

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

AS PASSED SENATE

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 transfer of functions respecting the Music Hall of Fame Authority from the
 12 Department of Community Affairs to the Department of Economic Development; to provide
 13 similarly for transfer of functions respecting the Sports Hall of Fame Authority; to provide
 14 for an effective date; to repeal conflicting laws, and for related purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

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

20 "50-7-17.

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

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

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

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

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

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

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

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

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

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

26 (3) *Sharing of powers.* In marketing and implementation of marketing for tourism, the
27 department may exercise its powers under paragraphs (9) and (11) of Code Section
28 50-7-8 and may authorize and delegate to agencies all or parts of such powers for their
29 own implementation.

30 (d) Coordination.

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

33 (2) *Delegation and agency retention.* The department may delegate marketing
34 implementation activities to agencies in promotion of tourism and may allow agencies
35 to retain marketing and implementation activities in the course of its coordination. The
36 department will coordinate agencies such that they retain a measure of independence and

1 freedom of action in marketing their own specific activities and functions, consistently
2 with the State-wide Tourism Marketing Program.

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

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

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

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

22 (e) Georgia Tourism Foundation.

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

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

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

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

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

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

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

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

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

4 (B) The commissioner of natural resources;

5 (C) Each of the executive directors of the Jekyll Island-State Park Authority, Stone
6 Mountain Memorial Association, Lake Lanier Islands Authority, Agricultural
7 Exposition Authority, North Georgia Mountains Authority, and Southwest Georgia
8 Railroad Excursion Authority;

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

11 (E) Additional private members appointed by the Governor under foundation bylaws.
12 The chairpersons of the Senate Economic Development Committee and the House
13 Economic Development and Tourism Committee shall serve as ex officio nonvoting
14 members of the foundation.

15 (3) *Administration.* The Georgia Tourism Foundation will be attached to the department
16 for administrative purposes. The Attorney General will be the attorney for the foundation.
17 The department may solicit and accept contributions from the foundation and authorize
18 agencies to do so. The department may cooperate and contract with the foundation for
19 their mutual benefit and authorize agencies to do so. Upon any dissolution of the
20 foundation, its assets will devolve in trust to the department or its successor for use only
21 for marketing to promote tourism for Georgia.

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

30 SECTION 2.

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

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

1 in carrying out or performing its duties, responsibilities, and functions; provided,
 2 however, that all such assistance shall be performed on behalf of and pursuant to the
 3 lawful purposes of the Georgia Music Hall of Fame Authority and not on behalf of the
 4 department; and provided, further, that such assistance shall not include the authorization
 5 of the issuance of any bonds or other indebtedness of the authority. The department may
 6 undertake joint or complementary programs with the Georgia Music Hall of Fame
 7 Authority, including the provision for joint or complementary services, within the scope
 8 of their respective powers; and

9 (14) To induce, by payment of state funds or other consideration, any agency or authority
 10 assigned to the department for administrative purposes to perform the agency or
 11 authority's statutory functions."

12 SECTION 4.

13 Said Title 50 is further amended by striking paragraph (8) subsection (b) of Code Section
 14 50-8-3, relating to powers of the Department of Community Affairs, and inserting in its
 15 place a new paragraph to read as follows:

16 ~~"(8) Assist the Georgia Music Hall of Fame Authority for any purpose necessary or~~
 17 ~~incidental in the administration and performance of the Georgia Music Hall of Fame~~
 18 ~~Authority's duties, powers, responsibilities, and functions as provided in Part 10 of~~
 19 ~~Article 7 of Chapter 3 of Title 12 Reserved; and"~~

20 SECTION 5.

21 Said Title 50 is further amended by striking subsection (d) of Code Section 50-8-9, relating
 22 to the contracts of the Department of Community Affairs, and inserting in its place a new
 23 subsection to read as follows:

24 ~~"(d) The department shall have the power to enter into contracts with the Georgia Music~~
 25 ~~Hall of Fame Authority for any purpose necessary or incidental in assisting the Georgia~~
 26 ~~Music Hall of Fame Authority in carrying out or performing its duties, responsibilities, and~~
 27 ~~functions; provided, however, that all such assistance shall be performed on behalf of and~~
 28 ~~pursuant to the lawful purposes of the Georgia Music Hall of Fame Authority and not on~~
 29 ~~behalf of the department; and provided, further, that such assistance shall not include the~~
 30 ~~authorization of the issuance of any bonds or other indebtedness of the authority. The~~
 31 ~~department may undertake joint or complementary programs with the Georgia Music Hall~~
 32 ~~of Fame Authority, including the provision for joint or complementary services, within the~~
 33 ~~scope of their respective powers. Reserved."~~

1 ~~(c)(1) Each member shall serve under the same terms and conditions as provided for in~~
 2 ~~Code Section 50-8-4.~~ The authority shall hold a meeting each year in July, and, at each
 3 July meeting, the authority shall elect its own officers. Officers shall serve for terms of
 4 one year each beginning with their election and qualification and ending with the election
 5 and qualification of their respective successors. No person shall hold the same office for
 6 more than one consecutive term, and no member of the authority shall hold more than any
 7 one office of the authority. No vacancy on the authority shall impair the right of the
 8 quorum to exercise all rights and perform all duties of the authority.

