any environmental facility described in subparagraph (A) of
 23 paragraph (5) of this Code section, defining 'environmental facilities.'"

24 SECTION 1-5.

25 Said chapter is further amended by striking Code Section 50-23-5, relating to purpose,
 26 powers, and duties of the Georgia Environmental Facilities Authority, and inserting in lieu
 27 thereof the following:

28 "50-23-5.

29 (a) The corporate purpose and the general nature of the business of the Georgia
 30 ~~Environmental Facilities~~ Environment and Infrastructure Financing Authority shall be
 31 assistance in acquiring, constructing, extending, rehabilitating, repairing, replacing, and
 32 renewing infrastructure, environmental facilities, state land conservation projects, and
 33 community land conservation projects necessary for public purposes and commercial,
 34 residential, and industrial development purposes or necessary or incidental to such
 35 purposes by providing grants, loans, bonds, and other forms of financial and technical

1 assistance to local governments and instrumentalities of the state to finance any project or
2 pay the cost of any project.

3 (b) The authority shall have power:

4 (1) To sue and be sued in all courts of this state, the original jurisdiction and venue of
5 such actions being the Superior Court of Fulton County;

6 (2) To have a seal and alter the same at its pleasure;

7 (3) To make and execute contracts, lease agreements, and all other instruments necessary
8 or convenient to exercise the powers of the authority or to further the public purpose for
9 which the authority is created, such contracts, leases, or instruments to include contracts
10 for construction, operation, management, or maintenance of projects and facilities owned
11 by local government, the authority, or by the state or any state authority; and any and all
12 local governments, departments, institutions, authorities, or agencies of the state are
13 authorized to enter into contracts, leases, agreements, or other instruments with the
14 authority upon such terms and to transfer real and personal property to the authority for
15 such consideration and for such purposes as they deem advisable;

16 (4) To acquire by purchase, lease, or otherwise and to hold, lease, pledge, and dispose
17 of real or personal property of every kind and character, or any interest therein, in
18 furtherance of the public purpose of the authority;

19 (5) To appoint an executive director who shall be executive officer and administrative
20 head of the authority. The executive director shall be appointed and serve at the pleasure
21 of the authority. The executive director shall hire officers, agents, and employees,
22 prescribe their duties and qualifications and fix their compensation, and perform such
23 other duties as may be prescribed by the authority. Such officers, agents, and employees
24 shall serve at the pleasure of the executive director;

25 (6) To finance projects by loan, loan guarantee, grant, lease, or otherwise, and to pay the
26 cost of any project from the proceeds of bonds, revenue bonds, notes, or other obligations
27 of the authority or any other funds of the authority or from any contributions or loans by
28 persons, corporations, partnerships, whether limited or general, or other entities, all of
29 which the authority is authorized to receive, accept, and use;

30 (7) To make loans, through the acquisition of bonds, revenue bonds, notes, portfolio loan
31 sales, or leveraging of other financing arrangements or other obligations, and to make
32 grants to local governments to finance projects and to pay the cost of any project by local
33 government and to adopt rules, regulations, and procedures for making such loans and
34 grants;

35 (8) To borrow money to further or carry out its public purpose and to issue revenue
36 bonds, notes, or other obligations to evidence such loans and to execute leases, trust
37 indentures, trust agreements for the sale of its revenue bonds, notes, or other obligations,

1 loan agreements, mortgages, deeds to secure debt, trust deeds, security agreements,
 2 assignments, and such other agreements or instruments as may be necessary or desirable
 3 in the judgment of the authority, and to evidence and to provide security for such loans;
 4 (9) To issue revenue bonds, bonds, notes, or other obligations of the authority, to receive
 5 payments from the Department of Community Affairs, and to use the proceeds thereof
 6 for the purpose of:

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

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

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

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

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

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

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

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

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

1 issued by any public housing agency, urban renewal agency, or municipality in the
2 United States and fully secured as to payment of both principal and interest by a
3 requisition, loan, or payment agreement with the United States government;

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

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

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

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

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

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

37 (G) Prime bankers' acceptances; and

1 (H) State operated investment pools:

