

The House Committee on State Institutions and Property offers the following substitute to SB 120:

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 10 of Title 2 of the Official Code of Georgia Annotated, relating to
 2 agricultural marketing facilities, organizations, and programs, so as to repeal Article 1,
 3 relating to the Georgia Building Authority (Markets); to amend Chapter 7 of Title 31 of the
 4 Official Code of Georgia Annotated, relating to the regulation and construction of hospitals
 5 and other health care facilities, so as to repeal Article 2, relating to the Georgia Building
 6 Authority (Hospital); to amend Title 42 of the Official Code of Georgia Annotated, relating
 7 to penal institutions, so as to repeal Chapter 3, relating to the Georgia Building Authority
 8 (Penal); to amend Article 1 of Chapter 9 of Title 50 of the Official Code of Georgia
 9 Annotated, relating to general provisions for the Georgia Building Authority, to subrogate
 10 the Georgia Building Authority for certain repealed agencies by transferring the rights,
 11 privileges, functions, assets, obligations, employees, and immunities of the Georgia Building
 12 Authority (Markets), the Georgia Building Authority (Hospital), the Georgia Building
 13 Authority (Penal), and the Agency for Removal of Hazardous Materials to the Georgia
 14 Building Authority; to amend Chapter 9 of Title 50 of the Official Code of Georgia
 15 Annotated, relating to the Georgia Building Authority, so as to repeal Article 4, relating to
 16 the Hazardous Materials Removal Agency; to reserve certain chapters and articles; to amend
 17 Code Section 50-16-38 of the Official Code of Georgia Annotated, relating to state agencies
 18 acquiring real property through the State Properties Commission, so as to remove certain
 19 exceptions to the requirement that acquisitions of real property generally must be conducted
 20 through the commission; to amend Code Section 50-16-41 of the Official Code of Georgia
 21 Annotated, relating to state agencies managing real property through the State Properties
 22 Commission, so as to clarify that the administration of the procurement process for certain
 23 state leases shall be conducted by designated governing authorities; to amend certain
 24 provisions relating to state agencies acquiring properties from certain local entities; to
 25 provide for related matters; to provide for an effective date and applicability; to repeal
 26 conflicting laws; and for other purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 120(SUB)

SECTION 1.

Chapter 10 of Title 2 of the Official Code of Georgia Annotated, relating to agricultural marketing facilities, organizations, and programs, is amended by repealing Article 1, relating to the Georgia Building Authority (Markets), and designating said article as reserved.

SECTION 2.

Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to the regulation and construction of hospitals and other health care facilities, is amended by repealing Article 2, relating to the Georgia Building Authority (Hospital), and designating said article as reserved.

SECTION 3.

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended by repealing Chapter 3, relating to the Georgia Building Authority (Penal), and designating said chapter as reserved.

SECTION 4.

Article 1 of Chapter 9 of Title 50 of the Official Code of Georgia Annotated, relating to general provisions for the Georgia Building Authority, is amended by adding a new Code section to read as follows:

"50-9-17.

(a) As used in this Code section, the term:

(1) 'Authority' means the Georgia Building Authority as set forth in Code Section 50-9-2.

(2) 'Transferred authorities' means the Georgia Building Authority (Markets) set forth in Article 1 of Chapter 10 of Title 2, the Georgia Building Authority (Hospital) set forth in Article 2 of Chapter 7 of Title 31, the Georgia Building Authority (Penal) set forth in Chapter 3 of Title 42, and the Agency for Removal of Hazardous Materials set forth in Article 4 of Chapter 9 of Title 50, as each entity existed as of June 30, 2007.

(b) Beginning July 1, 2007, all functions, duties, responsibilities, and obligations of the transferred authorities shall belong to the authority. The authority shall also succeed to the rights, claims, remedies, securities, and any other debt or obligation owing to the transferred authorities.

(c) The authority shall be substituted for the transferred authorities on any bonds, claims, causes of action, contracts, leases, agreements, or other indebtedness or obligations of the transferred authorities. Contracts held by the transferred authorities shall be considered contracts of the authority, and any rights of renewal, prerogatives, benefits, and rights of enforcement under such contracts shall also be transferred to the authority.

1 (d) Appropriations for functions transferred from the transferred authorities to the
 2 authority may be transferred as provided in Code Section 45-12-90, relating to disposition
 3 of appropriations for duties, purposes, and objects which have been transferred. Personnel,
 4 equipment, and facilities previously employed for such transferred functions shall likewise
 5 be transferred to the authority. Upon the effective date of the transfer, all personnel
 6 positions authorized for the transferred authorities shall be transferred to the authority and
 7 all employees whose positions are transferred to the authority shall become employees of
 8 the authority in the unclassified service as provided in Code Section 45-20-6.