9 (2) The authority is assigned to the Department of Economic Development for
 10 administrative purposes only, as specified in Code Section 50-4-3.

11 ~~(d) The members of the authority~~ Each member of the authority who is not otherwise a
 12 state officer or employee shall receive for each day that such ~~members are~~ member is in
 13 attendance at a meeting of the authority a daily expense allowance and reimbursement for
 14 transportation costs as provided for in Code Section 45-7-21; ~~and the.~~ Each member of the
 15 authority who is otherwise an officer or employee of a state agency or authority may be
 16 reimbursed by that agency or authority for meals, transportation, and lodging in the usual
 17 manner authorized by law for such officers and employees. ~~The~~ members of the authority
 18 shall not receive any duplicate or other compensation for their services as such.
 19 ~~Notwithstanding the foregoing, no member shall receive an expense allowance or~~
 20 ~~transportation reimbursement if such member is entitled to receive an expense allowance,~~
 21 ~~transportation reimbursement, or per diem allowance for performance of duties as a~~
 22 ~~member of the Board of Community Affairs for work performed on that day."~~

23 SECTION 9.

24 Said Title 12 is further amended by striking subsection (h) of said Code Section 12-3-522,
 25 relating to the Music Hall of Fame Authority, and inserting in its place a new subsection to
 26 read as follows:

27 "(h) The commissioner of ~~community affairs~~ economic development shall be the executive
 28 director of the authority. The executive director shall appoint such directors, deputies,
 29 assistants, and other staff members as may be necessary to manage the operations of the
 30 authority and may organize the authority into such divisions, sections, or offices as may be
 31 deemed necessary or convenient."

32 SECTION 10.

33 Said Title 12 is further amended by striking paragraph (3) of Code Section 12-3-524, relating
 34 to the powers of the Music Hall of Fame Authority, and inserting in its place a new paragraph
 35 to read as follows:

1 "12-3-534.
 2 The Department of ~~Community Affairs~~ Economic Development is authorized to construct,
 3 erect, acquire, and ~~own~~ exercise custodial responsibility over the project, as defined in this
 4 part, the ownership of which shall be in the state. The costs of any such project may be paid
 5 from the proceeds of state general obligation or guaranteed revenue debt. The department
 6 is authorized to contract with the authority, the State Properties Commission, the Georgia
 7 State Financing and Investment Commission, or with any other department, agency,
 8 commission, board, official, or person for the construction, operation, maintenance,
 9 funding, design, or use of such project."

10 SECTION 13.

11 Said Title 12 is further amended by striking Code Section 12-3-536, relating to a transfer of
 12 employees of the Music Hall of Fame Authority, and inserting in its place a new Code
 13 section to read as follows:

14 "12-3-536.

15 (a) Effective July 1, 1998, without diminishing the powers of the authority pursuant to
 16 Code Section 12-3-524, all personnel positions authorized by the authority in fiscal year
 17 1998 shall be transferred to the Department of Community Affairs. All employees of the
 18 authority on June 30, 1998, whose positions are transferred by the authority to the
 19 Department of Community Affairs shall become employees of the Department of
 20 Community Affairs and shall become employees in the unclassified service of the state
 21 merit system as defined in Code Section 45-20-6.

22 (b) Upon the effective date of this subsection, the functions of the Board of Community
 23 Affairs, Department of Community Affairs, and commissioner of community affairs
 24 respecting the Music Hall of Fame Authority are transferred to the Department of
 25 Economic Development. The commissioner of economic development and the
 26 commissioner of community affairs shall arrange administratively for the transfer of
 27 records, equipment, and facilities for such transferred functions. The personnel positions
 28 authorized by the Department of Community Affairs shall be transferred to the Department
 29 of Economic Development, and all employees of the Department of Community Affairs
 30 whose positions are transferred shall become employees of the Department of Economic
 31 Development with no break in service and in the classified or unclassified service as they
 32 were at the Department of Community Affairs."

SECTION 14.

Said Title 12 is further amended by striking subsection (g) of Code Section 12-3-562, relating to the Sports Hall of Fame Authority, and inserting in its place a new subsection to read as follows:

"(g) The authority is assigned to the ~~Department of Community Affairs~~ Department of Economic Development for administrative purposes only."

SECTION 15.

Said Title 12 is further amended by striking Code Section 12-3-574, relating to the project of the Sports Hall of Fame Authority, and inserting in its place a new Code section to read as follows:

"12-3-574.

The Department of ~~Community Affairs~~ Economic Development is authorized to construct, erect, acquire, and ~~own~~ exercise custodial responsibility over the project, as defined in this part, the ownership of which shall be in the state. The costs of any such project may be paid from the proceeds of state general obligation or guaranteed revenue debt. The department is authorized to contract with the authority, the State Properties Commission, the Georgia State Financing and Investment Commission, or with any other department, agency, commission, board, official, or person for the construction, operation, maintenance, funding, design, or use of such project."

SECTION 16.

Said Title 12 is further amended in Code Section 12-3-582, relating to the Golf Hall of Fame Authority, by adding a new subsection (i) to read as follows:

"(i) The authority is assigned to the Department of Economic Development for administrative purposes only, as specified in Code Section 50-4-3."

SECTION 17.

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

SECTION 18.

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