2 (12) To acquire or contract to acquire from any person, firm, corporation, local
3 government, federal or state agency, or corporation by grant, purchase, or otherwise,
4 leaseholds, real or personal property, or any interest therein; and to sell, assign, exchange,
5 transfer, convey, lease, mortgage, or otherwise dispose of or encumber the same; and
6 local government is authorized to grant, sell, or otherwise alienate leaseholds, real and
7 personal property, or any interest therein to the authority;

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

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

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

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

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

31 (18) To lease to local governments any authority owned facilities or property or any state
32 owned facilities or property which the authority is managing under contract with the
33 state;

34 (19) To contract with state agencies or any local government for the use by the authority
35 of any property or facilities or services of the state or any such state agency or local
36 government or for the use by any state agency or local government of any facilities or

1 services of the authority and such state agencies and local governments are authorized to
2 enter into such contracts;

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

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

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

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

36 (24) To cooperate and act in conjunction with industrial, commercial, medical, scientific,
37 public interest, or educational organizations; with agencies of the federal government and

1 this state and local government; with other states and their political subdivisions; and
2 with joint agencies thereof and such state agencies, local government, and joint agencies
3 are authorized and empowered to cooperate and act in conjunction, and to enter into
4 contracts or agreements with the authority and local government to achieve or further the
5 policies of the state declared in this ~~chapter~~ article;

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

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

11 (27) To do all things necessary or convenient to carry out the powers conferred by this
12 ~~chapter~~ article;

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

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

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

1 the administrator of the federal Environmental Protection Agency into a separate water
 2 pollution control revolving fund or a drinking water revolving fund transferred to the
 3 authority from the Environmental Protection Division of the Department of Natural
 4 Resources or hereafter established. The forms and administration of such funds shall be
 5 established by the authority in accordance with federal requirements;

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

9 (31.1) To administer the Georgia Land Conservation Trust Fund in accordance with
 10 Chapter 22 of Title 36;

11 (31.2) To administer the Georgia Land Conservation Revolving Loan Fund in
 12 accordance with Chapter 22 of Title 36;

13 (31.3) To audit, or provide for auditing, the use of moneys from the Georgia Land
 14 Conservation Fund and the Georgia Land Conservation Revolving Fund or the use of
 15 properties obtained in whole or in part by the use of such moneys;

16 (31.4) To engage in fund raising or other promotional techniques on behalf of the council
 17 as deemed appropriate by the authority;

18 (31.5) To establish and promulgate regulations governing the development and submittal
 19 of proposals for state land conservation projects and community land conservation
 20 projects;

21 (31.6) To review state and community land conservation projects and make
 22 recommendations as provided by Chapter 22 of Title 36;

23 (31.7) To receive and administer funds granted to the state or the authority for providing
 24 assistance to municipalities or counties or any combination thereof or to any public
 25 authority or, if otherwise authorized by law, any private agency, commission, or
 26 institution for the construction of infrastructure projects; and

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

28 (c) The authority shall not have the power of eminent domain.

29 (d) The authority shall have all of the powers, authority, rights, and obligations necessary
 30 to operate as and, if necessary for the receipt of funds from any source, to be considered
 31 a state infrastructure bank."

32 SECTION 1-6.

33 Said chapter is further amended by striking Code Section 50-23-6, relating to loans to local
 34 governments and repayment, and inserting in lieu thereof the following:

1 "50-23-6.

2 (a) The authority may make grants as provided for in Chapter 22 of Title 36 or as
 3 otherwise provided by law.

4 (b) The authority may make loans to a local government to pay all or any part of the cost
 5 of a project. The authority may require the local government to issue bonds or revenue
 6 bonds as evidence of such loans. The authority and a local government may enter into such
 7 loan commitments and option agreements as may be determined appropriate by the
 8 authority.

