

House Bill 1431

By: Representatives Collins of the 27<sup>th</sup>, Harbin of the 118<sup>th</sup>, Keen of the 179<sup>th</sup>, Lindsey of the 54<sup>th</sup>, Rogers of the 26<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 6, 12, 45, and 50 of the Official Code of Georgia Annotated, relating  
2 respectively to aviation, conservation and natural resources, public officers and employees,  
3 and state government, so as to provide for an extensive revision of the structure and functions  
4 of certain executive branch agencies; to create the Georgia Services Administration as a  
5 successor agency to the Department of Administrative Services; to abolish the State  
6 Properties Commission and the State Personnel Administration and provide for the transfer  
7 of the functions of those agencies to the Georgia Services Administration; to provide for  
8 administrative assignment to the Georgia Services Administration for the Georgia Aviation  
9 Authority, the State Accounting Office, the Office of Treasury and Fiscal Services, the  
10 Georgia Building Authority, the Office of State Administrative Hearings, and the Georgia  
11 Technology Authority; to amend numerous provisions of the Official Code of Georgia  
12 Annotated so as to make conforming amendments and correct cross references; to repeal  
13 specific laws; to provide for transition with respect to effectiveness of rules and regulations;  
14 to provide for transfers of appropriations and personnel, facilities, and equipment; to provide  
15 for other related matters; to provide an effective date; to repeal conflicting laws; and for other  
16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**

**SECTION 1-1.**

18 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
19 by revising Chapter 5, relating to the Department of Administrative Services, as follows:

"CHAPTER 5

ARTICLE 1

H. B. 1431

24 50-5-1.

25 There is created a the Georgia Services Administration which shall operate as provided in  
 26 this chapter and as otherwise provided by law and shall be a successor agency to the  
 27 Department of Administrative Services, the State Personnel Administration, and the State  
 28 Properties Commission. The ~~department~~ head of the Georgia Services Administration is  
 29 the commissioner. The commissioner shall be appointed by the Governor by and with the  
 30 advice and consent of the Senate. The commissioner shall serve at the pleasure of the  
 31 Governor and shall receive a salary to be set by the Governor. Personnel to assist the  
 32 commissioner shall be employed as prescribed by the commissioner.

33 50-5-2.

34 As used in this chapter, the term:

35 (1) 'Commissioner' means the commissioner of the Georgia Services Administration.

36 (2) 'GSA' means the Georgia Services Administration.

37 ~~50-5-2~~50-5-3 through 50-5-11.

38 Reserved.

39 50-5-12.

40 The ~~Department of Administrative Services~~ GSA shall formulate and initiate a sound  
 41 program of self-insurance for workers' compensation benefits for all employees of the state,  
 42 including employees of authorities. In formulating the self-insurance program, the  
 43 ~~department~~ GSA is directed to establish a return to work program that promotes the return  
 44 of an employee to employment by creating transitional employment prior to full recovery  
 45 by providing temporary assignments for an employee that are meaningful and medically  
 46 approved until the employee can return to his or her regularly assigned duties. If an agency  
 47 or authority does not allow an employee to engage in transitional employment under the  
 48 return to work program, the number of authorized positions in the budget for the agency  
 49 or authority shall be decreased by the number of employees collecting workers'  
 50 compensation not engaged in return to work employment for whom return to work plans  
 51 have been developed.

52 50-5-13.

53 The ~~department~~ GSA shall determine the amount and extent of self-insurance which the  
 54 state can assume, the necessary reserves needed, the premiums to be charged and any  
 55 deductibles to be paid by agencies and authorities, the amount of benefits to be paid within  
 56 the scope of the workers' compensation statutes, and type of addition or excess insurance

57 coverage that may be required. The ~~department~~ GSA is further authorized to establish  
 58 incentive programs including differential premium rates based on participation in loss  
 59 control programs established by the ~~department~~ GSA, increased or decreased deductibles  
 60 based on participation in loss control programs established by the ~~department~~ GSA, and the  
 61 imposition of fines and penalties. If any premiums, deductibles, fines, or penalties are  
 62 unpaid, the ~~department~~ GSA is authorized to deduct any unpaid amounts from the  
 63 nonpaying agency's or authority's continuation budget subject to the approval of the Office  
 64 of Planning and Budget and deposit those funds into the ~~workers' compensation trust fund~~  
 65 Workers' Compensation Trust Fund provided for in Code Section 50-5-14.

66 50-5-14.

67 In order to finance the continuing liability established with other agencies of state  
 68 government, the Workers' Compensation Trust Fund is authorized to retain all moneys paid  
 69 into the fund as premiums on policies of insurance and all moneys received as interest and  
 70 all moneys received from other sources as a reserve for the payment of such liability and  
 71 the expenses necessary to the proper conduct of such insurance program administered by  
 72 the fund. Any amounts held by the Workers' Compensation Trust Fund which are available  
 73 for investment shall be paid over to the Office of Treasury and Fiscal Services. The  
 74 director of the Office of Treasury and Fiscal Services shall deposit such funds in a trust  
 75 account for credit only to the Workers' Compensation Trust Fund. The director of the  
 76 Office of Treasury and Fiscal Services shall invest such funds subject to the limitations of  
 77 Code Section 50-5A-7 and Chapter 17 of this title. All income derived from such  
 78 investments shall accrue to the Workers' Compensation Trust Fund. When moneys are  
 79 paid over to the Office of Treasury and Fiscal Services, as provided in this Code section,  
 80 the commissioner shall submit an estimate of the date such funds shall no longer be  
 81 available for investment. ~~When the commissioner wishes~~ The commissioner is authorized  
 82 to withdraw funds from the trust account provided for in this Code section for payments  
 83 authorized by this Code section, he or she shall submit a upon request for such withdrawal,  
 84 in writing, to the director of the Office of Treasury and Fiscal Services.

85 50-5-15.

86 Any other provision of this chapter notwithstanding, the ~~Department of Administrative~~  
 87 ~~Services~~ GSA is authorized to provide any administrative service which it normally  
 88 provides to the various departments, agencies, and institutions of the state under the  
 89 authority of this chapter to any local political subdivision within the state. The provision  
 90 of one or more such administrative services to any or all political subdivisions shall be at  
 91 the sole discretion of the commissioner ~~of administrative services~~ and such services shall

92 only be rendered after a request for such services from the governing body of the local  
93 political subdivision.

94 50-5-16.

95 (a) The commissioner ~~of administrative services~~ may establish a program of liability  
96 insurance and self-insurance for state authorities.

97 (b) State funds may be appropriated for the program, but the commissioner shall charge  
98 such premiums, deductibles, and other payments as the commissioner determines necessary  
99 or useful. The commissioner is further authorized to establish incentive programs  
100 including differential premium rates based on participation in loss control programs  
101 established by the ~~department~~ GSA, increased or decreased deductibles based on  
102 participation in loss control programs established by the ~~department~~ GSA, and the  
103 imposition of fines and penalties. If any premiums, deductibles, fines, or penalties are  
104 unpaid, the ~~department~~ GSA is authorized to deduct any unpaid amounts from the  
105 nonpaying agency's or authority's continuation budget subject to the approval of the Office  
106 of Planning and Budget and deposit those funds into the reserve fund provided for in this  
107 Code section. From the funds available to the commissioner, the commissioner shall  
108 establish such reserves as the commissioner determines necessary, purchase commercial  
109 policies, employ consultants, and otherwise administer the program. Any amounts held by  
110 the liability insurance or self-insurance funds which are available for investment shall be  
111 paid over to the Office of Treasury and Fiscal Services. The director of the Office of  
112 Treasury and Fiscal Services shall deposit such funds in trust accounts for credit only to  
113 the liability insurance and self-insurance funds. The director of the Office of Treasury and  
114 Fiscal Services shall invest the liability insurance and self-insurance funds subject to the  
115 limitations of Code Section 50-5A-7 and Chapter 17 of this title. All income derived from  
116 such investments shall accrue to the liability insurance and self-insurance funds. When  
117 moneys are paid over to the Office of Treasury and Fiscal Services, as provided in this  
118 Code section, the commissioner shall submit an estimate of the date such funds shall no  
119 longer be available for investment. When the commissioner wishes to withdraw funds  
120 from the trust account provided for in this Code section, he or she shall submit a request  
121 for such withdrawal, in writing, to the director of the Office of Treasury and Fiscal  
122 Services.

123 (c) The commissioner may generally provide for insurance or self-insurance under such  
124 terms and conditions as he or she determines, and ~~he~~ the commissioner may provide for  
125 particular coverages and other terms and conditions of the unique exposures particular to  
126 one or more authorities. The commissioner may provide for endorsements for contract

127 liability and, where necessary or convenient to the public functions of an authority, he or  
 128 she may also provide for additional insureds.

129 (d) Where existing programs of insurance and self-insurance have been established among  
 130 state authorities by contract, the commissioner may arrange with such authorities to replace  
 131 the existing programs with such programs as ~~he~~ the commissioner may establish. In doing  
 132 so ~~he~~ the commissioner may assume existing and potential liabilities of the established  
 133 programs. To the extent that funds of the existing programs are not necessary for such  
 134 purposes, the commissioner may agree to the refund of such funds.

135 (e) Nothing in this Code section or in any related act of the commissioner or the  
 136 participating authorities shall be construed as waiving any immunity or privilege of any  
 137 kind now or hereafter enjoyed by the state or the state authorities, including without  
 138 limitation defenses under the Eleventh Amendment of the Constitution of the United States,  
 139 sovereign immunity, or any other legal or factual defense, privilege, or immunity which the  
 140 state or a participating authority may enjoy or assert. The intent of this authorization is to  
 141 provide for protection only in the absence of such defenses.

142 (f) Similarly, nothing in this Code section or in any related act of the commissioner or  
 143 participating authorities shall pledge or be deemed to pledge the credit of the state. No  
 144 obligation shall arise beyond the limits of liability established by the commissioner or  
 145 beyond such other terms and conditions as he or she may establish, and no obligation shall  
 146 be imposed or created upon other funds of the state or upon other funds of the participating  
 147 authorities.

148 (g) Nothing in the program of insurance or self-insurance shall cause one authority to be  
 149 liable for claims of another or otherwise expose the assets of one authority to claims of  
 150 liability respecting another authority.

151 50-5-17.

152 The ~~Department of Administrative Services~~ GSA is authorized to retain in a reserve fund  
 153 moneys generated from the sale of any surplus personal property pursuant to Article 4 of  
 154 this chapter. Such funds may be used to cover any cost associated with disposing of the  
 155 state's surplus personal property or such funds may, subject to the approval of the Office  
 156 of Planning and Budget, be used to purchase personal property for the ~~Department of~~  
 157 ~~Administrative Services~~ GSA or for any offices, agencies, departments, boards, bureaus,  
 158 commissions, institutions, authorities, or other entities of the state government.

159 ARTICLE 2

160 Reserved.

## ARTICLE 3

## Part 1

163 50-5-50.

164 The underlying purposes and policies of this part are:

165 (1) To permit the continued development of centralized procurement policies and  
166 practices;

167 (2) To control and reduce the cost of purchasing, leasing, renting, or otherwise procuring  
168 supplies, materials, services, and equipment through the use of centralized purchasing;

169 (3) To ensure openness and accessibility by all qualified vendors to the state's purchasing  
170 processes so as to achieve the lowest possible costs to the state through effective  
171 competition among such vendors;

172 (4) To provide for timely, effective, and efficient service to using agencies and to  
173 vendors doing business with the state;

174 (5) To ensure the fair and equitable treatment of all persons who deal with the  
175 procurement system of the state;

176 (6) To provide for increased public confidence in the procedures followed in public  
177 procurement; and

178 (7) To provide safeguards for the maintenance of a procurement system of quality and  
179 integrity.

180 50-5-51.

181 The ~~Department of Administrative Services~~ GSA shall have the power and authority and  
182 ~~it shall be the department's duty~~, subject to this part:

183 (1) To canvass all sources of supply and to contract for the lease, rental, purchase, or  
184 other acquisition of all supplies, materials, equipment, and services, including ~~other than~~  
185 professional and personal employment services, required by the state government or any  
186 of its offices, agencies, departments, boards, bureaus, commissions, institutions, or other  
187 entities of this state under competitive bidding in the manner and subject to the conditions  
188 provided for in this article;

189 (2) To establish and enforce standard specifications which shall apply to all supplies,  
190 materials, equipment, and services, including ~~other than~~ professional and personal  
191 employment services, purchased or to be purchased for the use of the state government  
192 for any of its offices, agencies, departments, boards, bureaus, commissions, institutions,  
193 or other entities of the state;

194 (3) To contract for all electric light power, postal, and any and all other contractual  
195 purchases and needs of the state government or any of its offices, agencies, departments,

196 boards, bureaus, commissions, institutions, or other entities of the state or in lieu of such  
197 contract to authorize any offices, agencies, departments, boards, bureaus, commissions,  
198 institutions, or other entities of the state to purchase or contract for any or all such  
199 services;

200 (4) To have general supervision of all storerooms and stores operated by the state  
201 government or any of its offices, agencies, departments, boards, bureaus, commissions,  
202 institutions, or other entities of the state; to provide for transfer or exchange to or between  
203 all state offices, agencies, departments, boards, bureaus, commissions, institutions, or  
204 other entities of the state or to sell all supplies, materials, and equipment which are  
205 surplus, obsolete, or unused; and to maintain inventories of all fixed property and of all  
206 movable equipment, supplies, and materials belonging to the state government or any of  
207 its offices, agencies, departments, boards, bureaus, commissions, institutions, or other  
208 entities of the state;

209 (5) To make provision for and to contract for all state printing, including all printing,  
210 binding, paper stock, and supplies or materials in connection with the same, except as  
211 provided in this part. For the purpose of obtaining bids on printing, it shall have the  
212 power to divide the printing into various classes and to provide stipulations and  
213 specifications therefor and advertise, receive bids, and contract separately for the various  
214 classes;

215 (6) To procure all fidelity bonds covering state officials and employees required by law  
216 or administrative directive to give such bonds; and, in order to provide the bonds at a  
217 minimum expense to the state, the bonds may be procured under a master policy or  
218 policies providing insurance agreements on a group or blanket coverage basis with or  
219 without deductibles or excess coverage over the state's retention as determined by the  
220 commissioner. Fidelity bonds covering state officials and employees which are procured  
221 pursuant to this paragraph shall expressly provide that all state officials and employees  
222 who are required by law to be bonded be named in the fidelity bond as insureds or  
223 beneficiaries under the terms of the fidelity bond. Inclusion of any state official, officer,  
224 or employee required by law or administrative directive to be specifically bonded in a  
225 master fidelity bond under the terms of this part shall satisfy any statutory requirement  
226 that the official, officer, or employee be bonded. Fidelity bonds procured pursuant to this  
227 paragraph shall also expressly provide for indemnification, out of the proceeds of the  
228 fidelity bonds, of all state officials and employees for any liability or expense of any  
229 nature resulting from a claim on the state official's or employee's bonds which is due to  
230 or as a result of an act of a subordinate of the state official or employee. In order to  
231 finance the continuing liability established with other agencies of state government, the  
232 commissioner is authorized to retain all moneys paid to the department as premiums on

233 policies of insurance, all moneys received as interest, and all moneys received from other  
234 sources to set up and maintain a reserve for the payment of such liability and the expenses  
235 necessary to administer properly the insurance program. The commissioner is further  
236 authorized to establish incentive programs including differential premium rates based on  
237 participation in loss control programs established by the ~~department~~ GSA, increased or  
238 decreased deductibles based on participation in loss control programs established by the  
239 ~~department~~ GSA, and the imposition of fines and penalties. If any premiums,  
240 deductibles, fines, or penalties are unpaid, the ~~department~~ GSA is authorized to deduct  
241 any unpaid amounts from the nonpaying agency's or authority's continuation budget  
242 subject to the approval of the Office of Planning and Budget and deposit those funds into  
243 the reserve fund provided for in this Code section. The commissioner shall invest the  
244 moneys in the same manner as other such moneys in his or her possession;

245 (7) To establish and operate the state agency for surplus property for the purpose of  
246 distributing surplus properties made available by the federal government under Pub. L.  
247 152, 81st Congress, as amended, to institutions, organizations, agencies, and others as  
248 may be eligible to receive such surplus properties pursuant to applicable provisions of  
249 federal law. The commissioner may enter into or authorize the aforesaid state agency for  
250 surplus property to enter into cooperative agreements with the federal government for the  
251 use of surplus properties by the state agency. The commissioner is authorized to enter  
252 into contracts with other state, local, or federal agencies, or with other persons with  
253 respect to the construction, operation, maintenance, leasing, or rental of a facility for use  
254 by the state agency. Further, the commissioner may acquire real or personal property for  
255 such purposes;

256 (8) To delegate, in the ~~department's~~ GSA's discretion, to medical facilities under the  
257 jurisdiction of the Board of Regents for the University System of Georgia the ability to  
258 purchase medical equipment and medical supplies necessary for medical teaching  
259 purposes;

260 (9) To enter into or authorize agreements with private nonprofit organizations or other  
261 states and their political subdivisions to effectuate the purposes and policies of this  
262 chapter;

263 (10) To collect, retain, and carry over from year to year in a reserve fund any moneys,  
264 rebates, or commissions payable to the state that are generated by supply contracts  
265 established pursuant to Code Section 50-5-57; and

266 (11) To conduct the procurement of all technology resource purchases not exempted  
267 from competitive bidding requirements in accordance with the technology standards and  
268 specifications established by the Georgia Technology Authority.

269 50-5-51.1.

270 The ~~commissioner of administrative services~~ GSA may, upon request, assist and coordinate  
 271 with county departments of health, county departments of family and children services, and  
 272 community service boards on the purchase of commercial fidelity bonds for officials,  
 273 officers, and employees of such boards and departments. The payment of the premium to  
 274 the commercial fidelity carrier ~~will~~ shall be the responsibility of such county departments  
 275 of health, county departments of family and children services, and community service  
 276 boards.

277 50-5-52.

278 The ~~Department of Administrative Services or the state accounting officer~~ GSA shall have  
 279 power to examine books, records, and papers of any office, agency, department, board,  
 280 bureau, commission, institution, or other entity of the state government relative to  
 281 purchases and to require those in control thereof to furnish the ~~department~~ GSA with copies  
 282 of any and all records pertaining thereto.