9 (e) All assets, moneys, properties both tangible and intangible, and other valuable
 10 instruments and consideration belonging to the transferred authorities on the date of
 11 transfer shall become the property and assets of the authority.

12 (f) Rules and regulations previously adopted by the transferred authorities shall remain in
 13 full force and effect as rules and regulations of the authority until amended, repealed, or
 14 superseded by action of the authority."

15 SECTION 5.

16 Chapter 9 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia
 17 Building Authority, is amended by repealing Article 4, relating to the Hazardous Materials
 18 Removal Agency, and designating said article as reserved.

19 SECTION 6.

20 Code Section 50-16-38 of the Official Code of Georgia Annotated, relating to state agencies
 21 acquiring real property through the State Properties Commission, is amended by revising
 22 subsection (a) as follows:

23 "(a) Except for ~~all~~ acquisitions of real property by the Department of Transportation and
 24 the Board of Regents of the University System of Georgia, and except for ~~the Department~~
 25 ~~of Natural Resources~~ acquiring by gift parcels of real property, not exceeding three acres
 26 each, to be used for the construction and operation thereon of boat-launching ramps, and
 27 ~~except for acquisitions of real property by the Department of Technical and Adult~~
 28 ~~Education in connection with student live work projects funded through moneys generated~~
 29 ~~as a result of the sale of such projects, donations, or student supply fees, and except for~~
 30 acquisitions of real property by the commission resulting from transfers of custody and
 31 control of real property to the commission by executive order of the Governor or by Act
 32 or resolution of the General Assembly; and except as otherwise provided by law, ~~and~~
 33 ~~except as otherwise~~ or required by the nature of the transaction conveying real property to
 34 the state or any entity thereof:

35 (1) All state entities shall acquire real property through the commission; and

1 (2) The title to all real property acquired shall be in the name of the state, except for state
 2 authorities which shall hold title in their own name. The conveyance shall have written
 3 or printed in the upper right-hand corner of the initial page thereof the name of the state
 4 entity for which acquired who is the custodian thereof."

5 SECTION 7.

6 Code Section 50-16-41 of the Official Code of Georgia Annotated, relating to the
 7 management of state properties, is amended by adding a new subsection as follows:

8 "(k)(1) For purposes of this subsection:

9 (A) 'Custodial agency' shall mean a state entity or entities leasing property from a local
 10 governing authority or its designee and shall include a state agency, department,
 11 commission, or authority.

12 (B) 'Local governing authority' means a county, city, consolidated government, or local
 13 authority.

14 (C) 'Procurement process' means the competitive bidding process by which property
 15 is acquired by a local governing authority or its designee for lease to a custodial agency
 16 at fair market value and shall include all activities related to improvement, acquisition,
 17 or financing of the property.

18 (2) Any other provision of this Code section notwithstanding, where property is acquired
 19 by a local governing authority for lease to a custodial agency at the written request of
 20 such agency, the procurement process shall be administered by the local governing
 21 authority. The custodial agency shall provide to the commission and to the local
 22 governing authority administering the procurement process a space utilization request or
 23 other similar written request which shall place the local governing authority on notice as
 24 to the custodial agency's facility and property needs. The written request shall include
 25 the approximate size or square footage needed for adequate use of the facility and any
 26 other unique specifications which shall make the facility satisfactory for its intended
 27 purpose. The custodial agency may include in the written request cost amount limitations
 28 above which the custodial agency is not able or willing to exceed on total property leases
 29 or any item or items to be included as a part of the property or lease agreement.
 30 Following the competitive procurement process conducted by the local governing
 31 authority, the same shall make a recommendation to the intended custodial agency for
 32 lease of the proposed property. The custodial agency shall accept any reasonable
 33 recommendation unless there is a valid legal basis for rejecting the proposed property.
 34 For purposes of this subsection, any reasonable recommendation must include rental
 35 rates, as well as operations and maintenance costs that are consistent with the prevailing
 36 market rates for similar properties located in the local governing authority's geographic

1 boundaries. If the custodial agency rejects the recommendation of the local governing
2 authority, the local governing authority shall repeat the procurement process until the
3 custodial agency accepts a recommendation."

4 **SECTION 8.**

5 This Act shall become effective upon its approval by the Governor or upon its becoming law
6 without such approval. Section 6 of this Act shall apply to all acquisition agreements entered
7 into on or after July 1, 2007.

8 **SECTION 9.**

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