9 ~~(b)~~(c) The authority may require as a condition of any loan to a local government that such
 10 local government shall perform any or all of the following:

11 (1) ~~In the case of loans for a sewerage facility~~ If otherwise permitted by law, establish
 12 and collect ~~sewer~~ rents, rates, fees, and charges so as to produce revenues sufficient to
 13 pay all or a specified portion of:

14 (A) Costs of operation, maintenance, replacement, renewal, and repairs; and

15 (B) Outstanding indebtedness incurred for the purposes of such ~~sewerage facility~~
 16 project, including the principal of and interest on the bonds, revenue bonds, notes, or
 17 other obligations issued by the local government, as the same shall become due and
 18 payable, and to create and maintain any required reserves;

19 ~~(2) In the case of loans for a water facility, establish and collect rents, rates, fees, and~~
 20 ~~charges so as to produce revenues sufficient to pay all or a specified portion of:~~

21 ~~(A) Costs of operation, maintenance, renewal, replacement, and repairs of the water~~
 22 ~~facility of such local government; and~~

23 ~~(B) Outstanding indebtedness incurred for the purposes of such water facility,~~
 24 ~~including the principal of and interest on the bonds, revenue bonds, notes, or other~~
 25 ~~obligations issued by the local government, as the same shall become due and payable,~~
 26 ~~and to create and maintain any required reserves;~~

27 ~~(3) In the case of loans for a solid waste facility, establish and collect rents, rates, fees,~~
 28 ~~and charges so as to produce revenues sufficient to pay all or a specified portion of:~~

29 ~~(A) Costs of operation, maintenance, renewal, replacement, and repairs of the solid~~
 30 ~~waste facility of such local government; and~~

31 ~~(B) Outstanding indebtedness incurred for the purposes of such solid waste facility,~~
 32 ~~including the principal of and interest on the bonds, revenue bonds, notes, or other~~
 33 ~~obligations issued by the local government, as the same shall become due and payable,~~
 34 ~~and to create and maintain any required reserves;~~

35 ~~(4)~~(2) Create and maintain a special fund or funds, as additional security for the payment
 36 of the principal of such revenue bonds and the interest thereon and any other amounts
 37 becoming due under any agreement, entered into in connection therewith and for the

1 deposit therein of such revenues as shall be sufficient to make such payment as the same
2 shall become due and payable;

3 ~~(5)~~(3) Create and maintain such other special funds as may be required by the authority;
4 and

5 ~~(6)~~(4) Perform such other acts, including the conveyance of real and personal property
6 together with all right, title, or interest therein to the authority, or take other actions as
7 may be deemed necessary or desirable by the authority to secure the payment of the
8 principal of and interest on such bonds, revenue bonds, notes, or other obligations and to
9 provide for the remedies of the authority in the event of any default by such local
10 government in such payment.

11 ~~(e)~~(d) All local governments issuing and selling bonds, revenue bonds, notes, or other
12 obligations to the authority are authorized to perform such acts, take such action, adopt
13 such proceedings, and to make and carry out such contracts with the authority as may be
14 contemplated by this article.

15 ~~(d)~~(e) In connection with the making of any loan authorized by this article, the authority
16 may fix and collect such fees and charges including, but not limited to, reimbursement of
17 all costs of financing by the authority, as the authority shall determine to be reasonable.
18 Neither the Public Service Commission nor any local government or state agency shall
19 have jurisdiction over the authority's power over the regulation of such fees or charges.

20 (f) A mutual undertaking by a local government to borrow and an undertaking by the
21 authority to lend funds from and to one another for a project shall be a provision for
22 services and an activity within the meaning of Article IX, Section III, Paragraph I(a) of the
23 Constitution of the State of Georgia."

24 SECTION 1-7.

25 Said chapter is further amended by striking Code Section 50-23-7, relating to lease
26 agreements, and inserting in lieu thereof the following:

27 "50-23-7.

28 (a) For the purposes of this article, the term 'lease agreement' shall mean and include a
29 lease, operating lease rental agreement, usufruct, sale and lease back, or any other lease
30 agreement having a term of not more than 50 years and concerning real, personal, or mixed
31 property, any right, title, or interest therein by and between the state, the authority, a local
32 government, or any combination thereof.