283 50-5-53.

284 Reserved. ~~Subject to applicable rules of the State Personnel Administration, the~~  
 285 ~~Department of Administrative Services may appoint as many assistants and employees, and~~  
 286 ~~fix their salaries, as are essential to the state's interest in the execution of the terms and~~  
 287 ~~provisions of this part. Assignment of an assistant or assistants to any of the departments,~~  
 288 ~~institutions, or agencies of the state may be made by the Department of Administrative~~  
 289 ~~Services. It shall be unlawful for any other agency of the state to employ any person for~~  
 290 ~~the purposes set out in this part unless that person complies with the minimum~~  
 291 ~~requirements for purchasing personnel established by the State Personnel Administration~~  
 292 ~~in conjunction with the Department of Administrative Services.~~

293 50-5-54.

294 The ~~commissioner of administrative services~~ is authorized and empowered by this part to  
 295 make all rules, regulations, and stipulations and to provide specifications to carry out the  
 296 terms and provisions of this part as may be necessary for the purposes of this part. The  
 297 rules and regulations as prescribed by the commissioner shall be published and made  
 298 available either electronically or in pamphlet form ~~and all the departments of the state~~  
 299 ~~government shall be furnished with copies of the same.~~

300 50-5-55.

301 The commissioner of ~~administrative services~~ may adopt, modify, or abrogate rules and  
302 regulations covering the following purposes, in addition to those authorized elsewhere in  
303 this part:

304 (1) Requiring monthly reports by state departments, institutions, or agencies of stocks,  
305 supplies, materials, and equipment on hand and prescribing the form of such reports;

306 (2) Prescribing the manner in which supplies, materials, and equipment shall be  
307 delivered, stored, and distributed;

308 (3) Prescribing the manner of inspecting deliveries of supplies, material, and equipment  
309 and making chemical or physical tests of samples submitted with bids and samples of  
310 deliveries to determine whether deliveries have been made to the departments,  
311 institutions, or agencies in compliance with specifications;

312 (4) Prescribing the manner in which purchases shall be made ~~by the Department of~~  
313 ~~Administrative Services~~ in all emergencies as defined in Code Section 50-5-71; and

314 (5) Providing for such other matters as may be necessary to give effect to the foregoing  
315 rules and the provisions of this part.

316 50-5-56.

317 It shall be the duty of the ~~Department of Administrative Services~~ GSA to formulate, adopt,  
318 establish, and modify standard specifications applying to state contracts. In the formulation,  
319 adoption, and modification of any standard specifications, the ~~Department of~~  
320 ~~Administrative Services~~ GSA shall seek the advice, assistance, and cooperation of any state  
321 department, institution, or agency to ascertain its precise requirements in any given  
322 commodity. Each specification adopted for any commodity shall insofar as possible satisfy  
323 the requirements of a majority of the state departments, institutions, or agencies which use  
324 the same in common. After its adoption each standard specification shall until revised or  
325 rescinded apply alike in terms and effect to every state purchase of the commodity  
326 described in such specifications. In the preparation of any standard specifications, the  
327 ~~Department of Administrative Services~~ GSA shall have power to make use of any state  
328 laboratory for chemical and physical tests in the determination of quality.

329 50-5-57.

330 The ~~Department of Administrative Services~~ GSA shall have the power and authority and  
331 ~~it shall be the department's duty~~, subject to this part, to contract for the purchase, lease, or  
332 other mode of acquisition of all supplies, materials, services, including other than  
333 professional and personal employment services, and equipment required by the state. After  
334 sources of supply have been established by contract under competitive bidding and

335 certified by the ~~Department of Administrative Services~~ GSA to the different departments,  
 336 institutions, and agencies of the state as provided for in this part, the institutions, agencies,  
 337 or departments of the state shall make requisition on blanks to be approved by the  
 338 ~~Department of Administrative Services~~ GSA for such supplies, materials, and equipment  
 339 required by them from the supply so certified and, except as otherwise provided for or  
 340 unless the departments, institutions, and agencies of the state obtain written authority from  
 341 the ~~Department of Administrative Services~~ GSA to do so, it shall be unlawful for any of  
 342 them to purchase any supplies, materials, or equipment from sources other than as certified  
 343 to them by the ~~Department of Administrative Services~~ GSA. One copy of the requisition  
 344 shall be sent to the ~~Department of Administrative Services~~ GSA when the same is issued.

345 50-5-58.

346 (a) Unless otherwise ordered by the ~~Department of Administrative Services~~ GSA, the  
 347 purchase of supplies, materials, equipment, and services, ~~other than~~ including professional  
 348 and personal employment services, through the ~~Department of Administrative Services~~  
 349 GSA shall not be mandatory in the following cases:

350 (1) Technical instruments and supplies and technical books and other printed matter on  
 351 technical subjects; ~~also~~ manuscripts, maps, books, pamphlets, and periodicals for the use  
 352 of any library in the state supported by state funds; ~~also~~ and services;

353 (2) Livestock for slaughter and perishable articles such as fresh vegetables, fresh meat,  
 354 fish and oysters, butter, eggs, poultry, and milk. No other article shall be considered  
 355 perishable within the meaning of this ~~clause~~ paragraph unless so classified by the  
 356 ~~Department of Administrative Services~~ GSA; and

357 (3) Emergency supplies of drugs, chemicals and sundries, dental supplies, and  
 358 equipment.

359 (b) In the purchasing of emergency supplies under paragraph (3) of subsection (a) of this  
 360 Code section, it shall be the duty of the department making such purchases to report the  
 361 same to the ~~Department of Administrative Services~~ GSA, giving the circumstances  
 362 necessitating the purchases.

363 (c) Nothing in this part shall be construed to give the ~~Department of Administrative~~  
 364 ~~Services~~ GSA any supervision over the selection or purchase of school textbooks, which  
 365 is vested by law in the Department of Education.

366 50-5-59.

367 It shall be the duty of all departments, institutions, or agencies of the state government to  
 368 furnish to the ~~Department of Administrative Services~~ GSA when requested and on blanks  
 369 to be approved by it tabulated estimates of all supplies, materials, and equipment needed

370 and required by the department, institution, or agency for such periods in advance as may  
 371 be directed by the ~~Department of Administrative Services~~ GSA; and it shall further be the  
 372 duty of all departments, institutions, or agencies to furnish the ~~Department of~~  
 373 ~~Administrative Services~~ GSA inventories from time to time of supplies, materials, or  
 374 equipment on hand when requested by the ~~Department of Administrative Services~~ GSA.

375 50-5-60.

376 (a) The state and any department, agency, or commission thereof, when contracting for or  
 377 purchasing supplies, materials, equipment, or agricultural products, excluding beverages  
 378 for immediate consumption, shall give preference as far as may be reasonable and  
 379 practicable to such supplies, materials, equipment, and agricultural products as may be  
 380 manufactured or produced in this state. Such preference shall not sacrifice quality.

381 (b) Vendors resident in the State of Georgia are to be granted the same preference over  
 382 vendors resident in another state in the same manner, on the same basis, and to the same  
 383 extent that preference is granted in awarding bids for the same goods or services by such  
 384 other state to vendors resident therein over vendors resident in the State of Georgia.

385 (c) In determining whether such a preference is reasonable in any case where the value of  
 386 a contract for or purchase of such supplies, materials, equipment, or agricultural products  
 387 exceeds \$100,000.00, the state or its department, agency, or commission shall consider,  
 388 among other factors, information submitted by the bidder which may include the bidder's  
 389 estimate of the multiplier effect on gross state domestic product and the effect on public  
 390 revenues of the state and the effect on public revenues of political subdivisions resulting  
 391 from acceptance of a bid or offer to sell Georgia manufactured or produced goods as  
 392 opposed to out-of-state manufactured or produced goods. Any such estimates shall be in  
 393 writing. The state or its department, agency, or commission shall not divide a contract or  
 394 purchase which exceeds \$100,000.00 for the purpose of avoiding the requirements of this  
 395 subsection.

396 (d) Nothing in this Code section shall negate the requirements of Code Section 50-5-73.

397 50-5-60.1.

398 Reserved.

399 50-5-60.2.

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

401 (1) 'Mill broke' means any paper waste generated in a paper mill prior to the completion  
 402 of the paper-making process up to and including the cutting and trimming of the paper  
 403 machine reel into small rolls or rough sheets.

404 (2) 'Printing and writing paper' means high-grade office paper including but not limited  
405 to copier paper, bond paper, forms, stationery, envelopes, text and cover stock, as well  
406 as offset printing paper.

407 (3) 'Recycled content paper' means any paper having recycled fiber content.

408 (4) 'Recycled fiber content' means those materials and by-products that have been  
409 recovered or diverted from the solid waste stream. Such term does not include sawdust,  
410 wood chips, wood slabs, or the virgin content of mill broke.

411 (b) At least 95 percent of moneys spent on printing and writing paper purchased by state  
412 agencies, commissions, and authorities shall be spent upon recycled content paper which  
413 meets or exceeds Environmental Protection Agency guidelines for minimum recycled  
414 content; provided, however, the provisions of this subsection shall not apply if the price of  
415 recycled content paper required by this Code section exceeds 8 percent of the price paid  
416 by the ~~Department of Administrative Services~~ GSA for 100 percent virgin paper products  
417 or if the recycled content paper required by this Code section does not meet the standards,  
418 quality level, and specifications established by the ~~Department of Administrative Services~~  
419 GSA.

420 (c) It shall be the responsibility of each agency, commission, and authority to monitor,  
421 document, and report its use of recycled content paper. Any state agency, institution,  
422 commission, and authority that documents and reports attainment of the 95 percent  
423 requirement set forth in subsection (b) of this Code section for two consecutive fiscal years  
424 shall still be required to monitor and document its use of recycled content paper but shall  
425 no longer be required to submit a report upon written confirmation from the ~~Department~~  
426 ~~of Administrative Services~~ GSA that the 95 percent requirement set forth in subsection (b)  
427 of this Code section has been satisfied for two consecutive fiscal years by that particular  
428 agency, commission, institution, or authority; provided, however, that the ~~Department of~~  
429 ~~Administrative Services~~ GSA shall conduct periodic audits, and any state agency,  
430 institution, commission, and authority exempted from the reporting requirement pursuant  
431 to this subsection that is not satisfying the 95 percent requirement set forth in subsection  
432 (b) of this Code section may be directed by the ~~Department of Administrative Services~~  
433 GSA to resume reporting until reattainment of the 95 percent requirement set forth in  
434 subsection (b) of this Code section is confirmed for two additional consecutive fiscal years.

435 (d) The ~~Department of Administrative Services~~ GSA shall maintain and continue to  
436 develop and implement reporting procedures and educational programs to assist agencies,  
437 commissions, institutions, and authorities in meeting the requirements of this Code section  
438 to maximize both purchasing power and the use of recycled products by each such agency,  
439 commission, institution, and authority.

440 50-5-60.3.

441 All state agencies, departments, and authorities shall replace original truck tires of over 16  
442 inch rim size used on nonsteering axles with retreaded tires or subscribe to a retread service  
443 as replacement is necessary and as stockpiled tires are depleted; provided, however, that  
444 nothing in this Code section shall be construed so as to discourage the use of retreaded tires  
445 on other size rims or other types of vehicles if an agency, department, or authority deems  
446 such use to be economical, feasible, and desirable.

447 50-5-60.4.

448 (a) All state agencies, departments, and authorities responsible for the maintenance of  
449 public lands shall give preference to the use of compost and mulch in all road building,  
450 land maintenance, and land development activities. Preference shall be given to compost  
451 and mulch made in the State of Georgia from organics which are source separated from the  
452 state's nonhazardous solid waste stream.

453 (b) The Department of Agriculture shall develop and publish standards for the compost  
454 and mulch required by subsection (a) of this Code section by January 1, 1994.

455 50-5-60.5.

456 In addition to recycling, each state agency, department, and authority shall take action to  
457 implement policies which require reduction and reuse of materials generated by state  
458 agencies. These policies shall include, but not be limited to, double-sided printing and  
459 copying, refilling and reusing laser printer cartridges, the purchase of source reduced  
460 products, and where feasible discontinuing the use of 8 1/2" x 14" paper. Replacement  
461 copier machines should include double-sided copying capability and shall be compatible  
462 with the use of paper containing recycled content.

463 50-5-61.

464 (a) State and local authorities created by law, in the purchase of and contracting for any  
465 supplies, materials, equipment, and agricultural products, excluding beverages for  
466 immediate consumption, shall give preference as far as may be reasonable and practicable  
467 to such supplies, materials, equipment, and agricultural products as may be manufactured  
468 or produced in this state. Such preference shall not sacrifice quality.

469 (b) In determining whether such a preference is reasonable in any case where the value of  
470 a contract for or purchase of such supplies, materials, equipment, or agricultural products  
471 exceeds \$100,000.00, the state or local authority shall consider, among other factors,  
472 information submitted by the bidder which may include the bidder's estimate of the  
473 multiplier effect on gross state domestic product and the effect on public revenues of the

474 state and the effect on public revenues of political subdivisions resulting from acceptance  
 475 of a bid or offer to sell Georgia manufactured or produced goods as opposed to out-of-state  
 476 manufactured or produced goods. Any such estimates shall be in writing. No state or local  
 477 authority shall divide a contract or purchase which exceeds \$100,000.00 for the purpose  
 478 of avoiding the requirements of this subsection.

479 (c) Nothing in this Code section shall negate the requirements of Code Section 50-5-73.

480 50-5-62.

481 Reserved.

482 50-5-63.

483 (a) No contract for the construction of, addition to, or repair of any facility, the cost of  
 484 which is borne by the state or any department, agency, commission, authority, or political  
 485 subdivision thereof, shall be let unless the contract contains a stipulation therein providing  
 486 that the contractor or any subcontractor shall use exclusively Georgia forest products in the  
 487 construction thereof, when forest products are to be used in such construction, addition, or  
 488 repair, and if Georgia forest products are available.

489 (b) This Code section shall not apply when in conflict with federal rules and regulations  
 490 concerning construction.

491 50-5-64.

492 (a) The ~~Department of Administrative Services~~ GSA shall be authorized to execute on  
 493 behalf of all state agencies subject to this part multiyear lease, purchase, or ~~lease-purchase~~  
 494 lease-purchase contracts of all kinds for the acquisition of goods, materials, services, and  
 495 supplies, provided that any such contract shall be executed only on a standard form  
 496 developed by the ~~department~~ GSA for such use; and provided, further, that the standard  
 497 form contract shall contain provisions for the following:

498 (1) The contract shall terminate absolutely and without further obligation on the part of  
 499 the user agency or the ~~department~~ GSA at the close of the fiscal year in which it was  
 500 executed and at the close of each succeeding fiscal year for which it may be renewed as  
 501 provided in this Code section;

502 (2) The contract may be renewed only by a positive action taken by the user agency or  
 503 by the ~~department~~ GSA on behalf of the user agency, and the nature of such action shall  
 504 be determined by the ~~department~~ GSA and specified in its standard contract;

505 (3) The contract shall terminate immediately and absolutely at such time as appropriated  
 506 and otherwise unobligated funds are no longer available to satisfy the obligations of the  
 507 user agency under the contract. The determination of the occurrence of such

508 unavailability of funds shall be made by the user agency in its sole discretion and shall  
509 be conclusive;

510 (4) The contract shall state the total obligation of the user agency for the fiscal year of  
511 execution and shall further state the total obligation which will be incurred in each fiscal  
512 year renewal term, if renewed; and

513 (5) The contract shall provide that title to any supplies, materials, or equipment shall  
514 remain in the vendor until fully paid for by the user agency.

515 (b) Any standard contract developed ~~hereunder~~ pursuant to this Code section containing  
516 the provisions enumerated in subsection (a) of this Code section shall be deemed to  
517 obligate the user agency only for those sums payable during the fiscal year of execution or,  
518 in the event of a renewal by the user agency, for those sums payable in the individual fiscal  
519 year renewal term.

520 (c) No contract developed and executed pursuant to this Code section shall be deemed to  
521 create a debt of the state for the payment of any sum beyond the fiscal year of execution  
522 or, in the event of a renewal, beyond the fiscal year of such renewal.

523 (d) Any such contract may provide for the payment by the user agency of interest or the  
524 allocation of a portion of the contract payment to interest, provided that the contract is in  
525 compliance with this Code section.

526 50-5-65.

527 (a) ~~The Department of Administrative Services~~ GSA is authorized to make transfers of  
528 title to personal property titled in the name of any department, agency, or institution of the  
529 state to private individuals, corporations, or firms for the purpose of effectuating lease  
530 purchases of such property between the owning department, agency, or institution and the  
531 private individuals, corporations, or firms. Transfers of title shall be made only in  
532 conjunction with the execution of a ~~lease-purchase~~ lease-purchase agreement between an  
533 agency, department, or institution of the state and the transferee acquiring title; and the  
534 agreement shall be consummated on the standard agreement form developed pursuant to  
535 Code Section 50-5-64.

536 (b) The departments, agencies, and institutions of the state are authorized to accept the title  
537 to property, subject to a contract for lease purchase or installment purchase, upon execution  
538 of the aforementioned standard agreement by the ~~Department of Administrative Services~~  
539 GSA; and the ~~department~~ GSA is authorized to transfer title back to the vendor in the name  
540 of the department, agency, or institution in the event that the agreement is not fully  
541 consummated.

542 50-5-66.

543 The ~~Department of Administrative Services~~ GSA shall compile and consolidate all  
544 estimates of supplies, materials, and equipment needed and required by all state  
545 departments, institutions, and agencies to determine the total requirements of any given  
546 commodity.

547 50-5-67.

548 (a) Except as otherwise provided in this Code section, contracts exceeding \$100,000.00  
549 shall be awarded by competitive sealed bidding. If the total requirement of any given  
550 commodity will involve an expenditure in excess of \$250,000.00, sealed bids shall be  
551 solicited by advertisement in the Georgia Procurement Registry established under  
552 subsection (b) of Code Section 50-5-69 and in addition may be solicited by advertisement  
553 in a newspaper of state-wide circulation at least once and at least 15 calendar days, except  
554 for construction projects which shall have 30 calendar days allowed, prior to the date fixed  
555 for opening of the bids and awarding of the contract. Other methods of advertisement,  
556 however, may be adopted by the ~~Department of Administrative Services~~ GSA when such  
557 other methods are deemed more advantageous for the particular item to be purchased. In  
558 any event, it shall be the duty of the ~~Department of Administrative Services~~ GSA to solicit  
559 sealed bids from reputable owners of supplies in all cases where the total requirement will  
560 exceed \$100,000.00. When it appears that the use of competitive sealed bidding is either  
561 not justified or not advantageous to the state, a contract may be entered into by competitive  
562 sealed proposals, subject to the following conditions:

563 (1) This method of solicitation shall only be used after a written determination by the  
564 ~~Department of Administrative Services~~ GSA that the use of competitive sealed bidding  
565 is not justified or is not advantageous to the state;

566 (2) Proposals shall be solicited through a request for proposals;

567 (3) Adequate public notice of the request for proposals shall be given in the same manner  
568 as provided for competitive sealed bidding;

569 (4) A register of proposals shall be prepared and made available for public inspection;

570 (5) The request for proposals shall state the relative importance of price and other  
571 evaluation factors;

572 (6) As provided in the request for proposals and under regulations to be developed by the  
573 ~~Department of Administrative Services~~ GSA, discussions may be conducted with  
574 qualified offerors who submit proposals determined to be reasonably susceptible of being  
575 selected for award, for the purpose of clarification to assure full understanding of and  
576 responsiveness to the solicitation requirements. Offerors shall be accorded fair and equal  
577 treatment with respect to any opportunity for discussion and clarification of proposals.

578 After such clarifications, revisions may be permitted to technical proposals and price  
579 proposals prior to award for the purpose of obtaining best and final offers. The  
580 ~~Department of Administrative Services~~ GSA is authorized to solicit multiple revisions  
581 to price proposals for the purpose of obtaining the most advantageous proposal to the  
582 state. In conducting discussions or soliciting any revisions, there shall be no disclosure  
583 of any information contained in proposals submitted by competing offerors. However,  
584 this prohibition on disclosure of information shall not prohibit the ~~Department of~~  
585 ~~Administrative Services~~ GSA from disclosing to competing offerors any preliminary  
586 rankings and scores of competing offerors' proposals during the course of any  
587 negotiations or revisions of proposals other than with respect to the procurement of  
588 construction contracts; and

589 (7) The award shall be made to the responsible offeror whose proposal is determined in  
590 writing to be the most advantageous to the state, taking into consideration price and the  
591 evaluation factors set forth in the request for proposals. No other factors or criteria shall  
592 be used in the evaluation. The contract file shall contain the basis on which the award is  
593 made.

594 (b) Except as otherwise provided for in this part, all contracts for the purchases of supplies,  
595 materials, equipment, or services ~~other than professional and personal employment services~~  
596 made under this part shall, wherever possible, be based upon competitive bids and shall be  
597 awarded to the lowest responsible bidder, taking into consideration the quality of the  
598 articles to be supplied and conformity with the specifications which have been established  
599 and prescribed, the purposes for which the articles are required, the discount allowed for  
600 prompt payment, the transportation charges, and the date or dates of delivery specified in  
601 the bid and any other cost affecting the total cost of ownership during the life cycle of the  
602 supplies, materials, equipment, or services as specified in the solicitation document.  
603 Competitive bids on such contracts shall be received in accordance with rules and  
604 regulations to be adopted by the commissioner of ~~administrative services~~, which ~~rules and~~  
605 ~~regulations~~ shall prescribe, among other things, the manner, time, and places for proper  
606 advertisement for the bids, indicating the time and place when the bids will be received;  
607 the article for which the bid shall be submitted and the specification prescribed for the  
608 article; the amount or number of the articles desired and for which the bids are to be made;  
609 and the amount, if any, of bonds or certified checks to accompany the bids. Any and all  
610 bids so received may be rejected.

611 (c)(1)(A) When bids received pursuant to this part are unreasonable or unacceptable  
612 as to terms and conditions, are noncompetitive, or the lowest responsible bid exceeds  
613 available funds and it is determined in writing by the ~~Department of Administrative~~  
614 ~~Services~~ GSA that time or other circumstances will not permit or justify the delay

615 required to resolicit competitive bids, a contract may be negotiated pursuant to this  
 616 Code section, provided that each responsible bidder who submitted such a bid under the  
 617 original solicitation is notified of the determination and is given a reasonable  
 618 opportunity to negotiate. In cases where the bids received are noncompetitive or the  
 619 lowest responsible bid exceeds available funds, the negotiated price shall be lower than  
 620 the lowest rejected bid of any responsible bidder under the original solicitation.

621 (B) ~~With respect to procurement for construction contracts, if~~ If the bid from the lowest  
 622 responsible and responsive bidder on a construction contract exceeds the funds  
 623 budgeted for the contract, a contract may be negotiated with such apparent low bidder  
 624 to obtain a contract price within the budgeted amount. Such negotiations may include  
 625 changes in the scope of work and other bid requirements.

626 (2) When proposals received pursuant to this part are unreasonable or unacceptable as  
 627 to terms and conditions, are noncompetitive, or the lowest responsible proposal exceeds  
 628 available funds and it is determined in writing by the ~~Department of Administrative~~  
 629 ~~Services~~ GSA that time or other circumstances will not permit or justify the delay  
 630 required to resolicit competitive proposals, a contract may be negotiated pursuant to this  
 631 Code section, provided that each responsible offeror who submitted such a proposal  
 632 under the original solicitation is notified of the determination and is given a reasonable  
 633 opportunity to negotiate. In cases where the proposals received are noncompetitive or the  
 634 lowest responsible proposal exceeds available funds, any contract award made pursuant  
 635 to this paragraph shall be made to the offeror whose negotiated proposal is most  
 636 advantageous to the state according to the evaluation criteria in the request for proposals  
 637 rather than to the offeror whose negotiated proposal offers the lowest price, provided that  
 638 the negotiated price of the most advantageous proposal is lower than the price of the  
 639 rejected responsible proposal with the lowest price under the original solicitation.

640 (d)(1) Except as otherwise provided for in this part, the ~~Department of Administrative~~  
 641 ~~Services~~ GSA shall publish, prior to award or letting of the contracts, notice of its intent  
 642 to award a contract to the successful bidder or offeror on public display in a conspicuous  
 643 place in the ~~department's~~ GSA's office, on the Georgia Procurement Registry, or both so  
 644 that it may be easily seen by the public. The public notice on public display shall also  
 645 state the price or the amount for which the contract may be awarded, the commodities or  
 646 services to be covered by the contract which may be awarded, and the names of all  
 647 persons whose bids, offers, or proposals were rejected by the ~~department~~ GSA, together  
 648 with a statement giving the reasons for the rejection.

649 (2) Every bid or proposal conforming to the terms of the advertisement provided for in  
 650 this Code section, together with the name of the bidder, shall be recorded, and all such  
 651 records with the name of the successful bidder or offeror indicated thereon shall, within

652 one day after the issuance of the ~~department's~~ public notice of intent to award to the  
653 successful bidder or offeror, be subject to public inspection upon request.

654 (3) The ~~Department of Administrative Services~~ GSA shall also, within one day after the  
655 award or letting of the contract, publish the name of the successful bidder or offeror on  
656 public display in a conspicuous place in the ~~department's~~ GSA's office or on the Georgia  
657 Procurement Registry so that it may be easily seen by the public. The public notice on  
658 public display shall also show the price or the amount for which the contract was let and  
659 the commodities covered by the contract. The ~~Department of Administrative Services~~  
660 GSA shall also, within one day after the award or letting of the contract, publish on public  
661 display the names of all persons whose bids, offers, or proposals were rejected by it,  
662 together with a statement giving the reasons for such rejection.

663 (4) The ~~Department of Administrative Services~~ GSA shall canvass the bids, offers, or  
664 proposals and award the contract according to the terms of this part. The ~~Department of~~  
665 ~~Administrative Services~~ GSA shall prepare a register of bids, offers, or proposals which  
666 will become available for public inspection upon request within one day after the  
667 issuance of the ~~department's~~ public notice of intent to award to the successful bidder or  
668 offeror. The bids, offers, or proposals shall not be subject to public disclosure until after  
669 the issuance of the public notice of intent to award a contract to the successful bidder or  
670 offeror except that audited financial statements not otherwise publicly available but  
671 required to be submitted in the bid, offer, or proposal shall not be subject to public  
672 disclosure.

673 (5) Records related to the competitive bidding and proposal process which, if disclosed  
674 prior to the issuance of the public notice of intent to award would undermine the public  
675 purpose of obtaining the best value for this state, shall not be subject to public disclosure  
676 until after the ~~department's~~ issuance of ~~its-~~ the public notice of intent to award a contract  
677 to the successful bidder or offeror. Such records include but are not limited to cost  
678 estimates, bids, proposals, evaluation criteria, vendor evaluations, negotiation documents,  
679 offers and counter-offers, and records revealing preparation for the procurement.

680 (6) A proper bond for the faithful performance of any contract shall be required of the  
681 successful bidder or offeror in the discretion of the ~~Department of Administrative~~  
682 ~~Services~~ GSA. After the contracts have been awarded, the ~~Department of Administrative~~  
683 ~~Services~~ GSA shall certify to the offices, agencies, departments, boards, bureaus,  
684 commissions, institutions, or other entities of the state the sources of the supplies and the  
685 contract price of the various supplies, materials, services, and equipment so contracted  
686 for.

687 (e) On all bids or proposals received or solicited by the ~~Department of Administrative~~  
688 ~~Services~~ GSA, by any office, agency, department, board, bureau, commission, institution,

689 or other entity of the state, or by any person ~~in~~ on behalf of any office, agency, department,  
 690 board, bureau, commission, institution, or other entity of the state except in cases provided  
 691 for in Code Section 50-5-58, the following certificate of independent price determination  
 692 shall be used:

693 'I certify that this bid, offer, or proposal is made without prior understanding, agreement,  
 694 or connection with any corporation, firm, or person submitting a bid, offer, or proposal  
 695 for the same materials, supplies, services, or equipment and is in all respects fair and  
 696 without collusion or fraud. I understand collusive bidding is a violation of state and  
 697 federal law and can result in fines, prison sentences, and civil damage awards. I agree  
 698 to abide by all conditions of this bid, offer, or proposal and certify that I am authorized  
 699 to sign this bid, offer, or proposal for the bidder or offeror.'

700 (f) Notwithstanding any other provision of this article, the commissioner ~~of administrative~~  
 701 ~~services~~ is authorized to promulgate rules and regulations to govern auctions conducted by  
 702 state agencies in which vendors' prices are made public during the bidding process to  
 703 enable the state agency or agencies to seek a lower price. This auction bidding process will  
 704 continue until the lowest price is obtained within the auction's time limit. This auction  
 705 bidding process shall not be used to procure construction services or for any contract for  
 706 goods or services valued at less than \$100,000.00.

707 (g) Any reference in this article to sealed bids or sealed proposals shall not preclude the  
 708 ~~Department of Administrative Services~~ GSA from receiving bids and proposals by way of  
 709 the Internet or other electronic means or authorizing state agencies from receiving bids and  
 710 proposals by way of the Internet or other electronic means; provided, however, any bids  
 711 or proposals received by any state agency by way of any electronic means must comply  
 712 with security standards established by the Georgia Technology Authority.

713 50-5-68.

714 Prospective suppliers may be prequalified for particular types of supplies, services, goods,  
 715 materials, and equipment at the discretion of the ~~Department of Administrative Services~~  
 716 GSA. Solicitation mailing lists of potential contractors shall include, but shall not be  
 717 limited to, such prequalified suppliers. The award of contracts, however, may be  
 718 conditioned upon prequalification.

719 50-5-69.

720 (a) If the needed supplies, materials, equipment, or service can reasonably be expected to  
 721 be acquired for less than \$5,000.00 and is not available on state contracts or through  
 722 statutorily required sources, the purchase may be effectuated without competitive bidding.  
 723 The commissioner ~~of administrative services~~ may by rule and regulation authorize the

724 various offices, agencies, departments, boards, bureaus, commissions, institutions,  
 725 authorities, or other entities of the state to make purchases in their own behalf and may  
 726 provide the circumstances and conditions under which such purchases may be effected.  
 727 In order to assist and advise the commissioner ~~of administrative services~~ in making  
 728 determinations to allow offices, agencies, departments, boards, bureaus, commissions,  
 729 institutions, authorities, or other entities of the state to make purchases in their own behalf,  
 730 there is created a Purchasing Advisory Council consisting of the executive director of the  
 731 Georgia Technology Authority or his or her designee; the director of the Office of Planning  
 732 and Budget or his or her designee; the chancellor of the University System of Georgia or  
 733 his or her designee; the commissioner of technical and adult education or his or her  
 734 designee; the commissioner of transportation or his or her designee; the Secretary of State  
 735 or his or her designee; the commissioner of human services or his or her designee; the  
 736 commissioner of community health or his or her designee; the state accounting officer; the  
 737 state auditor; and one member to be appointed by the Governor. ~~The commissioner of~~  
 738 ~~administrative services shall promulgate the necessary rules and regulations governing~~  
 739 ~~meetings of such council and the method and manner in which such council will assist and~~  
 740 ~~advise the commissioner of administrative services.~~

741 (b) The ~~department~~ GSA shall establish a central bid registry to advertise the various  
 742 procurement and bid opportunities of state government. Such central bid registry shall be  
 743 entitled the Georgia Procurement Registry and shall operate in accordance with appropriate  
 744 rules and regulations applicable to the ~~department's~~ GSA's responsibility to manage the  
 745 state's procurement system. It shall be the responsibility of each agency, department,  
 746 board, commission, authority, and council to report to the ~~department~~ GSA its bid  
 747 opportunities in a manner prescribed by the ~~Department of Administrative Services~~ GSA.  
 748 The commissioner ~~of administrative services~~ is authorized and directed to promulgate rules  
 749 and regulations to carry out this responsibility and shall determine the most economical  
 750 method to conduct public notification of such bid opportunities.

751 (c) The ~~Department of Administrative Services~~ GSA is authorized to permit departments,  
 752 institutions, and agencies of state government to utilize a procurement card that will  
 753 electronically pay and monitor payments by state institutions pursuant to subsection (a) of  
 754 this Code section subject to approval of the state accounting officer and the State  
 755 Depository Board pursuant to the State Depository Board's authority to prescribe cash  
 756 management policies and procedures for state agencies under Code Section 50-17-51. All  
 757 purchases made through procurement ~~card~~ cards shall be included on a monthly summary  
 758 report to be prepared by each state department, institution, and agency in a form to be  
 759 approved by the ~~Department of Administrative Services~~ GSA.

760 (d) The commissioner of ~~administrative services~~ shall promulgate rules and regulations  
761 necessary to carry out the intent of this Code section.

762 (e) Nothing in this Code section shall apply to or affect the laws, rules, and regulations  
763 governing emergency purchases.

764 50-5-70.

765 Boards of education of the various counties of this state may petition the ~~Department of~~  
766 ~~Administrative Services~~ GSA to purchase their supplies, such as school buses, bus bodies,  
767 tires, parts, and other equipment under the rules set out in this part.

768 50-5-71.

769 In case of any emergency arising from any unforeseen causes, including delay by  
770 contractors, delay in transportation, breakdown in machinery, unanticipated volume of  
771 work, or upon the declaration of a state of emergency by the Governor, the ~~Department of~~  
772 ~~Administrative Services~~ GSA or any other office, agency, department, board, bureau,  
773 commission, institution, or other entity of the state to which emergency purchasing powers  
774 have been granted by the ~~Department of Administrative Services~~ GSA shall have power  
775 to purchase in the open market any necessary supplies, materials, services, or equipment  
776 for immediate delivery to any office, agency, department, board, bureau, commission,  
777 institution, or other entity of the state. A report on the circumstances of the emergency and  
778 the transactions thereunder shall be duly recorded in a book or file to be kept by the  
779 ~~Department of Administrative Services~~ GSA.

780 50-5-72.

781 Notwithstanding any other provision of this part or any other law dealing with the subject  
782 matter contained in this Code section to the contrary, all construction or public works  
783 contracts, exceeding a total expenditure of \$100,000.00, of any department, board, bureau,  
784 commission, office, or agency of the state government, except as provided in this Code  
785 section, shall be conducted and negotiated by the ~~Department of Administrative Services~~  
786 GSA in accordance with this part; provided, however, that any expenditure of less than  
787 \$100,000.00 shall still be subject to review and approval by the ~~Department of~~  
788 ~~Administrative Services~~ GSA, which may approve noncompetitive expenditures of up to  
789 \$100,000.00. All advertising costs incurred in connection with such contracts shall be  
790 borne by and paid from the funds appropriated to and available to the department, board,  
791 bureau, commission, office, or agency of the state government for which the contract is  
792 negotiated. The commissioner of ~~administrative services~~ is authorized and directed to  
793 promulgate such rules and regulations as shall carry out the additional duties and

794 responsibilities placed upon the ~~department~~ GSA by this Code section. Nothing contained  
 795 in this Code section shall apply to or affect the Department of Transportation, the several  
 796 public authorities of this state, including the Stone Mountain Memorial Association and the  
 797 Board of Regents of the University System of Georgia, or the expenditure of money  
 798 credited to the account of this state in the Unemployment Trust Fund by the secretary of  
 799 the treasury of the United States pursuant to Section 903 of the Social Security Act and  
 800 appropriated as provided in Code Section 34-8-85. No contract in existence on March 18,  
 801 1964, shall be affected by this Code section and such contract may continue to be utilized.

802 50-5-73.

803 (a) All services provided or goods, wares, or merchandise produced wholly or in part by  
 804 the Georgia Correctional Industries Administration and needed by the departments,  
 805 institutions, and agencies of the state and its political subdivisions supported wholly or in  
 806 part by public funds shall be obtained from the Georgia Correctional Industries  
 807 Administration where such services, goods, wares, or merchandise have been certified in  
 808 writing by the commissioner of corrections as available and of competitive quality and  
 809 price. Where not certified as available from the Georgia Correctional Industries  
 810 Administration, services, goods, wares, or merchandise shall be obtained from other  
 811 agencies or activities of the state which are legally authorized to engage in the provision  
 812 of such and have certified the availability with the advice and consent of the ~~Department~~  
 813 ~~of Administrative Services~~ GSA.