33 (b) A local government by resolution of its governing body may enter into a lease
34 agreement for the provision of ~~environmental~~ services utilizing facilities projects owned
35 by the authority upon such terms and conditions as the authority shall determine to be

1 reasonable including, but not limited to, the reimbursement of all costs of construction and
2 financing and claims arising therefrom.

3 (c) No lease agreement shall be deemed to be a contract subject to any law requiring that
4 contract shall be let only after receipt of competitive bids.

5 (d) Any lease agreement may provide for the construction of such ~~environmental facility~~
6 project by the local government as agent for the authority. In such event, all contracts for
7 such construction shall be let by such local government in accordance with the provisions
8 of law otherwise applicable to the letting of such contracts by such local government and
9 with the provisions of state law pertaining to prevailing wages, labor standards, and
10 working hours. Any such lease agreement may contain provisions by which such local
11 government shall indemnify the authority against any and all damages resulting from acts
12 or omissions to act on the part of such local government or its officers, agents, or
13 employees in constructing such facility or facilities, in letting any contracts in connection
14 therewith, or in operating and maintaining the same.

15 (e) Any lease agreement executed by the authority directly with any local government may
16 provide at the termination thereof that title to the ~~environmental facility~~ project shall vest
17 in the local government or its successor in interest, if any, free and clear of any liens or
18 encumbrances created in connection with any contract or bonds, revenue bonds, notes, or
19 other obligations involving the authority.

20 (f) Any lease agreement directly between the state or authority and a local government
21 may contain provisions requiring the local government to perform any or all of the
22 following:

23 (1) ~~In the case of a sewerage facility~~ If otherwise permitted by law, to establish and
24 collect ~~sewer~~ rents, rates, fees, and charges so as to produce revenues sufficient to pay all
25 or a specified portion of:

26 (A) The costs of operation, maintenance, renewal, replacement, and repairs of the
27 ~~sewerage facility~~ project of such local government; and

28 (B) Outstanding bonds, revenue bonds, notes, or other obligations incurred for the
29 purposes of such ~~sewerage facility~~ project and to provide for the payment of all
30 amounts as they shall become due and payable under the terms of such lease agreement,
31 including amounts for the creation and maintenance of any required reserves;

32 (2) ~~In the case of a water facility, to establish and collect rents, rates, fees, and charges~~
33 ~~so as to produce revenues sufficient to pay all or a specified portion of:~~

34 (A) ~~The costs of operation, maintenance, renewal, and repairs of the water facility of~~
35 ~~such local government; and~~

36 (B) ~~Outstanding bonds, revenue bonds, notes, or other obligations incurred for the~~
37 ~~purposes of such water facility and to provide for the payment of all amounts as they~~

1 ~~shall become due and payable under the terms of such lease agreement, including~~
 2 ~~amounts for the creation and maintenance of any required reserves;~~
 3 ~~(3) In the case of a solid waste facility, to establish and collect rents, rates, fees, and~~
 4 ~~charges so as to produce revenues sufficient to pay all or a specified portion of:~~
 5 ~~(A) The costs of operation, maintenance, renewal, and repairs of the water facility of~~
 6 ~~such local government; and~~
 7 ~~(B) Outstanding bonds, revenue bonds, notes, or other obligations incurred for the~~
 8 ~~purposes of such solid waste facility and to provide for the payment of all amounts as~~
 9 ~~they shall become due and payable under the terms of such lease agreement, including~~
 10 ~~amounts for the creation and maintenance of any required reserves;~~
 11 ~~(4)(2) To create and maintain reasonable reserves or other special funds;~~
 12 ~~(5)(3) To create and maintain a special fund or funds as additional security for the~~
 13 ~~punctual payment of any rentals due under such lease agreement and for the deposit~~
 14 ~~therein of such revenues as shall be sufficient to pay said lease rentals and any other~~
 15 ~~amounts becoming due under such lease agreements as the same shall become due and~~
 16 ~~payable; or~~
 17 ~~(6)(4) To perform such other acts and take such other action as may be deemed necessary~~
 18 ~~and desirable by the authority to secure the complete and punctual performance by such~~
 19 ~~local government of such lease agreements and to provide for the remedies of the~~
 20 ~~authority in the event of a default by such local government in such payment."~~

21 **SECTION 1-8.**

22 Said chapter is further amended by striking Code Section 50-23-9, relating to review of
 23 contracts and agreements with local governments by the Environmental Protection Division,
 24 and inserting in lieu thereof the following:

25 "50-23-9.