814 (b) The Georgia Correctional Industries Administration and the commissioner of  
 815 corrections shall report to the ~~Department of Administrative Services~~ GSA the certification  
 816 criteria, including but not limited to cost, delivery schedules, and availability within 15  
 817 days of notice of certification.

818 (c) The Georgia Correctional Industries Administration shall notify the ~~Department of~~  
 819 ~~Administrative Services~~ GSA of any changes to certified products or services available  
 820 pursuant to this Code section within 15 days of any such changes.

821 50-5-74.

822 Reserved.

823 50-5-75.

824 The ~~Department of Administrative Services~~ GSA may rent or lease any warehouse space  
 825 necessary for a period not to exceed five years, provided the ~~Department of Administrative~~  
 826 ~~Services~~ GSA may construct any warehouse on state property only.

827 50-5-76.

828 (a) All cigarette tax stamps, loose or smokeless tobacco tax stamps, fertilizer tax tags, and  
 829 other stamps, tags, and paraphernalia evidencing the payment of tax collected by the state  
 830 or any department thereof shall be purchased by the ~~Department of Administrative Services~~  
 831 GSA subject to the requisition of any department of the state requiring the use of the tax  
 832 stamps or tags.

833 (b) Any department requiring tax stamps or stamps, tags, or paraphernalia from the  
 834 ~~Department of Administrative Services~~ GSA shall make a requisition therefor to the  
 835 ~~Department of Administrative Services~~ GSA upon forms prescribed by it, ~~which and the~~  
 836 requisition shall be delivered to the state auditor for compilation and check. The tax  
 837 stamps, fertilizer tax tags, or other stamps, tags, or paraphernalia described in this part and  
 838 purchased by the ~~Department of Administrative Services~~ GSA shall be paid for by the  
 839 department for whose use they are purchased.

840 50-5-77.

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

842 (1) 'Agency' means every state department, agency, board, bureau, and commission  
 843 including without limitation the Board of Regents of the University System of Georgia.

844 (2) 'Benefits based funding project' means any governmental improvement project in  
 845 which payments to vendors depend upon the realization of specified savings or revenue  
 846 gains attributable solely to the improvements, provided that each benefits based funding  
 847 project is structured as follows:

848 (A) The vendor promises, or accepts the condition, that the improvements will generate  
 849 actual and quantifiable savings or enhanced revenues;

850 (B) The agency develops a measurement tool for calculating the savings or enhanced  
 851 revenues realized from the project; and

852 (C) The funding for the project shall be attributable solely to its successful  
 853 implementation for the period specified in the contract.

854 (3) 'External oversight committee' means a committee composed of the ~~executive~~  
 855 ~~director of the Georgia Technology Authority, the commissioner of administrative~~  
 856 ~~services~~ the state accounting officer, the director of the Office of Planning and Budget,  
 857 the state auditor, the Governor's designee, the chairperson of the House Committee on  
 858 Appropriations, and the chairperson of the Senate ~~Finance~~ Appropriations Committee.

859 (4) 'Measurement tool' means the formula used to measure the actual savings or  
 860 enhanced revenues and includes a means for distinguishing enhanced revenue or savings  
 861 from normal activities, including the possibility of no savings or revenue growth or an  
 862 increased expenditure or decline in revenue. Baseline parameters must be defined based

863 on historical costs or revenues for a minimum of one year. The measurement tool shall  
 864 use the baseline parameters to forecast savings or enhanced revenues and to determine  
 865 the overall benefits and fiscal feasibility of the proposed project.

866 (5) 'Special dedicated fund' means any fund established pursuant to this Code section  
 867 from which the vendor or vendors are compensated as part of a benefits based funding  
 868 project. The moneys in the special dedicated fund shall be deemed contractually  
 869 obligated and shall not lapse at the end of each fiscal year.

870 (b) An agency shall be authorized to enter into multiyear lease, purchase, or ~~lease-purchase~~  
 871 lease-purchase contracts of all kinds for the acquisition of goods, materials, real or personal  
 872 property, services, and supplies as benefits based funding projects; provided, however, that  
 873 a condition precedent to the award of the contract is a competitive solicitation in  
 874 compliance with any applicable purchasing laws now or hereafter enacted, including  
 875 without limitation the provisions of this chapter and Chapter 25 of this title; and provided,  
 876 further, that the contract shall contain provisions for the following:

877 (1) The contract shall terminate absolutely and without further obligation on the part of  
 878 the agency at the close of the fiscal year in which it was executed and at the close of each  
 879 succeeding fiscal year for which it may be renewed;

880 (2) The contract shall terminate absolutely and without further obligation on the part of  
 881 the agency at such time as the agency determines that actual savings or incremental  
 882 revenue gains are not being generated to satisfy the obligations under the contract;

883 (3) The contract may be renewed only by a positive action taken by the agency;

884 (4) The contract shall state the total obligation of the agency for repayment for the fiscal  
 885 year of execution and shall state the total obligation for repayment which will be incurred  
 886 in each fiscal year renewal term, if renewed;

887 (5) The term of the contract, including any renewal periods, may not exceed ten years;  
 888 and

889 (6) The agency's financial obligations under the contract are limited to and cannot exceed  
 890 the savings or incremental revenue gains, as calculated using the measurement tool,  
 891 actually generated by the benefits based funding project, even if no savings or enhanced  
 892 revenues are realized from the project.

893 (c) Any contract developed under this Code section containing the provisions enumerated  
 894 in subsection (b) of this Code section shall be deemed to obligate the agency only for those  
 895 sums payable during the fiscal year of execution or, in the event of a renewal by the  
 896 agency, for those sums payable in the individual fiscal year renewal term and only to the  
 897 extent that savings or enhanced revenues are attributable to the benefits based funding  
 898 project calculated using the measurement tool.

- 899 (d) No contract developed and executed pursuant to this Code section shall be deemed to  
900 create a debt of the state for the payment of any sum beyond the fiscal year of execution  
901 or, in the event of a renewal, beyond the fiscal year of such renewal.
- 902 (e) Any such contract may provide for the payment by the agency of interest or the  
903 allocation of a portion of the contract payment to interest, provided that the contract is in  
904 compliance with this Code section.
- 905 (f) During the term of the contract, including any renewal periods, the agency shall, using  
906 the measurement tool, periodically calculate the total amount of the savings or enhanced  
907 revenues attributable to the implementation of the benefits based funding project. To the  
908 extent that savings or enhanced revenues are realized, the agency shall transfer from its  
909 budget into the special dedicated fund an amount up to but not to exceed the amount owed  
910 on the contract for the then current fiscal year term's obligation to provide for payments.
- 911 (g) During the term of the contract, including any renewal periods, the agency shall, using  
912 the measurement tool, calculate the total amount of the savings or enhanced revenues  
913 attributable to the implementation of the benefits based funding project during the then  
914 current fiscal year at least 30 days prior to the end of the then current fiscal year. If the  
915 agency renews the contract and to the extent that savings or enhanced revenues are realized  
916 in excess of the amount due on the contract in the then current fiscal year term, the agency  
917 shall transfer prior to the end of the then current fiscal year from its budget into the special  
918 dedicated fund an amount up to but not to exceed the next fiscal year's obligation to  
919 provide for future payments.
- 920 (h) Promptly upon nonrenewal, termination, or expiration of the contract, any moneys  
921 remaining in the special dedicated fund shall be deposited in the general fund of the state.
- 922 (i) Each agency is authorized to accept title to property subject to the benefits based  
923 funding contract and is authorized to transfer title back to the vendor in the event the  
924 contract is not fully consummated.
- 925 (j) The external oversight committee shall have the responsibility to review and advise:  
926 (1) The overall feasibility of the benefits based funding project;  
927 (2) The measurement tool;  
928 (3) The projected savings or enhanced revenues; and  
929 (4) The dollars to be set aside for vendor payments.
- 930 (k) Each benefits based funding project and the proposed contract shall be approved by the  
931 external oversight committee prior to execution of the contract and prior to any renewal  
932 thereof.
- 933 (l) Each agency shall prepare an annual report to be sent to the external oversight  
934 committee, the Governor, and the General Assembly on all contracts entered into pursuant

935 to this Code section, describing the benefits based funding project, its progress, its savings  
 936 or enhanced revenues, and such other information as may be relevant.

937 50-5-78.

938 ~~(a) Neither the commissioner of administrative services, nor any assistant of his,~~ nor any  
 939 employee of the ~~department~~ GSA shall be financially interested or have any personal  
 940 beneficial interest either directly or indirectly in the purchase of or contract for any  
 941 materials, equipment, or supplies, nor in any such firm, corporation, partnership, or  
 942 association furnishing any such supplies, materials, or equipment to the state government  
 943 or any of its departments, institutions, or agencies. Except as provided in subsection (b)  
 944 of this Code section, it shall be unlawful for the commissioner ~~of administrative services~~  
 945 ~~or any of his assistants~~ or any employee of the ~~department~~ GSA to accept or receive,  
 946 directly or indirectly, from any person, firm, or corporation to whom any contract may be  
 947 awarded any money or anything of more than nominal value or any promise, obligation,  
 948 or contract for future reward or compensation.

949 (b) Nothing in this Code section shall preclude the commissioner ~~or any of his assistants~~  
 950 or any employee of the ~~department~~ GSA from attending seminars, courses, lectures,  
 951 briefings, or similar functions at any manufacturer's or vendor's facility or at any other  
 952 place if any such seminar, course, lecture, briefing, or similar function is for the purpose  
 953 of furnishing the commissioner, ~~assistant,~~ or employee with knowledge and information  
 954 relative to the manufacturer's or vendor's products or services and is one which the  
 955 commissioner determines would be of benefit to the ~~department~~ GSA and to the state. In  
 956 connection with any such seminar, course, lecture, briefing, or similar function, nothing in  
 957 this Code section shall preclude the commissioner, ~~assistant,~~ or employee from receiving  
 958 meals from a manufacturer or vendor. Nothing in this Code section shall preclude the  
 959 commissioner, ~~assistant,~~ or employee from receiving educational materials and business  
 960 related items of not more than nominal value from a manufacturer or vendor.

961 (c) Nothing contained in this Code section shall permit the commissioner, ~~assistant,~~ or  
 962 employee to accept free travel from the manufacturer or vendor outside the State of  
 963 Georgia or free lodging in or out of the State of Georgia.

964 (d) Any person who violates subsection (a) of this Code section shall be guilty of a  
 965 misdemeanor. Any person who violates subsection (a) of this Code section shall be subject  
 966 to being removed from office.

967 50-5-79.

968 Whenever any department, institution, or agency of the state government required by this  
 969 part and the rules and regulations adopted pursuant to this part applying to the purchase of

970 supplies, materials, or equipment through the ~~Department of Administrative Services~~ GSA  
971 shall contract for the purchase of such supplies, materials, or equipment contrary to this  
972 part or the rules and regulations made pursuant to this part, such contract shall be void and  
973 of no effect. If any official of such department, institution, or agency willfully purchases  
974 or causes to be purchased any supplies, materials, or equipment contrary to this part or the  
975 rules and regulations made pursuant to this part, such official shall be personally liable for  
976 the cost thereof; and, if such supplies, materials, or equipment are so unlawfully purchased  
977 and paid for out of the state funds, the amount thereof may be recovered in the name of the  
978 state in an appropriate action instituted therefor.

979 50-5-80.

980 (a) As used in this Code section, the term 'person' includes natural persons, firms,  
981 partnerships, corporations, or associations.

982 (b) It shall be unlawful for any person to obtain for his or her own personal benefit, or for  
983 the benefit of any other person, any goods, services or other things of value, through any  
984 resource or method established pursuant to this article, including, but not limited to,  
985 purchase orders, government contracts, credit cards, charge cards, or debit cards.

986 (c)(1) Any person who violates subsection (b) of this Code section by obtaining any  
987 goods, services, or other things of value in the aggregate value of less than \$500.00 shall  
988 be guilty of a misdemeanor of a high and aggravated nature which shall be punishable by  
989 not more than 12 months' imprisonment and a fine not to exceed \$5,000.00. In addition  
990 to the foregoing criminal penalties, any such person shall also be subject to immediate  
991 termination of state employment and shall owe restitution to the state equal to the amount  
992 of such unlawful purchases, plus interest to be assessed at a rate of 12 percent per annum  
993 to be calculated from the date each unlawful purchase was made.

994 (2) Any person who violates subsection (b) of this Code section by obtaining any goods,  
995 services, or other things of value in the aggregate value of \$500.00 or more shall be guilty  
996 of a felony which shall be punishable by not less than one nor more than 20 years'  
997 imprisonment and a fine not to exceed \$50,000.00 or triple the amount of such unlawful  
998 purchases, whichever is greater. In addition to the foregoing criminal penalties, any such  
999 person shall also be subject to immediate termination of state employment and shall owe  
1000 restitution equal to the amount of such unlawful purchases, plus interest to be assessed  
1001 at a rate of 12 percent per annum to be calculated from the date each such unlawful  
1002 purchase was made.

1003 (d)(1) Any person who knowingly assists another person in violating subsection (b) of  
1004 this Code section shall be guilty of a misdemeanor of a high and aggravated nature which  
1005 shall be punishable by not more than 12 months' imprisonment and a fine not to exceed

1006 \$5,000.00 if the unlawfully purchased goods, services, or other things of value are valued  
 1007 in the aggregate of less than \$500.00. In addition to such criminal penalties, any such  
 1008 person shall also be subject to immediate termination of state employment and shall owe  
 1009 restitution equal to the amount of such unlawful purchases, plus interest to be assessed  
 1010 at a rate of 12 percent per annum to be calculated from the date each unlawful purchase  
 1011 was made.

1012 (2) Any person who knowingly assists another person in violating subsection (b) of this  
 1013 Code section shall be guilty of a felony which shall be punishable by not less than one  
 1014 nor more than 20 years' imprisonment and a fine not to exceed \$50,000.00 or triple the  
 1015 amount of the unlawful purchases, whichever is greater, if the goods, services, or other  
 1016 things of value are in the aggregate value of \$500.00 or more. In addition to such  
 1017 criminal penalties, any such person shall also be subject to immediate termination of state  
 1018 employment and shall owe restitution for the amount of such unlawful purchases, plus  
 1019 interest to be assessed at a rate of 12 percent per annum to be calculated from the date  
 1020 each unlawful purchase was made.

1021 (e) This Code section shall not apply to any official employee purchase program for  
 1022 technology resources facilitated by and through the Georgia Technology Authority for state  
 1023 employees and public school employees of county or independent boards of education.

1024 50-5-81.

1025 (a) It shall be unlawful for the state; any branch, department, agency, board, or  
 1026 commission of the state; any county, municipality, board of education, or other political  
 1027 subdivision; or any officer, agent, or employee of any of the foregoing to purchase or  
 1028 authorize the purchase of any beef other than beef raised and produced within the United  
 1029 States when the purchase is to be made with governmental funds. This Code section shall  
 1030 not apply to canned meat which is not available from a source within the United States and  
 1031 which is not processed in the United States.

1032 (b) Any person who violates subsection (a) of this Code section shall be guilty of a  
 1033 misdemeanor.

1034 50-5-82.

1035 (a) As used in this Code section, the term 'state agency' means any authority, board,  
 1036 department, instrumentality, institution, agency, or other unit of state government. 'State  
 1037 agency' shall not include any county, municipality, or local or regional governmental  
 1038 authority.

1039 (b) On or after May 13, 2004, the ~~Department of Administrative Services~~ GSA and any  
 1040 other state agency to which this article applies shall not enter into a state-wide contract or

1041 agency contract for goods or services, or both, in an amount exceeding \$100,000.00 with  
 1042 a nongovernmental vendor if the vendor or an affiliate of the vendor is a dealer as defined  
 1043 in paragraph (3) of Code Section 48-8-2, or meets one or more of the conditions  
 1044 thereunder, but fails or refuses to collect sales or use taxes levied under Chapter 8 of Title  
 1045 48 on its sales delivered to Georgia.

1046 (c) The ~~Department of Administrative Services~~ GSA and any other state agency may  
 1047 contract for goods or services, or both, with a source prohibited under subsection (b) of this  
 1048 Code section in the event of an emergency or where the nongovernmental vendor is the  
 1049 sole source of such goods or services or both.

1050 (d) The determination of whether a vendor is a prohibited source shall be made by the  
 1051 Department of Revenue, which shall notify the ~~Department of Administrative Services~~  
 1052 GSA and any other state agency of its determination within three business days of a request  
 1053 for such determination.

1054 (e) Prior to awarding a contract, the ~~Department of Administrative Services~~ GSA and any  
 1055 other state agency to which this article applies shall provide the Department of Revenue  
 1056 the name of the nongovernmental vendor awarded the contract, the name of the vendor's  
 1057 affiliate, and the certificate of registration number as provided for under Code Section  
 1058 48-8-59 for the vendor and affiliate of the vendor.

1059 50-5-83.

1060 (a) As used in this Code section, the term:

1061 (1) ~~'Department'~~ means the ~~Department of Administrative Services~~.

1062 (2) ~~'Purchasing~~ purchasing card' means a credit or debit card issued by a credit card  
 1063 company, bank, or other financial institution and provided by the State of Georgia or any  
 1064 of its departments or agencies under the State of Georgia Purchasing Card Program to  
 1065 state employees for the purpose of making purchases on behalf of such departments or  
 1066 agencies or the state.

1067 (b) Any purchasing card program established by the ~~department~~ GSA or by any other  
 1068 department or agency of the state shall conform to the following requirements:

1069 (1) Purchasing cards shall only be issued to state employees whose job duties require the  
 1070 use of a purchasing card;

1071 (2) Each department or agency of the state that allows the use of purchasing cards by its  
 1072 employees shall develop policies and procedures consistent with guidelines developed  
 1073 jointly by the ~~department~~ state accounting officer and the commissioner pursuant to this  
 1074 Code section to identify those job positions within each department or agency of the state  
 1075 that would require the use of a purchasing card;

- 1076 (3) Each employee receiving a purchasing card shall be required to sign an ethical  
1077 behavior agreement for the use of the card which shall be developed by the ~~department~~  
1078 GSA;
- 1079 (4) Each department or agency of the state that allows its employees to use purchasing  
1080 cards shall provide for the review of all purchases on such cards, shall maintain receipts  
1081 for each purchase, and shall maintain a log showing each purchase, the relevant vendor's  
1082 name, the item purchased, the date of the purchase, the amount of the purchase, the name  
1083 of the employee making the purchase, and any other information that shall be specified  
1084 by the ~~department~~ GSA;
- 1085 (5) Purchases made on purchasing cards shall be reviewed and approved by supervisory  
1086 personnel at least quarterly;
- 1087 (6) Purchasing cards shall not be used for items over \$5,000.00 unless the item is:  
1088 (A) Purchased pursuant to a valid state contract; and  
1089 (B) Purchased in compliance with state procurement policy;
- 1090 (7) Purchasing cards shall not be used to purchase gift cards;
- 1091 (8) Purchasing cards shall not be used to purchase alcoholic beverages, tobacco products,  
1092 or personal items that are not job related, and state contracts for purchasing cards shall  
1093 contain such prohibitions on the use of such purchasing cards;
- 1094 (9) The ~~department~~ GSA shall develop a training manual on the use of purchasing cards  
1095 which shall instruct users of purchasing cards on the maximum value utilization of such  
1096 purchasing cards and employees who use such purchasing cards shall comply with the  
1097 provisions of such manual;
- 1098 (10) Departments and agencies of the state shall review not less than annually all  
1099 purchasing cards issued to their employees and shall eliminate purchasing cards for  
1100 employees who demonstrate consistently low usage of such purchasing cards;
- 1101 (11) Departments and agencies of the state which have more than 100 purchasing cards  
1102 issued to employees shall establish goals to reduce such number of purchasing cards by  
1103 at least 10 percent by December 31, 2009;
- 1104 (12) Employees hired for job positions for which purchasing cards are issued shall be  
1105 subjected to criminal background checks before hiring, and a credit check shall be  
1106 completed by the hiring department or agency on all employees to whom a purchasing  
1107 card is issued prior to issue;
- 1108 (13) Purchasing cards shall be issued only to employees of departments and agencies of  
1109 the state and no purchasing cards shall be issued to employees of foundations associated  
1110 with departments and agencies of the state;

1111 (14) Each purchase made with a purchasing card shall be accompanied by a receipt or  
 1112 other documentation listing each item purchased, the purchase price for each item, and  
 1113 any taxes, fees, or other amounts paid in connection with such purchase; and

1114 (15) ~~With respect to any purchase made with a purchasing card, if~~ If the employee to  
 1115 whom ~~such a purchasing~~ card was issued does not provide documentation meeting the  
 1116 requirements of paragraph (14) of this subsection to his or her supervisor for recording  
 1117 on the purchasing log required to be maintained as provided in paragraph (4) of this  
 1118 subsection, such employee shall be personally responsible for such purchase.

1119 (c) Any employee of a department or agency of the state who knowingly:

1120 (1) Uses a purchasing card for personal gain;

1121 (2) Purchases items on such purchasing card that are not authorized for purchase by such  
 1122 employee;

1123 (3) Purchases items in violation of this Code section; or

1124 (4) Retains for such employee's personal use a rebate or refund from a vendor, bank, or  
 1125 other financial institution for a purchase or the use of a purchasing card

1126 shall be subject to immediate termination of employment, restitution for the amount of the  
 1127 improper purchases, and criminal prosecution. Any person violating this subsection shall  
 1128 be guilty of a misdemeanor of a high and aggravated nature if the value of the items  
 1129 improperly purchased or retained is less than \$500.00 in the aggregate and shall be guilty  
 1130 of a felony if the value of the items improperly purchased or retained is \$500.00 or more  
 1131 in the aggregate and, upon conviction of such felony, shall be sentenced to not less than  
 1132 one nor more than 20 years' imprisonment, a fine not to exceed \$50,000.00, or both.

1133 (d) An employee's supervisor who knowingly intentionally, willfully, wantonly, or  
 1134 recklessly allows or who conspires with an employee who is issued a purchasing card to  
 1135 violate subsection (c) of this Code section shall be subject to immediate termination of  
 1136 employment and criminal prosecution. Any person violating this subsection shall be guilty  
 1137 of a misdemeanor of a high and aggravated nature if the value of the items improperly  
 1138 purchased or retained is less than \$500.00 in the aggregate and shall be guilty of a felony  
 1139 if the value of the items improperly purchased or retained is \$500.00 or more in the  
 1140 aggregate and, upon conviction of such felony, shall be sentenced to not less than one nor  
 1141 more than 20 years' imprisonment, a fine not to exceed \$50,000.00, or both.

1142 (e) The ~~department~~ commissioner is authorized to promulgate such rules and regulations  
 1143 as necessary to implement this Code section.

1144 50-5-84.

1145 (a) As used in this Code section, the term:

- 1146 (1) 'Business operations' means engaging in commerce in any form in Sudan, including,  
1147 but not limited to, acquiring, developing, maintaining, owning, selling, possessing,  
1148 leasing, or operating equipment, facilities, personnel, products, services, personal  
1149 property, real property, or any other apparatus of business or commerce.
- 1150 (2) 'Company' means any sole proprietorship, organization, association, corporation,  
1151 partnership, joint venture, limited partnership, limited liability partnership, limited  
1152 liability company, or other entity or business association, including all wholly owned  
1153 subsidiaries, majority owned subsidiaries, parent companies, or affiliates of such entities  
1154 or business associations, that exists for the purpose of making profit.
- 1155 (3) 'Government of Sudan' means the government in Khartoum, Sudan, that is led by the  
1156 National Congress Party, formerly known as the National Islamic Front, or any successor  
1157 government formed on or after October 13, 2006, including the coalition National Unity  
1158 Government agreed upon in the Comprehensive Peace Agreement for Sudan, and does  
1159 not include the regional government of southern Sudan.
- 1160 (4) 'Marginalized populations of Sudan' include, but are not limited to, the portion of the  
1161 population in the Darfur region that has been genocidally victimized; the portion of the  
1162 population of southern Sudan victimized by Sudan's north-south civil war; the Beja,  
1163 Rashidiya, and other similarly underserved groups of eastern Sudan; the Nubian and other  
1164 similarly underserved groups in Sudan's Abyei, southern Blue Nile, and Nuba Mountain  
1165 regions; and the Amri, Hamadab, Manasir, and other similarly underserved groups of  
1166 northern Sudan.
- 1167 (5) 'Military equipment' means weapons, arms, military supplies, and equipment that  
1168 may readily be used for military purposes, including, but not limited to, radar systems,  
1169 military-grade transport vehicles, or supplies or services sold or provided directly or  
1170 indirectly to any force actively participating in armed conflict in Sudan.
- 1171 (6) 'Mineral-extraction activities' include the exploring, extracting, processing,  
1172 transporting, or wholesale selling or trading of elemental minerals or associated metal  
1173 alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron  
1174 ore, silver, tungsten, uranium, and zinc.
- 1175 (7)(A) 'Oil related activities' include:
- 1176 (i) Exporting, extracting, producing, refining, processing, exploring for, transporting,  
1177 selling, or trading oil; and
- 1178 (ii) Constructing, maintaining, or operating a pipeline, refinery, or other oil field  
1179 infrastructure.
- 1180 (B) A company shall not be considered to be involved in oil related activities if:

- 1181 (i) The company is involved in the retail sale of gasoline or related consumer  
 1182 products in Sudan but is not involved in any other activity described in subparagraph  
 1183 (A) of this paragraph; or
- 1184 (ii) The company is involved in leasing or owns rights to an oil block in Sudan but  
 1185 is not involved in any other activity described in subparagraph (A) of this paragraph.
- 1186 (8) 'Power-production activities' means any business operations that involve a project  
 1187 commissioned by the National Electricity Corporation of Sudan or other similar entity of  
 1188 the government of Sudan whose purpose is to facilitate power generation and delivery,  
 1189 including establishing power-generating plants or hydroelectric dams, selling or installing  
 1190 components for the project, or providing service contracts related to the installation or  
 1191 maintenance of the project.
- 1192 (9) 'Scrutinized company' means a company that is conducting business operations in  
 1193 Sudan that is involved in power production activities, mineral extraction activities,  
 1194 ~~oil-related~~ oil related activities, or the production of military equipment, but excludes a  
 1195 company that can demonstrate any of the following:
- 1196 (A) Its business operations are conducted under contract directly and exclusively with  
 1197 the regional government of southern Sudan;
- 1198 (B) Its business operations are conducted under a license from the Office of Foreign  
 1199 Assets Control or are expressly exempted under federal law from the requirement to be  
 1200 conducted under such a license;
- 1201 (C) Its business operations consist of providing goods or services to marginalized  
 1202 populations of Sudan;
- 1203 (D) Its business operations exclusively consist of providing goods or services to an  
 1204 internationally recognized peacekeeping force or humanitarian organization;
- 1205 (E) Its business operations consist of providing goods or services that are used only to  
 1206 promote health or education;
- 1207 (F) Its business operations with the ~~Government~~ government of Sudan will be  
 1208 voluntarily suspended for the entire duration of the contract for goods or services for  
 1209 which they have bid on, or submitted a proposal for, a contract with a state agency; or
- 1210 (G) It has adopted, publicized, and is implementing a formal plan to cease business  
 1211 operations within one year and to refrain from conducting any new business operations.
- 1212 (b)(1) A scrutinized company shall be ineligible to, and shall not, bid on or submit a  
 1213 proposal for a contract with a state agency for goods or services.
- 1214 (2) Notwithstanding paragraph (1) of this subsection, the ~~Department of Administrative~~  
 1215 ~~Services~~ GSA may permit a scrutinized company, on a case-by-case basis, to bid on or  
 1216 submit a proposal for a contract with a state agency for goods or services if it is in the

1217 best interests of the state to permit the scrutinized company to bid on or submit a proposal  
 1218 for one or more contracts with a state agency for goods or services.

1219 (3) In making this determination, the ~~Department of Administrative Services~~ GSA may  
 1220 utilize the following resources:

1221 (A) Verification by an independent third party or nonprofit organization that a  
 1222 company is either:

1223 (i) Undertaking significant humanitarian efforts in conjunction with an international  
 1224 organization, the ~~Government~~ government of Sudan, the regional government of  
 1225 southern Sudan, or a nonprofit organization to benefit one or more marginalized  
 1226 populations of Sudan. The party or organization providing the verification or an  
 1227 independent third party shall evaluate and certify that the significant humanitarian  
 1228 efforts are substantial in relation to the company's Sudan business operations; or

1229 (ii) Through engagement with the ~~Government~~ government of Sudan, materially  
 1230 improving conditions for the genocidally victimized population in Darfur; and

1231 (B) A National Interest Waiver issued by the President of the United States excluding  
 1232 a company from the federal contract prohibitions provisions of the Sudan  
 1233 Accountability and Divestment Act (Public Law 110-174).

1234 (c)(1) A state agency shall require a company that submits a bid or proposal ~~with respect~~  
 1235 ~~to~~ for a contract for goods or services, that currently or within the previous three years  
 1236 has had business activities or other operations outside of the United States, to certify that  
 1237 the company is not a scrutinized company.

1238 (2) A state agency shall not require a company that submits a bid or proposal ~~with~~  
 1239 ~~respect to~~ for a contract for goods or services, and that currently or within the previous  
 1240 three years has had business activities or other operations outside of the United States,  
 1241 to certify that the company is not a scrutinized company, if the company has obtained  
 1242 permission to bid on or submit a proposal for a contract with a state agency for goods or  
 1243 services pursuant to paragraph (2) of subsection (b) of this Code section.

1244 (d)(1) Not later than August 1, 2009, the Department of Administrative Services shall  
 1245 ~~file~~ have filed a written notice to the United States Attorney General detailing the  
 1246 requirements contained in this Code section, as required by the federal Sudan  
 1247 Accountability and Divestment Act of 2007 (P. L. No. 110-174).

1248 (2) Annually thereafter, the ~~Department of Administrative Services~~ GSA shall file a  
 1249 publicly available report to the General Assembly and the United States Attorney General  
 1250 outlining the actions taken under this Code section.

1251 (3) The ~~Department of Administrative Services~~ GSA shall report to the Attorney General  
 1252 of Georgia the names of companies determined to have submitted false certifications  
 1253 under subsection (c) of this Code section, together with information as to the false

1254 certification, and the Attorney General shall determine whether to bring a civil action  
 1255 against the companies. The companies shall pay all costs or fees incurred in a civil  
 1256 action, including those for investigations that led to the discovery of a false certification.

1257 (e) If the ~~Department of Administrative Services~~ GSA determines that a company has  
 1258 submitted a false certification under subsection (c) of this Code section:

1259 (1) The company shall be liable for a civil penalty in an amount that is equal to the  
 1260 greater of \$250,000.00 or twice the amount of the contract for which a bid or proposal  
 1261 was submitted;

1262 (2) The state agency or the ~~Department of Administrative Services~~ GSA may terminate  
 1263 the contract with the company; and

1264 (3) The company shall be ineligible to, and shall not, bid on a state contract for a period  
 1265 of not less than three years from the date the state agency determines that the company  
 1266 submitted the false certification.

1267 The ~~Department of Administrative Services~~ GSA shall report to the Attorney General the  
 1268 name of the company that the ~~Department of Administrative Services~~ GSA determined had  
 1269 submitted a false certification under subsection (c) of this Code section, together with its  
 1270 information as to the false certification, and the Attorney General shall determine whether  
 1271 to bring a civil action against such company. If such company is found to have submitted  
 1272 a false certification, such company shall be ordered to pay all costs and fees incurred by  
 1273 the state in the civil action, including all costs incurred by the state agency and the  
 1274 ~~Department of Administrative Services~~ GSA for investigations that led to the finding of the  
 1275 false certification and all costs and fees incurred by the Attorney General.

1276 (f) The General Assembly shall periodically review this Code section and determine if any  
 1277 of the following events have occurred which should be construed and deemed to be a basis  
 1278 for repealing this Code section:

1279 (1) The Congress or President of the United States declares the Darfur genocide has been  
 1280 halted for at least 12 months;

1281 (2) The United States revokes all sanctions imposed against the ~~Government~~ government  
 1282 of Sudan;

1283 (3) The President of the United States has certified to Congress that the ~~Government~~  
 1284 government of Sudan has honored its commitments to do all of the following:

1285 (A) Abide by United Nations Security Council Resolution 1769 (2007);

1286 (B) Cease attacks on civilians;

1287 (C) Demobilize and demilitarize the Janjaweed and associated militias;

1288 (D) Grant free and unfettered access for delivery of humanitarian assistance; and

1289 (E) Allow for the safe and voluntary return of refugees and internally displaced  
 1290 persons;

1291 (4) The Congress or President of the United States, through legislation or executive  
 1292 order, declares the contract prohibition of the type provided for in this Code section  
 1293 interferes with the conduct of United States foreign policy; or  
 1294 (5) Such other circumstances as the General Assembly determines to warrant the  
 1295 discontinuance of the provisions of this Code section.

1296 Part 2

1297 50-5-100.

1298 The ~~Department of Administrative Services~~ GSA is authorized to permit local political  
 1299 subdivisions, on an optional basis, to purchase their supplies through the state.

1300 50-5-101.

1301 The governing authorities of each of the local political subdivisions in this state shall have  
 1302 the right, from time to time, to determine through study whether an overall substantial price  
 1303 advantage will result to a political subdivision by the means of a local political subdivision  
 1304 either alone or in conjunction with another political subdivision bidding through the  
 1305 ~~Department of Administrative Services~~ GSA on standard items of equipment, supplies, or  
 1306 services or other standard expenses ordinarily needed, procured, or incurred by such  
 1307 governments without a sacrifice of safety or quality. If the governing authority of any  
 1308 political subdivision shall determine that such a price advantage may be obtained by such  
 1309 means on any one or more of such items or expenses, the governing authority or authorities  
 1310 shall make this fact known to the ~~Department of Administrative Services~~ GSA. After  
 1311 receipt of such notice from the political subdivisions, the ~~Department of Administrative~~  
 1312 ~~Services~~ GSA shall, after consultation with the governing authorities, establish sets of  
 1313 uniform standard specifications for such item or items as may be reasonably required in  
 1314 order to meet the needs and requirements of the requesting political subdivision. The  
 1315 governing authorities of the requesting political subdivision shall, at such times as the  
 1316 ~~Department of Administrative Services~~ GSA shall prescribe, report its probable annual  
 1317 requirements for the standard items to the ~~Department of Administrative Services~~ GSA and  
 1318 the requested time for delivery of the items. The ~~Department of Administrative Services~~  
 1319 GSA shall compile the requirements together with such other information as may be  
 1320 needed for the purpose of advertising for bids for a uniform state price on the items.

1321 50-5-102.

1322 The ~~Department of Administrative Services~~ GSA shall advertise for bids for supply of such  
 1323 items in the same manner followed for state purchases; provided, however, that the

1324 ~~Department of Administrative Services~~ GSA shall inform prospective bidders that the bid  
1325 requested is for the furnishing of the items to the designated political subdivisions at the  
1326 times specified on the basis of a single state price applicable to all such local political  
1327 subdivisions; that payment for the items as may be purchased by the political subdivisions  
1328 shall be made by the respective political subdivision to the bidder; that no guarantee is  
1329 made that any purchase will be made from the successful bidder as a result of such bid; and  
1330 such other information as may be appropriate under the circumstances. The ~~Department~~  
1331 ~~of Administrative Services~~ GSA shall, upon receipt of bids, process the same in the same  
1332 manner followed for state purchases and promptly notify the governing authorities of the  
1333 political subdivisions of the name of the successful bidder, the bid price, the terms of  
1334 delivery guaranteed by the successful bidder, and any other pertinent information. The  
1335 commissioner ~~of administrative services~~ shall prescribe regulations necessary for  
1336 implementation and enforcement of this part and is authorized to establish minimum  
1337 standards and uniform standard specifications and procedures for the purchase and  
1338 distribution of equipment, supplies, services, and other expenses for the local political  
1339 subdivisions of this state.

1340 50-5-103.