26 (a) The authority shall not enter into any contract or agreement with any local government
 27 with respect to the financing of any environmental facility pursuant to this article, unless
 28 the director of the Environmental Protection Division of the Department of Natural
 29 Resources shall have completed all existing statutory reviews and approvals with respect
 30 to such project. Nothing in this article shall be construed to diminish the full authority and
 31 responsibility of the director of the Environmental Protection Division for existing statutory
 32 reviews and approvals.

33 (b) The authority shall not enter into any contract or agreement with any local government
 34 with respect to the financing, by loan or grant, of any state land conservation project or
 35 community land conservation project, unless the council has approved the state land
 36 conservation project or community land conservation project and the chairperson of the

1 council has directed the authority to execute the approval decision of the council. Nothing
 2 in this article shall be construed to diminish the full authority and responsibility of the
 3 council's existing statutory reviews and approvals."

4 **SECTION 1-9.**

5 Said chapter is further amended by striking Code Section 50-23-30, relating to a definition
 6 relative to the Division of Energy Resources, and inserting in lieu thereof the following:

7 "50-23-30.

8 As used in this article, the term 'division' shall mean the Division of Energy Resources of
 9 the Georgia ~~Environmental Facilities~~ Environment and Infrastructure Financing Authority."

10 **SECTION 1-10.**

11 Said chapter is further amended by striking Code Section 50-23-31, relating to creation and
 12 executive director of the Division of Energy Resources, and inserting in lieu thereof the
 13 following:

14 "50-23-31.

15 There is created within the Georgia ~~Environmental Facilities~~ Environment and
 16 Infrastructure Financing Authority a Division of Energy Resources. The executive director
 17 of the authority or an employee of the authority designated by the director shall serve as
 18 the director of the division and shall have full authority over the operation, personnel, and
 19 facilities of the division."

20 **SECTION 1-11.**

21 Said chapter is further amended by striking Code Section 50-23-32, relating to powers and
 22 duties of the Division of Energy Resources, and inserting in lieu thereof the following:

23 "50-23-32.

24 (a) The Division of Energy Resources of the Georgia ~~Environmental Facilities~~
 25 Environment and Infrastructure Financing Authority shall have sole authority and
 26 responsibility for the administration of this article.

27 (b) The division shall have the authority and responsibility to do the following:

- 28 (1) Consult with other departments, agencies, or officials of this state or political
 29 subdivisions thereof and appropriate private and professional organizations in matters
 30 related to energy. Any other department, educational institution, agency, or official of this
 31 state or political subdivision thereof which in any way would affect the administration
 32 or enforcement of this article is required to coordinate all such activities with the division
 33 to assure orderly and efficient administration and enforcement of this article;