1341 Notwithstanding any law to the contrary, the ~~Department of Administrative Services~~ GSA,  
1342 upon receiving a request to do so from a political subdivision, may purchase for the  
1343 political subdivision in the name of the state any motor vehicle, material, equipment, or  
1344 supplies desired by the political subdivision. The commissioner ~~of administrative services~~  
1345 is authorized to prescribe such rules, regulations, and procedures as he or she shall deem  
1346 advisable concerning the purchase of motor vehicles, material, equipment, and supplies for  
1347 the political subdivisions. However, no motor vehicle, material, equipment, or supplies  
1348 shall be purchased in accordance with this Code section until the political subdivision shall  
1349 place in the hands of the ~~Department of Administrative Services~~ GSA a certified or  
1350 cashier's check in an amount sufficient to cover the purchase price of the motor vehicle,  
1351 material, equipment, or supplies. The ~~Department of Administrative Services~~ GSA is  
1352 authorized and empowered to execute the necessary documents to divest the state of all title  
1353 in and to such motor vehicles, material, equipment, or supplies, and to vest in the political  
1354 subdivision for whom the motor vehicle, material, equipment, or supplies were purchased  
1355 all such rights in and title to the vehicles, material, equipment, or supplies.

## Part 3

1356

1357 50-5-120.

1358 This part shall be known and may be cited as 'The Small Business Assistance Act of 1975.'

1359 50-5-121.

1360 For the purposes of this part, the term:

1361 (1) ~~'Department' means the Department of Administrative Services.~~1362 (2) ~~'Small 'small~~ business means a business which is independently owned and operated.

1363 In addition, such business must have either fewer than 100 employees or less than \$1

1364 million in gross receipts per year.

1365 50-5-122.

1366 The legislative intent of this part is declared to be as follows: The most important element  
1367 of the American economic system of private enterprise is free and vigorous competition.1368 Only through the existence of free and vigorous competition can free entry into business  
1369 and opportunities for personal initiative and individual achievement be assured. The  
1370 preservation and expansion of such competition is essential for our economic well-being.1371 In order to encourage such competition it is the declared policy of the state to ensure that  
1372 a fair proportion of the total purchases and contracts or subcontracts for property,  
1373 commodities, and services for the state be placed with small businesses so long as the  
1374 commodities and services of small businesses are competitive as to price and quality.

1375 50-5-123.

1376 There is created an advisory council to the ~~department~~ GSA to be composed of  
1377 representatives of designated small business enterprises to be named as follows: five by the  
1378 Governor, two each by the President of the Senate and the Speaker of the House of  
1379 Representatives, and one by the commissioner ~~of administrative services~~ to serve ex officio  
1380 as ~~chairman~~ chairperson of the council. The members of the council shall serve without  
1381 compensation. The council shall meet at least once monthly, or more often when  
1382 necessary, at the call of the ~~chairman~~ chairperson in consultation with the commissioner  
1383 ~~of administrative services~~ or his or her designee who shall also serve without additional  
1384 compensation as executive director of the council.

1385 50-5-124.

1386 The council shall make a written report to the Governor, the President of the Senate, the  
1387 Speaker of the House of Representatives, and the ~~chairmen~~ chairpersons of the Senate

1388 ~~Committee on~~ Insurance and Labor Committee and the House Committee on Economic  
 1389 Development and Tourism ~~Committee~~ at least once each year, such report to be made no  
 1390 later than December 1. The report shall advise the Governor, the Speaker, the President,  
 1391 and the designated ~~chairmen~~ chairpersons concerning progress toward achieving the  
 1392 legislative intent as set forth in Code Section 50-5-122 and shall contain such  
 1393 recommendations for legislation as the council ~~herein provided for~~ deems proper.

1394 Part 4

1395 50-5-130.

1396 The General Assembly recognizes that the preservation and expansion of the American  
 1397 economic system of private enterprise is through free competition, but it also recognizes  
 1398 that the security and well-being brought about by such competition cannot be realized  
 1399 unless the actual and potential capacity of minority business enterprises is encouraged and  
 1400 developed. Therefore, it is the intent of the General Assembly that the state define a  
 1401 'minority business enterprise' for purposes of representation in the area of procurement of  
 1402 state contracts for construction, services, equipment, and goods.

1403 50-5-131.

1404 As used in this part, the term:

1405 (1) 'Minority' means an individual who is a member of a race which comprises less than  
 1406 50 percent of the total population of the state.

1407 (2) 'Minority business enterprise' means a small business concern which is owned and  
 1408 controlled by one or more minorities and is authorized to do and is doing business under  
 1409 the laws of this state, paying all taxes duly assessed, and domiciled within this state.

1410 (3) 'Owned and controlled' means a business:

1411 (A) Which is at least 51 percent owned by one or more minorities or, in the case of a  
 1412 publicly owned business, at least 51 percent of all classes or types of the stock is owned  
 1413 by one or more minorities; and

1414 (B) Whose management and daily business operations are controlled by one or more  
 1415 minorities.

1416 50-5-132.

1417 (a) Any minority business enterprise that desires to claim such status under any law of this  
 1418 state or any regulation promulgated pursuant thereto shall first apply for certification, in  
 1419 addition to any other certification required by the provisions of 49 C.F.R. 23, to the  
 1420 ~~Department of Administrative Services~~ GSA.

- 1421 (b) The ~~Department of Administrative Services~~ GSA shall certify a business ~~which meets~~  
 1422 has met the eligibility requirement of this part to qualify as a minority business enterprise.  
 1423 To qualify as a minority business enterprise, the business shall:
- 1424 (1) Be a minority business enterprise;
  - 1425 (2) Submit any documentary evidence to support its status as a minority business  
 1426 enterprise;
  - 1427 (3) Sign an affidavit stating that it is a minority business enterprise;
  - 1428 (4) Be qualified to bid pursuant to the provisions of the ~~Department of Administrative~~  
 1429 ~~Services~~ GSA and other state agencies; and
  - 1430 (5) Present:
    - 1431 (A) An application, including the entire business history of the operation;
    - 1432 (B) Birth certificates for all minority principals;
    - 1433 (C) If Native American, a tribal registration card or certificate;
    - 1434 (D) Current resumes on all principals, key managers, and other key personnel;
    - 1435 (E) A current financial statement;
    - 1436 (F) Proof of investment by principals;
    - 1437 (G) Loan agreements;
    - 1438 (H) Lease or rental agreement for space and equipment;
    - 1439 (I) Evidence of latest bond;
    - 1440 (J) If the applicant is a sole proprietor, a copy of a blank signature card;
    - 1441 (K) If the applicant is a partnership, a copy of the partnership agreement; and
    - 1442 (L) If the applicant is a corporation, articles of organization, corporation bylaws, copies  
 1443 of all stock certificates, minutes of the first corporate organizational meeting, bank  
 1444 resolution on all company accounts, and a copy of the latest United States corporate tax  
 1445 return.
- 1446 (c) The ~~Department of Administrative Services~~ GSA shall prepare and maintain a list of  
 1447 certified minority business enterprises.
- 1448 (d) The ~~Department of Administrative Services~~ GSA may deny certification to any  
 1449 minority business enterprise which does not qualify as such under the provisions of this  
 1450 part. Any person adversely affected by an order of the ~~Department of Administrative~~  
 1451 ~~Services~~ GSA denying certification as a minority business enterprise may appeal as  
 1452 provided in the regulations of the ~~Department of Administrative Services~~ commissioner.
- 1453 50-5-133.
- 1454 (a) It shall be unlawful for a person to:

- 1455 (1) Knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain  
 1456 or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or  
 1457 retain; certification as a minority business enterprise for the purposes of this part;
- 1458 (2) Knowingly and willfully make a false statement with the intent to defraud, whether  
 1459 by affidavit, report, or other representation, to a state official or employee for the purpose  
 1460 of influencing the certification or denial of any certification of any entity as a minority  
 1461 business enterprise;
- 1462 (3) Knowingly and willfully obstruct, impede, or attempt to obstruct or impede any state  
 1463 official or employee who is investigating the qualifications of a business entity which has  
 1464 requested certification as a minority business enterprise;
- 1465 (4) Knowingly and willfully with intent to defraud, fraudulently obtain, attempt to  
 1466 obtain, or aid another person in fraudulently obtaining or attempting to obtain; public  
 1467 moneys to which the person is not entitled under this part; or
- 1468 (5) Knowingly and willfully assign any contract awarded pursuant to the ~~Department of~~  
 1469 ~~Administrative Services~~ GSA to any other business enterprise without prior written  
 1470 approval of the ~~Department of Administrative Services~~ GSA.
- 1471 (b) Any person convicted of violating any provision of this Code section shall be guilty  
 1472 of a felony, punishable by imprisonment for not more than five years or a fine of not more  
 1473 than \$10,000.00 or both such imprisonment and fine.
- 1474 (c) If a contractor, subcontractor, supplier, subsidiary, principal, or affiliate thereof has  
 1475 been found to have violated this Code section and that violation occurred within three years  
 1476 of another violation of this Code section, the ~~Department of Administrative Services~~ GSA  
 1477 shall prohibit that contractor, subcontractor, supplier, subsidiary, or affiliate thereof from  
 1478 entering into a state project or state contract; from further bidding to a state entity; from  
 1479 being a subcontractor to a contractor for a state entity; and from being a supplier to a state  
 1480 entity.

1481 Part 5

1482 50-5-135.

- 1483 (a) There is created the State Use Council, hereafter referred to as the council. The council  
 1484 shall be composed of 15 members as follows:
- 1485 (1) The commissioner ~~of administrative services~~ or his or her designee;
- 1486 (2) The commissioner of human services or his or her designee;
- 1487 (3) The commissioner of community affairs or his or her designee;
- 1488 (4) The commissioner of corrections or his or her designee;

1489 (5) Five members appointed by the Governor who shall represent the business  
1490 community of the state;

1491 (6) Three members appointed by the Governor who shall represent a broad spectrum of  
1492 persons with disabilities; and

1493 (7) Three members appointed by the Governor who shall represent the interest of  
1494 organizations representative of persons with disabilities.

1495 (b) Initially, the nine members appointed pursuant to paragraphs (5) through (7) in  
1496 subsection (a) of this Code section shall serve staggered terms of office as follows: three  
1497 members for two years, three members for three years, and three members for four years.  
1498 Thereafter, each member shall serve for a term of four years. Such members shall serve  
1499 until the appointment and qualification of their successors. The members appointed by the  
1500 Governor shall be selected from the state at large but shall be representative of all of the  
1501 geographic areas of the state.

1502 (c) All successors shall be appointed in the same manner as original appointments.  
1503 Vacancies in office shall be filled in the same manner as original appointments. An  
1504 appointment to fill a vacancy shall be for the unexpired term. The council shall elect its  
1505 own officers. No vacancy on the council shall impair the right of the quorum to exercise  
1506 all rights and perform all duties of the council.

1507 ~~(d) The members of the council shall receive no compensation for their services but shall~~  
1508 ~~be entitled to and shall be reimbursed for their actual expenses, including travel and any~~  
1509 ~~other expenses incurred in the performance of their duties. Reimbursement for travel by~~  
1510 ~~a personal motor vehicle shall be made in the same manner and subject to the same~~  
1511 ~~limitations as provided for state employees under Code Section 50-19-7.~~

1512 (e) The council shall have perpetual existence. Any change in name or composition of the  
1513 council shall in no way affect the vested rights of any person under this part or impair the  
1514 obligations of any contracts existing under this part.

1515 50-5-136.

1516 (a) The State Use Council shall have the authority authorized in this part concerning the  
1517 procurement of certain services provided and goods, wares, and merchandise produced by  
1518 community based rehabilitation programs and training centers and purchased by the  
1519 ~~Department of Administrative Services~~ GSA. All services provided or goods, wares, or  
1520 merchandise produced wholly or in part by the community based rehabilitation programs  
1521 and training centers operated by or under contract with the Department of Human Services  
1522 and needed by the departments, institutions, and agencies of the state and its political  
1523 subdivisions supported wholly or in part by public funds shall be obtained from community

1524 based rehabilitation programs and training centers where availability of such services,  
 1525 goods, wares, or merchandise has been certified in writing by the council.

1526 (b) The State Use Council shall have the following powers and authority:

1527 (1) To designate a central nonprofit agency to represent community based rehabilitation  
 1528 programs and training centers in the state and to facilitate the distribution of orders of the  
 1529 State of Georgia for goods, wares, merchandise, and services on the procurement list  
 1530 among certified community based rehabilitation programs and training centers. As used  
 1531 in this part, the term 'central nonprofit agency' means an agency organized under the laws  
 1532 of Georgia and operated in the interest of persons with disabilities in Georgia, the net  
 1533 income of which does not inure in whole or in part to the benefit of any shareholder or  
 1534 individual. The central nonprofit agency shall be selected using criteria established by  
 1535 the council and shall be selected for a period not to exceed two years, provided that an  
 1536 agency may succeed itself as the central nonprofit agency. The central nonprofit agency  
 1537 ~~will~~ shall be responsible for selecting the community based rehabilitation program and  
 1538 training center to perform a specific contract for work ordered by the state. Consideration  
 1539 ~~will~~ shall be given to the strengths of the particular organization, prior work history, and  
 1540 the ability to produce within time and budgetary parameters. Only programs and centers  
 1541 which have been certified by the council ~~will~~ shall be eligible for state use contracts.  
 1542 Once the community based rehabilitation program and training center has been selected  
 1543 and a subcontract has been established between that community based rehabilitation  
 1544 program and training center and the central nonprofit agency, the central nonprofit  
 1545 agency shall provide management and quality control assistance in the administration of  
 1546 the project. This may be in the form of quality assurance procedures, time and date  
 1547 deadlines, technical assistance in assembly, or a variety of other activities concerning the  
 1548 project at hand. Other than on a specific contract basis, the central nonprofit agency ~~will~~  
 1549 shall offer training programs, certification workshops, quality control workshops, and  
 1550 other technical, management, marketing, and general assistance programs to participating  
 1551 programs and centers in the state. These programs ~~may~~ shall not be mandatory in all  
 1552 cases; however, they ~~will~~ shall be offered to help the various programs and centers  
 1553 become more productive and efficient in their handling of state use contracts and other  
 1554 work as well. The central nonprofit agency shall maintain the necessary records and data  
 1555 concerning contracts with certified community based rehabilitation programs and training  
 1556 centers and shall maintain communication with community based rehabilitation programs  
 1557 and training centers during the conduct of a contract which has been let with the program  
 1558 and center for various program services as necessary and appropriate;

1559 (2) To develop, in conjunction with the ~~Department of Administrative Services~~ GSA, a  
 1560 list of goods, wares, merchandise, and services which shall be set aside for purchase from

1561 community based rehabilitation programs and training centers. This list shall be  
1562 reviewed annually and goods, wares, merchandise, and services may be added or deleted  
1563 as necessary and appropriate;

1564 (3) To establish fair market prices for commodities or services on the selected  
1565 procurement list and to consider recommendations from the procuring agencies, the  
1566 central nonprofit agency, and other relevant sources. The central nonprofit agency shall  
1567 analyze the data and submit a recommended fair market price to the council along with  
1568 detailed justification necessary to support the recommended prices. Pricing guidelines  
1569 shall be established by the council in association with standard methodology for  
1570 determining fair market value. However, the fair market prices shall not exceed the  
1571 prices normally paid by state agencies for such commodities or services;

1572 (4) To oversee and assist in the development of guidelines for the certification of  
1573 community based rehabilitation programs and training centers in the State of Georgia.  
1574 The intent of these guidelines shall be to evaluate the qualifications and capabilities of  
1575 community based rehabilitation programs and training centers interested in certification;  
1576 to determine criteria for quality, efficiency, timeliness, and cost effectiveness in the  
1577 production of goods, wares, merchandise, and services to be procured under the state use  
1578 plan and purchased by the State of Georgia; and to establish a certification process which  
1579 shall enable community based rehabilitation programs and training centers qualified  
1580 under this process to compete in procurement activities provided for by this part. All  
1581 community based rehabilitation programs and training centers which are certified by the  
1582 commissioner of human resources (now known as the commissioner of human services  
1583 for these purposes) as of February 8, 1994, shall not have to undergo the certification  
1584 evaluation and approval process until 24 months from February 8, 1994;

1585 (5) With respect to the certification process and the designated community based  
1586 rehabilitation programs and training centers which may enter into contracts under this  
1587 part, to establish criteria for determining what constitutes a substantial disability to  
1588 employment that prevents the individual under the disability from currently engaging in  
1589 normal competitive employment. In establishing the criteria, the council shall consult  
1590 with appropriate entities of government and take into account the views of  
1591 nongovernmental entities representing the severely disabled. The council shall give  
1592 weight to the criteria established by the federal committee for purchase of products and  
1593 services of the blind and other severely disabled persons, pursuant to the federal  
1594 Wagner-O'Day Act (41 U.S.C. Sections 46-48b), as amended; and

1595 (6) To make an annual report to the Governor and the General Assembly concerning its  
1596 activities under this part and the activities and contracts provided by the central nonprofit  
1597 agency. The State Use Council shall not be required to distribute copies of the annual

1598 report to the members of the General Assembly but shall notify the members of the  
1599 availability of the report in the manner which it deems to be most effective and efficient.

1600 50-5-137.

1601 Notwithstanding any other provisions of law to the contrary, certified community based  
1602 rehabilitation programs and training centers conducting contract work under the state use  
1603 plan and under the auspices of the central nonprofit agency shall not be required to have  
1604 prior experience in providing the goods, wares, merchandise, or services in a given contract  
1605 in order to participate in these contracts.

1606 50-5-138.

1607 (a) ~~The Department of Administrative Services~~ GSA shall contract with the central  
1608 nonprofit agency to pay a fee to such agency on the basis of contracts procured from the  
1609 state. This fee shall be not less than 5 percent nor more than 8 percent of the total contract  
1610 fee awarded for a particular project. The fees will be added to the fair market price paid  
1611 by the state agencies and political subdivisions or will be paid from assessments received  
1612 from the state agencies and political subdivisions by the ~~Department of Administrative~~  
1613 ~~Services~~ GSA. The timeliness and methodology of collection of these fees ~~will~~ shall be  
1614 decided upon between the ~~Department of Administrative Services~~ GSA and the central  
1615 nonprofit agency and shall be incorporated into such contract.

1616 (b) ~~The commissioner of administrative services~~ retains the right to cancel or modify  
1617 contracts which have been selected for procurement under this part for nonperformance and  
1618 noncompetitive pricing reasons.