- 1 (2) Do all things necessary to cooperate with the United States government and qualify
2 for, accept, and disburse any public or private grant intended for the administration of this
3 article;
- 4 (3) Apply for, receive, accept, and administer federal funds and programs made available
5 to the state for the purposes of this article;
- 6 (4) Contract for services if such services cannot be satisfactorily performed by
7 employees of the division or by any other state agency;
- 8 (5) Enter into agreements to carry out energy related research and planning jointly with
9 other states or the federal government where appropriate;
- 10 (6) Inform, educate, and provide materials to other agencies of the state or political
11 subdivisions thereof and to the public on all energy related matters, with particular
12 emphasis on energy consumption trends and their social, environmental, and economic
13 impacts; conservation and energy efficiency; and alternative energy technologies;
- 14 (7) Monitor and assess the relationship and impact of international, federal, and regional
15 energy policies on the state's energy policies and programs;
- 16 (8) Collect and analyze data relating to past, present, and future consumption levels for
17 all sources of energy and report such findings to the Governor annually. Such reports
18 shall make recommendations on actions which would further the purposes of energy
19 conservation and management;
- 20 (9) Prepare and present to the government for approval a standby emergency plan setting
21 forth actions to be taken in the event of an impending serious shortage of energy or a
22 threat to public health, safety, or welfare;
- 23 (10) Design and implement a program to encourage energy conservation and efficiency,
24 to include, but not be limited to, public, commercial, industrial, governmental, and
25 residential areas;
- 26 (11) Maintain awareness of all energy related research, with particular emphasis on
27 alternative energy resources creating minimal environmental impact, which research
28 could be of importance to the state's welfare for the purposes of providing constructive
29 and supportive action;
- 30 (12) Solicit funds made available for the purposes of information, research studies,
31 demonstrations, and projects of professional and civic orientation which are related to
32 energy conservation and efficiency, the development and utilization of alternative energy
33 technologies, and other appropriate energy related areas; and
- 34 (13) Design and implement programs to assist local governing authorities and other
35 entities in implementing alternative energy projects."

PART II**SECTION 2-1.**

1
2
3 The Official Code of Georgia Annotated is amended by striking the term "Georgia
4 Environmental Facilities Authority" and inserting the term "Georgia Environment and
5 Infrastructure Financing Authority" in lieu thereof wherever the former term appears in each
6 of the following Code sections:

7 (1) Code Section 8-2-3, relating to requirements for toilets, shower heads, and faucets;

8 (2) Code Section 8-2-23, relating to amendment and revision of state minimum standard
9 codes generally;

10 (3) Code Section 12-5-38.1, relating to administration of funds granted to the state by the
11 federal Environmental Protection Agency and water pollution control and drinking water
12 revolving funds;

13 (4) Code Section 12-5-472, relating to acquisition, construction, and maintenance of certain
14 projects by the Department of Natural Resources, standards and procedures, and agreement
15 with local government having affected property;

16 (5) Code Section 12-5-524, relating to creation of a Water Council and its obligations;

17 (6) Code Section 12-5-542, relating to definitions relative to Flint River drought protection;

18 (7) Code Section 12-5-580, relating to coordinating committees and finance committees
19 relative to the Metropolitan North Georgia Water Planning District;

20 (8) Code Section 12-8-23.1, relating to powers and duties of the director relative to solid
21 waste management;

22 (9) Code Section 12-8-31, relating to a state solid waste management plan;

23 (10) Code Section 46-4A-2, relating to legislative findings and declarations of policy relative
24 to provision of energy conservation assistance to residential customers by electric and gas
25 utilities;

26 (11) Code Section 46-4A-12, relating to construction of provisions relative to provision of
27 energy conservation assistance to residential customers by electric and gas utilities;

28 (12) Code Section 46-4A-14, relating to civil penalties and removal of contractors, suppliers,
29 or lenders from master record;

30 (13) Code Section 50-8-8, relating to grants, loans, and other disbursements of funds and
31 a state community development program relative to the Department of Community Affairs;

32 (14) Code Section 50-8-13, relating to authorities and agencies assigned to Department of
33 Community Affairs for administrative purposes;

34 (15) Code Section 50-8-193, relating to state agencies encouraged to give certified projects
35 priority in licensing and processing grants and loans and authorization for sale of alcoholic
36 beverages;

- 1 (16) Code Section 50-10-5, relating to powers and duties of the Georgia Development
2 Authority;
- 3 (17) Code Section 50-17-27, relating to application and investment of public debt proceeds
4 by the Georgia State Financing and Investment Commission and by the Georgia
5 Environmental Facilities Authority;
- 6 (18) Code Section 50-32-15, relating to issuance of bonds by the Georgia Regional
7 Transportation Authority;
- 8 (19) Code Section 50-32-39, relating to limitation on indebtedness by or on behalf of the
9 Georgia Regional Transportation Authority; and
- 10 (20) Code Section 50-35-3, relating to the board of directors of the Georgia Environmental
11 Training and Education Authority and their compensation and reimbursement.

12 **PART III**
13 **SECTION 3-1.**

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