1619 (c) All contracts which presently exist between the State of Georgia and community based  
1620 rehabilitation programs and training centers in Georgia, including the State of Georgia  
1621 administered Georgia Industries for the Blind, shall be grandfathered in perpetuity,  
1622 excepting for nonperformance reasons according to the policies, regulations, and  
1623 determination of the ~~Department of Administrative Services~~ GSA.

1624 ARTICLE 4

1625 50-5-140.

1626 It shall be the duty and responsibility of the head of each department, institution, or agency  
1627 of the state to furnish, upon written request by the ~~Department of Administrative Services~~  
1628 GSA on such forms as provided by it, a list of all surplus personal property held by that  
1629 department, institution, or agency at the time of the request. These requests may be made  
1630 by the ~~Department of Administrative Services~~ GSA as often as it deems necessary.

1631 50-5-141.

1632 (a) The ~~Department of Administrative Services~~ GSA is authorized and it shall be its duty  
1633 to dispose of surplus property by one of the following means:

1634 (1) Transfer to other state agencies;

1635 (2) Sell to the highest responsible bidder for cash;

1636 (3) Sell by fixed price; provided, however, that surplus property sold by fixed price shall  
1637 have been originally purchased by the state for an amount of \$5,000.00 or less;

1638 (4) Trade in such surplus property on the purchase of new equipment if the ~~Department~~  
1639 ~~of Administrative Services~~ GSA shall determine that such action is for the best interest  
1640 of the state; or

1641 (5) Where the ~~Department of Administrative Services~~ GSA shall determine that the  
1642 surplus property has no value or that the cost of maintaining and selling the surplus  
1643 property exceeds the anticipated proceeds from the sale of the surplus property, by  
1644 destruction and disposal and order of removal from the inventory of the department,  
1645 institution, or agency with such action noted thereon.

1646 (b) No employee of the ~~Department of Administrative Services~~ GSA or such employee's  
1647 immediate family member shall purchase surplus property sold by fixed price or negotiated  
1648 sale; nor shall any person purchase surplus property by fixed price or negotiated sale for  
1649 the direct or indirect benefit of any such employee or employee's immediate family  
1650 member.

1651 50-5-142.

1652 The commissioner of ~~administrative services~~ shall promulgate such rules and regulations  
1653 as may be required to carry out ~~Code Sections 50-5-140, 50-5-141, 50-5-143, 50-5-144,~~  
1654 ~~and 50-5-146~~ this article and shall establish procedures for the disposition of surplus  
1655 property, including the manner whereby the sale of surplus property shall be advertised and  
1656 competitive bids for the purchase thereof shall be secured.

1657 50-5-143.

1658 (a) As used in this Code section, the term 'political subdivision' means any county or  
1659 municipality of this state or any county or independent board of education of this state.

1660 (b) In addition to the authority provided in Code Section 50-5-141, the ~~Department of~~  
1661 ~~Administrative Services~~ GSA shall be further authorized to dispose of surplus property by  
1662 the transfer of the property to any political subdivision through a negotiated sale if the  
1663 ~~Department of Administrative Services~~ GSA determines that such sale would be in the best  
1664 interests of the state, and, under the circumstances, the negotiated sales price would  
1665 constitute a reasonable consideration for the property.

1666 (c) When any surplus property is transferred to a political subdivision; pursuant to  
 1667 subsection (b) of this Code section, such transfer shall be subject to the following  
 1668 conditions:

1669 (1) The property shall not be resold by any such political subdivision within one year  
 1670 after the transfer without the written consent of the ~~Department of Administrative~~  
 1671 ~~Services~~ GSA; and

1672 (2) The ~~Department of Administrative Services~~ GSA shall have the right, which shall be  
 1673 exercised at its discretion, to supervise the resale of the property at public outcry to the  
 1674 highest responsible bidder if the resale of the property is within one year after such  
 1675 transfer.

1676 50-5-144.

1677 (a) As used in this Code section, the term:

1678 (1) 'Charitable institution' means any nonprofit tax-exempt person, firm, or corporation  
 1679 providing services within this state.

1680 (2) 'Public corporation' means any public authority or other public corporation created  
 1681 by or pursuant to state law.

1682 (b) In addition to any other authority provided by ~~Code Sections 50-5-140 through~~  
 1683 ~~50-5-143, this Code section, and Code Section 50-5-146~~ this article, the ~~Department of~~  
 1684 ~~Administrative Services~~ GSA shall be authorized to dispose of surplus property, including  
 1685 surplus property subject to paragraph (7) of Code Section 50-5-51, by the transfer of the  
 1686 property to any charitable institution or public corporation through a negotiated sale if the  
 1687 ~~department~~ GSA determines that such sale would be in the best interests of the state, and,  
 1688 under the circumstances, the negotiated sales price would constitute a reasonable  
 1689 consideration for the property.

1690 (c) When any surplus property is sold to a charitable institution or to a public corporation  
 1691 pursuant to subsection (b) of this Code section, the sale shall be subject to the following  
 1692 conditions:

1693 (1) The property shall not be resold by the purchaser within one year after the sale  
 1694 without the written consent of the ~~Department of Administrative Services~~ GSA; and

1695 (2) The ~~Department of Administrative Services~~ GSA shall have the right and obligation  
 1696 to supervise the resale of the property at public outcry to the highest responsible bidder  
 1697 if the resale is within one year after the sale and, if the resale price exceeds the original  
 1698 negotiated sales price, the amount of the excess shall be paid to the ~~Department of~~  
 1699 ~~Administrative Services~~ GSA.

1700 50-5-145.

1701 ~~Nothing contained within Code Sections 50-5-140 through 50-5-144 and 50-5-146~~ This  
 1702 article shall not be construed so as to apply to any real property owned by the state, and  
 1703 ~~such Code sections shall not apply to such property, nor and shall not such Code sections~~  
 1704 be construed so as to prohibit the Attorney General from distributing or selling the  
 1705 published reports of the opinions of the Attorney General.

1706 50-5-146.

1707 Any person who causes state property having a value of less than \$200.00 to be disposed  
 1708 of in violation of this article shall be guilty of a misdemeanor. If such property has a value  
 1709 of \$200.00 or more, he or she shall be guilty of a felony and, upon conviction thereof, shall  
 1710 be punished by imprisonment for not less than one year nor more than five years.

## 1711 ARTICLE 5

1712 50-5-160.

1713 This article shall be known and may be cited as the 'State Properties Code.'

1714 50-5-161.

1715 As used in this article, the term:

1716 (1) 'Acquire,' 'acquisition,' and 'acquiring' mean the obtaining of real property by any  
 1717 method including, but not limited to, gift, purchase, condemnation, devise, court order,  
 1718 and exchange.

1719 (2) 'Administrative space' means any space, whether existing or to be constructed, that  
 1720 is required by a state entity for office, storage, or special purposes and that is required for  
 1721 the core mission of such state entity. In order to be required, the space must be necessary  
 1722 for and utilized in either:

1723 (A) The performance of the duties that the state entity is obligated by law to perform;

1724 or

1725 (B) The delivery of the services that the state entity is authorized or required by law  
 1726 to provide.

1727 (3) 'Deed' means either a fee simple deed without warranty or a quitclaim deed.

1728 (4) 'Entities' or 'entity' means any and all constitutional offices, as well as all authorities,  
 1729 departments, divisions, boards, bureaus, commissions, agencies, instrumentalities, or  
 1730 institutions of the state.

1731 (5) 'Lease' means a written instrument under the terms and conditions of which one party  
 1732 (lessor) out of its own estate grants and conveys to another party or parties (lessee) an  
 1733 estate for years retaining a reversion in itself after such grant and conveyance.

- 1734 (6) 'Mineral resources' means, but is not limited to, sand, sulfur, phosphate, oil, and gas.
- 1735 (7) 'Person' means any individual; general or limited partnership; joint venture; firm;  
 1736 private, public, or public service corporation; association; authority; fiduciary;  
 1737 governmental body, instrumentality, or other organization of the state; county of the state;  
 1738 municipal corporation of the state; political subdivision of the state; governmental  
 1739 subdivision of the state; and any other legal entity doing business in the state.
- 1740 (8) 'Power,' 'empower(ed),' 'authority,' and 'authorized' are synonymous and when each  
 1741 is used it shall include the other, the same as if the other had been fully expressed. When  
 1742 the GSA has the power or is empowered, it has the authority and is authorized.  
 1743 'Authorized' and 'may' shall imply discretion and not requirement.
- 1744 (9) 'Property' means:
- 1745 (A) The Western and Atlantic Railroad including all the property associated with the  
 1746 railroad as of December 26, 1969, unless the same has otherwise been provided for by  
 1747 Act or resolution of the General Assembly;
- 1748 (B) All the property owned by the state in Tennessee other than that property included  
 1749 in subparagraph (A) of this paragraph;
- 1750 (C) The state owned property facing Peachtree, Cain, and Spring streets in the City of  
 1751 Atlanta, Fulton County, Georgia, upon which the Governor's mansion once stood and  
 1752 which is commonly referred to and known as the 'Henry Grady Hotel property' or 'old  
 1753 Governor's mansion site property';
- 1754 (D) Any state owned real property the custody and control of which has been  
 1755 transferred to the GSA by executive order of the Governor; and
- 1756 (E) Any state owned real property the custody and control of which has been  
 1757 transferred to the GSA by an Act or resolution of the General Assembly without  
 1758 specific instructions for its disposition.
- 1759 (10) 'Rental agreement' means a written instrument the terms and conditions of which  
 1760 create the relationship of landlord and tenant. Under such relationship no estate passes  
 1761 out of the landlord and the tenant has only usufruct.
- 1762 (11) 'Revocable license' means the granting, subject to certain terms and conditions  
 1763 contained in a written revocable license agreement, to a named person or persons  
 1764 (licensee), and to that person or persons only, of a revocable personal privilege to use a  
 1765 certain described parcel or tract of the property to be known as the licensed premises for  
 1766 a named purpose. Regardless of any and all improvements and investments made,  
 1767 consideration paid, or expenses and harm incurred or encountered by the licensee, a  
 1768 revocable license shall not confer upon the licensee any right, title, interest, or estate in  
 1769 the licensed premises, nor shall a revocable license confer upon the licensee a license

1770 coupled with an interest or an easement. A revocable license may be revoked, canceled,  
 1771 or terminated, with or without cause, at any time by the licensor (GSA).

1772 (12) 'Revocable license agreement' means a written instrument which embodies a  
 1773 revocable license and which sets forth the names of the parties thereto and the terms and  
 1774 conditions upon which the revocable license is granted.

1775 (13) 'State' means the State of Georgia.

1776 (14) 'State agency' or 'state agencies' means any department, division, bureau, board,  
 1777 commission, or agency within the executive branch of state government.

1778 (15) 'Terms and conditions' shall include stipulations, provisions, agreements, and  
 1779 covenants.

1780 50-5-162.

1781 The GSA, under the supervision of the commissioner, in addition to other powers and  
 1782 duties set forth in other Code sections of this article, shall have the power and duty to:

1783 (1) Inspect, control, manage, oversee, and preserve the property;

1784 (2) Maintain at all times a current inventory of the property;

1785 (3) Authorize the payment of any tax or assessment legally levied by the State of  
 1786 Tennessee or any governmental subdivision thereof upon any part of the property situated  
 1787 within the State of Tennessee;

1788 (4) Prepare lease or sale proposals affecting the property for submission to the General  
 1789 Assembly;

1790 (5) Subject to the limitation contained in this article, determine all of the terms and  
 1791 conditions of each instrument prepared or executed by it;

1792 (6) Have prepared, in advance of advertising for bids as provided for in Code Section  
 1793 50-5-168, a thorough report of such data as will enable the GSA to arrive at a fair  
 1794 valuation of the property involved in such advertisement; and to include within the report  
 1795 at least two written appraisals of the value of the property which shall be made by a  
 1796 person or persons familiar with property values in the area where the property is situated;  
 1797 provided, however, that one of the appraisals shall be made by a member of a nationally  
 1798 recognized appraisal organization; and provided, further, that in the case of the Western  
 1799 and Atlantic Railroad, the appraisal, other than the one required to be made by a member  
 1800 of a nationally recognized appraisal organization, may be the latest valuation report of the  
 1801 Western and Atlantic Railroad prepared by the Interstate Commerce Commission;

1802 (7) Contract with any person for the preparation of studies or reports on:

1803 (A) The value of such property including, but not limited to, sale value, lease value,  
 1804 and insurance value;

1805 (B) The proper utilization to be made of such property; and

1806 (C) Any other data necessary or desirable to assist the GSA in the execution and  
 1807 performance of its duties;

1808 (8) Insure the improvements on all or any part of the property against loss or damage by  
 1809 fire, lightning, tornado, or other insurable casualty; and insure the contents of the  
 1810 improvements against any such loss or damage;

1811 (9) Inspect as necessary any of the property which may be under a lease, rental  
 1812 agreement, or revocable license agreement in order to determine whether the property is  
 1813 being kept, preserved, cared for, repaired, maintained, used, and operated in accordance  
 1814 with the terms and conditions of the lease, rental agreement, or revocable license  
 1815 agreement and to take such action necessary to correct any violation of the terms and  
 1816 conditions of the lease, rental agreement, or revocable license agreement;

1817 (10) Deal with and dispose of any unauthorized encroachment upon, or use or occupancy  
 1818 of, any part of the property, whether the encroachment, use, or occupancy is permissive  
 1819 or adverse, or whether with or without claim of right therefor; to determine whether the  
 1820 encroachment, use, or occupancy shall be removed or discontinued or whether it shall be  
 1821 permitted to continue and, if so, to what extent and upon what terms and conditions; to  
 1822 adjust, settle, and finally dispose of any controversy that may exist or arise regarding any  
 1823 such encroachment, use, or occupancy in such manner and upon such terms and  
 1824 conditions as the GSA may deem to be in the best interest of the state; to take such action  
 1825 as the GSA may deem proper and expedient to cause the removal or discontinuance of  
 1826 any such encroachment, use, or occupancy; and to institute and prosecute for and on  
 1827 behalf of and in the name of the state such actions and other legal proceedings as the  
 1828 GSA may deem appropriate for the protection of the state's interest in or the assertion of  
 1829 the state's title to such property;

1830 (11) Settle, adjust, and finally dispose of any claim, dispute, or controversy of any kind  
 1831 whatsoever arising out of the terms and conditions, operation, or expiration of any lease  
 1832 of the property or grant of rights in the property;

1833 (12) Negotiate and prepare for submission to the General Assembly amendments to any  
 1834 existing lease, and such amendments shall not, for the purposes of paragraph (4) of this  
 1835 Code section and Code Section 50-5-168, be interpreted as lease proposals or proposals  
 1836 to lease, provided:

1837 (A) That the lessee of the lease as it is to be amended shall be either the lessee, a  
 1838 successor, an assignee, or a sublessee as to all or a portion of the property described in  
 1839 the lease as first executed or as previously amended; and

1840 (B) That unless otherwise provided in the lease as first executed or as previously  
 1841 amended:

- 1842 (i) The GSA shall prepare each amendment in at least four counterparts all of which  
 1843 shall immediately be signed by the lessee, whose signature shall be witnessed in the  
 1844 manner required by the applicable law for public recording of conveyances of real  
 1845 estate. The signing shall constitute an offer by the lessee and shall not be subject to  
 1846 revocation by the lessee unless it is rejected by the General Assembly or the Governor  
 1847 as provided in this Code section. A resolution containing an exact copy of the  
 1848 amendment, or to which an exact copy of the amendment is attached, shall be  
 1849 introduced in the General Assembly in either the House of Representatives, the  
 1850 Senate, or both, if then in regular session, or, if not in regular session at such time, at  
 1851 the next regular session of the General Assembly. The resolution, in order to become  
 1852 effective, shall receive the same number of readings and, in both the House of  
 1853 Representatives and the Senate, go through the same processes and procedures as a  
 1854 bill;
- 1855 (ii) If either the House of Representatives or the Senate fails to adopt the resolution  
 1856 during the regular session by a constitutional majority vote in each house, the offer  
 1857 shall be considered rejected by the General Assembly;
- 1858 (iii) If the resolution is adopted during the regular session by a constitutional majority  
 1859 vote of both the House of Representatives and the Senate but is not approved by the  
 1860 Governor, the offer shall be considered rejected by the Governor;
- 1861 (iv) If the resolution is adopted during the regular session by a constitutional majority  
 1862 vote of both the House of Representatives and the Senate and is approved by the  
 1863 Governor, whenever in the judgment of the GSA all of the precedent terms and  
 1864 conditions of the amendment and the resolution, if there are any, have been fulfilled  
 1865 or complied with, the Governor shall execute and the GSA shall deliver to the lessee  
 1866 the amendment for and on behalf of and in the name of the state. The Governor's  
 1867 signature shall be attested by the Secretary of State. The Secretary of State shall also  
 1868 affix the great seal of the state to the amendment; and
- 1869 (v) On or before December 31 in each year, the GSA shall submit a report describing  
 1870 all amendments negotiated during that year or under negotiation at the date of the  
 1871 report to the chairpersons of the Senate Appropriations Committee and the House  
 1872 Committee on Appropriations;
- 1873 (13) Exercise such other powers and perform such other duties as may be necessary or  
 1874 desirable to inspect, control, manage, oversee, and preserve the property;
- 1875 (14) Do all things and perform all acts necessary or convenient to carry out the powers  
 1876 and fulfill the duties given to the GSA in this article;

1877 (15) Perform all terms including but not limited to termination, satisfy all conditions,  
 1878 fulfill all requirements, and discharge all obligations and duties contained in all leases or  
 1879 contracts of sale of the property which:

1880 (A) Provide that the GSA is empowered to act or shall act for and on behalf of the state  
 1881 (lessor or seller); and

1882 (B)(i) Have previously been approved and adopted or authorized by a resolution of  
 1883 the General Assembly; or

1884 (ii) May be approved and adopted or authorized by a resolution of the General  
 1885 Assembly with the latter resolution being approved by the Governor;

1886 (16) Perform all terms, satisfy all conditions, fulfill all requirements, discharge all  
 1887 obligations, and otherwise implement the disposition of real property for and on behalf  
 1888 of the state when the General Assembly so provides in any enactment, including Acts or  
 1889 resolutions, authorizing or directing a disposition of real property of the state or of any  
 1890 instrumentality of the state; and

1891 (17) Provide or perform acquisition related services to or for all state entities.

1892 50-5-163.

1893 (a) The GSA is empowered to and may acquire from a railroad company the real property,  
 1894 including the right of way, and any other properties, personal or otherwise, associated  
 1895 therewith, encompassed within any railroad line that has been abandoned as an operating  
 1896 rail line by said railroad company if the GSA first determines that preserving ownership  
 1897 of the said railroad corridor, in whole or in part, may be useful for the present or future  
 1898 needs of public transportation in this state.

1899 (b) Such an acquisition as described in subsection (a) of this Code section shall be in the  
 1900 name of the state, custody in the GSA, as a 'property' similar to the state owned properties  
 1901 described in subparagraphs (A), (B), and (C) of paragraph (9) of Code Section 50-5-161.  
 1902 Such an acquisition may be made by the GSA without a request to acquire from another  
 1903 state agency or without a request from another state agency, state authority, or other  
 1904 instrumentality of the state to provide or perform acquisition related services.

1905 (c) Notwithstanding any provisions and requirements of law to the contrary and  
 1906 particularly notwithstanding the requirements of Code Section 50-5-168, the GSA, acting  
 1907 for and on behalf of and in the name of the state, is empowered and may deed, lease, rent,  
 1908 or license any such acquired property to any state authority or other instrumentality of the  
 1909 state for public transportation use.

1910 (d) Except as otherwise provided for in this Code section, the powers set forth in  
 1911 subsections (a), (b), and (c) of this Code section are cumulative, and not in derogation, of  
 1912 other powers of the GSA as set forth in this article.

1913 (e) The powers set forth in subsections (a), (b), and (c) of this Code section are intended  
 1914 to be exercised independently of any power or action by any other state agency, state  
 1915 authority, or other unit or instrumentality of government, but said powers are not intended  
 1916 to repeal similar or related powers in any other state agency, state authority, or other unit  
 1917 or instrumentality of government.

1918 50-5-164.

1919 The GSA shall:

1920 (1) Develop policies and procedures for state-wide real property management;

1921 (2) Maintain a state-wide real property management system that has consolidated real  
 1922 property, building, and lease information for state entities;

1923 (3) Develop and maintain a centralized repository of comprehensive space needs for all  
 1924 state entities including up-to-date space and resource utilization, anticipated needs, and  
 1925 recommended options;

1926 (4) With the advice and counsel of state entities, board members, and industry groups,  
 1927 provide state-wide policy leadership, recommending legislative, policy, and other similar  
 1928 changes and coordinating master planning to guide and organize capital asset  
 1929 management;

1930 (5) As needed, secure portfolio management expertise to accomplish the desired policy  
 1931 outcomes;

1932 (6) Seek the cooperation of all state entities to increase the effectiveness of the portfolio  
 1933 management approach; and

1934 (7) Provide assistance to all entities in achieving space and real property reporting  
 1935 requirements, in accordance with state law, in the acquisition and disposition of real  
 1936 property and leases and in evaluating compliance and operational practices.

1937 50-5-165.

1938 The GSA shall cause all of its records, including but not limited to minutes or transcripts,  
 1939 reports, studies, forms of instruments, bidding papers, notices, advertisements, invitation  
 1940 for bids, bids, executed instruments, and correspondence, to be kept and maintained  
 1941 permanently. Such records shall be open to public inspection and may be inspected by any  
 1942 citizen of the state during usual business hours unless the same are being used by the GSA  
 1943 or by its employees in the performance of its or their duties.

1944 50-5-166.

1945 The commissioner is authorized to adopt, after reasonable notice and hearing thereon, such  
 1946 rules and regulations as he or she may deem appropriate for the exercise of the duties of

1947 the GSA under this article. Until otherwise specified by the commissioner, the rules and  
 1948 regulations formerly adopted by the State Properties Commission shall remain in effect to  
 1949 the extent applicable.

1950 50-5-167.

1951 (a) Except for all acquisitions of real property by the Department of Transportation and  
 1952 the Board of Regents of the University System of Georgia; the Department of Natural  
 1953 Resources acquiring by gift parcels of real property, not exceeding three acres each, to be  
 1954 used for the construction and operation thereon of boat-launching ramps; the Technical  
 1955 College System of Georgia in connection with student live work projects funded through  
 1956 moneys generated as a result of the sale of such projects, donations, or student supply fees;  
 1957 and the GSA resulting from transfers of custody and control of real property to the GSA  
 1958 by executive order of the Governor or by Act or resolution of the General Assembly and  
 1959 except as otherwise provided by law and as otherwise required by the nature of the  
 1960 transaction conveying real property to the state or any entity thereof:

1961 (1) All state entities shall acquire real property through the GSA; and

1962 (2) The title to all real property acquired shall be in the name of the state, except for state  
 1963 authorities which shall hold title in their own name. The conveyance shall have written  
 1964 or printed in the upper right-hand corner of the initial page thereof the name of the state  
 1965 entity for which the real property has been acquired who is the custodian thereof.

1966 (b) The commissioner is authorized to establish, and amend when the commissioner deems  
 1967 it necessary, a procedure to facilitate the handling by the GSA of requests for acquisition  
 1968 of real property.

1969 (c) The state entity requesting acquisition of real property shall provide all of the funds  
 1970 necessary to acquire the real property.

1971 50-5-168.

1972 (a) Any proposal to lease, other than a lease of mineral resources, or sell any part of the  
 1973 property shall be initiated and carried out in accordance with this Code section.

1974 (b) Any such lease or sale shall be made upon public competitive bidding, and the  
 1975 invitation for bids shall be advertised once a week for four consecutive weeks in the legal  
 1976 organ and in one or more newspapers of general circulation in the county or counties  
 1977 wherein is situated the property to be bid upon and in the legal organ of Fulton County,  
 1978 Georgia. Prior to such advertising, the GSA shall prepare a proposed form of lease or  
 1979 contract of sale and deed and appropriate instructions which shall be furnished to  
 1980 prospective bidders under such conditions as the GSA may prescribe.

1981 (c) Sealed bids shall be submitted to the GSA and each bid shall be accompanied by a bid  
1982 bond or such other security as may be prescribed by the GSA. All bids shall be opened in  
1983 public on the date and at the time and place specified in the invitation for bids. The GSA  
1984 shall formally determine and announce which bid and bidder it considers to be most  
1985 advantageous to the state. The GSA shall have the right to reject any or all bids and  
1986 bidders and the right to waive formalities in bidding.

1987 (d) When the GSA formally determines and announces which bid and bidder it considers  
1988 to be most advantageous to the state, the GSA shall then prepare the instrument of lease or  
1989 contract of sale and deed in at least four counterparts which shall be immediately signed  
1990 by the prospective lessee or purchaser, whose signature shall be witnessed in the manner  
1991 required by the applicable law for public recording of conveyances of real estate. The  
1992 signing shall constitute a bid by the prospective lessee or purchaser and shall not be subject  
1993 to revocation by the prospective lessee or purchaser unless it is rejected by the General  
1994 Assembly or the Governor as provided in this Code section. A resolution containing an  
1995 exact copy of the proposed lease or contract of sale and deed, or to which an exact copy of  
1996 the proposed lease or contract of sale and deed is attached, shall be introduced in the  
1997 General Assembly in either the House of Representatives, the Senate, or both, if then in  
1998 regular session, or, if not in regular session at such time, at the next regular session of the  
1999 General Assembly. The resolution, in order to become effective, shall receive the same  
2000 number of readings and, in both the House of Representatives and the Senate, go through  
2001 the same processes and procedures as a bill.

2002 (e) If either the House of Representatives or the Senate fails to adopt the resolution during  
2003 the regular session by a constitutional majority vote in each house, the bid shall be  
2004 considered rejected by the General Assembly.

2005 (f) If the resolution is adopted during the regular session by a constitutional majority vote  
2006 of both the House of Representatives and the Senate but is not approved by the Governor,  
2007 the bid shall be considered rejected by the Governor.

2008 (g) If the resolution is adopted during the regular session by a constitutional majority vote  
2009 of both the House of Representatives and the Senate and is approved by the Governor, the  
2010 Governor shall execute and the GSA shall deliver to the purchaser the contract of sale for  
2011 and on behalf of and in the name of the state, and thereupon both parties to the agreement  
2012 shall be bound thereby. The Governor's signature shall be attested by the Secretary of  
2013 State. The Secretary of State shall also affix the great seal of the state to the contract of  
2014 sale. Whenever, in the judgment of the GSA, all of the terms and conditions of the contract  
2015 of sale, or all of the precedent terms and conditions of the contract of sale, or all of the  
2016 precedent terms and conditions of the lease have been fulfilled or complied with, the  
2017 Governor shall execute and the GSA shall deliver to the purchaser or lessee the deed or

2018 lease for and on behalf of and in the name of the state. The Governor's signature shall be  
 2019 attested by the Secretary of State. The Secretary of State shall also affix the great seal of  
 2020 the state to the deed or lease.

2021 50-5-169.

2022 The GSA shall not submit to the General Assembly for its consideration any lease which  
 2023 provides that either:

2024 (1) The lessee will not obtain possession of the leased premises within a period of five  
 2025 years from the commencement date of the regular session of the General Assembly to  
 2026 which the lease is submitted for consideration; or

2027 (2) The term of the lease will not commence within a period of five years from the  
 2028 commencement date of the regular session of the General Assembly to which the lease  
 2029 is submitted for consideration.

2030 50-5-170.

2031 (a) Notwithstanding any provisions and requirements of law to the contrary, the GSA is  
 2032 authorized to negotiate, prepare, and enter into in its own name rental agreements whereby  
 2033 a part of the property is rented, without public competitive bidding, to a person for a length  
 2034 of time not to exceed one year and for adequate monetary consideration, in no instance to  
 2035 be less than a rate of \$250.00 per year, which shall be determined by the GSA and pursuant  
 2036 to such terms and conditions as the GSA shall determine to be in the best interest of the  
 2037 state. The same property or any part thereof shall not be the subject matter of more than  
 2038 one such rental agreement to the same person unless the GSA shall determine that there are  
 2039 extenuating circumstances present which would make additional one-year rental  
 2040 agreements beneficial to the state; provided, however, the same property or any part thereof  
 2041 shall not after April 24, 1975, be the subject matter of more than a total of three such  
 2042 one-year rental agreements to the same person.

2043 (b) The GSA is given the authority and charged with the duty of managing the utilization  
 2044 of administrative space by all state entities, except that the Board of Regents of the  
 2045 University System of Georgia and the Department of Labor may manage their own space  
 2046 but only for leases that are within the State of Georgia and required for their core mission.  
 2047 The GSA shall manage in a manner that is the most cost efficient and operationally  
 2048 effective and which provides decentralization of state government. Such management shall  
 2049 include the authority to assign and reassign administrative space to state entities based on  
 2050 the needs of the entities as determined by standards for administrative space utilization  
 2051 promulgated by the GSA pursuant to subsection (g) of this Code section and shall include

2052 the obligation to advise the Office of Planning and Budget and state entities of  
2053 cost-effective, decentralized alternatives.

2054 (c) The management of the utilization of administrative space by the GSA shall include  
2055 entering into any necessary agreements to rent or lease administrative space, whether  
2056 existing or to be constructed, and shall include administrative space rented or leased by a  
2057 state entity from the Georgia Building Authority or from any other public or private person,  
2058 firm, or corporation. When it becomes necessary to rent or lease administrative space, the  
2059 space shall be rented or leased by the GSA and assigned to the state entity or entities  
2060 requiring the space.

2061 (d) If the GSA reassigns all or any portion of any administrative space which is leased or  
2062 rented by one state entity to another state entity, the state entity to which the administrative  
2063 space is reassigned shall pay to the GSA rental charges, as determined by the GSA, for the  
2064 utilization of the space; and the GSA shall, in turn, use the rental charges so paid for the  
2065 purpose of paying or partially paying, as the case may be, the rent or lease payments due  
2066 the lessor of the administrative space in accordance with the terms of the lease or rent  
2067 contract existing at the time of the reassignment of the administrative space. Any such  
2068 payments to a lessor by the GSA shall be on behalf of the state entity which is the lessee  
2069 of the administrative space reassigned as provided in this Code section.

2070 (e) The management of the utilization of administrative space given to the GSA by this  
2071 Code section shall not be construed to impair the obligation of any contract executed before  
2072 July 1, 2010; and the powers given to the GSA by this Code section shall not be  
2073 implemented or carried out in such a manner as to impair the obligation of any such  
2074 contract.

2075 (f) The GSA is authorized and directed to develop and promulgate standards governing the  
2076 utilization of administrative space by all state entities which require emphasis on cost  
2077 effectiveness and decentralization. The standards shall be uniformly applied to all state  
2078 entities except as otherwise provided by subsection (g) of this Code section, but the  
2079 standards shall recognize and provide for different types of administrative space required  
2080 by the various state entities and the different types of administrative space that may be  
2081 required by a single state entity.

2082 (g) The GSA shall be authorized to reassign administrative space to the various state  
2083 entities in order to bring the utilization of administrative space into conformity with the  
2084 standards promulgated under subsection (f) of this Code section. Any additional  
2085 administrative space required by a state entity shall be approved by and obtained through  
2086 the GSA. The GSA shall be authorized to grant exceptions to the standards governing the  
2087 utilization of administrative space when the reassignment of such space would involve  
2088 unnecessary expenses or the disruption of services being provided by a state entity. The

2089 GSA shall adopt and promulgate rules and regulations governing the granting of such  
2090 exceptions, and the rules and regulations shall be uniformly applied by the GSA to all state  
2091 entities requesting an exception to the standards.

2092 (h) For purposes of cost effectiveness and decentralization, the following factors, among  
2093 other factors, shall be considered:

2094 (1) Dual location of programs within a city should be considered in order to take  
2095 advantage of possible economies of scale and as a matter of convenience to the general  
2096 public; or

2097 (2) When all factors are reasonably equivalent, preferences shall be given to location of  
2098 state government programs and facilities in those counties which are determined by the  
2099 Department of Community Affairs to be the most economically depressed, meaning those  
2100 71 tier 1 counties of the state designated as least developed under paragraph (2) of  
2101 subsection (b) of Code Section 48-7-40.

2102 (i) The GSA is authorized and directed to promulgate rules and regulations governing  
2103 budgetary requirements for administrative space utilized by state entities in cooperation  
2104 with the Office of Planning and Budget whereby the entities shall be accountable in the  
2105 budgetary process for administrative space assigned to and utilized by them. The  
2106 budgetary requirements may provide for the payment of rent to the GSA by state entities  
2107 or may otherwise provide procedures for the assessment of rent charges for administrative  
2108 space utilized by state entities or any combination of the foregoing.

2109 (j) In addition to the standards and rules and regulations specifically provided for by this  
2110 Code section, the commissioner is authorized to adopt such other rules and regulations as  
2111 may be required to carry out this Code section efficiently and effectively.

2112 50-5-171.

2113 (a) Notwithstanding any provisions and requirements of law to the contrary, the GSA shall  
2114 have the exclusive power to negotiate, prepare, and grant in its own name, without public  
2115 competitive bidding, a revocable license to any person to enter upon, extend from, cross  
2116 through, over, or under, or otherwise to encroach upon any of the property under the  
2117 custody and control of the GSA or under the custody and control of any state agency which  
2118 is subject to the requirements of Code Section 50-5-167.

2119 (b) Any grant of revocable license by the GSA to any person shall be in writing and shall  
2120 contain such terms and conditions as the GSA shall determine to be in the best interest of  
2121 the state, provided that:

2122 (1) Each grant of revocable license, if not revoked prior to, shall stand revoked, canceled,  
2123 and terminated as of the third anniversary of the date of the revocable license agreement;

2124 (2) Each grant of revocable license shall provide that, regardless of any and all  
2125 improvements and investments made, consideration paid, or expenses and harm incurred  
2126 or encountered by the licensee, the same shall not confer upon the licensee any right, title,  
2127 interest, or estate in the licensed premises nor confer upon the licensee a license coupled  
2128 with an interest or an easement, such grant of a revocable license conferring upon the  
2129 licensee and only the licensee a mere personal privilege revocable by the GSA, with or  
2130 without cause, at any time during the life of the revocable license;

2131 (3) Each grant of revocable license shall be made for an adequate monetary consideration  
2132 of not less than \$650.00, the adequacy of which shall be determined by the GSA in  
2133 considering the factors involved in each grant, particularly for whose principal benefit the  
2134 revocable license is being granted; however, if the GSA determines that the revocable  
2135 license directly benefits the state, then any monetary consideration set by the GSA shall  
2136 be deemed adequate; and

2137 (4) Any grant of revocable license shall be subject to approval by any appropriate state  
2138 regulatory agency that the proposed use of the licensed property meets all applicable  
2139 safety and regulatory standards and requirements.

2140 (c) This Code section shall not be construed or interpreted as amending, conflicting with,  
2141 or superseding any or all of Code Section 46-5-1, relating to the construction of telegraph  
2142 or telephone lines.

2143 (d) This Code section shall not apply to the issuance or renewal of revocable licenses or  
2144 permits for the construction and maintenance of boat docks on High Falls Lake. Such  
2145 revocable licenses or permits shall be issued by the Department of Natural Resources  
2146 pursuant to Code Section 12-3-34.

2147 50-5-172.

2148 (a) The GSA for and on behalf of and in the name of the state is authorized to enter into,  
2149 without the necessity of prior public competitive bidding, a written contract with any  
2150 person, whereby such person is permitted to explore any state owned lands for indications  
2151 of mineral resources.

2152 (b) The GSA for and on behalf of and in the name of the state is further authorized to lease  
2153 to any person the mineral resources located on state owned lands and to execute, grant, and  
2154 convey to such person a lease upon such terms and conditions and permitting such  
2155 operations as the GSA shall determine to be in the best interest of the state including, but  
2156 not limited to:

2157 (1) The exclusive right to drill, dredge, and mine on the leased premises for mineral  
2158 resources and to produce and appropriate any and all of the same therefrom;

2159 (2) The right to use, free of charge, mineral resources and water from the leased premises  
2160 in conducting operations thereon and in treating to make marketable the products  
2161 therefrom;

2162 (3) The right to construct and use on the leased premises telephone and telegraph  
2163 facilities, pipelines, and other facilities necessary for the transportation and storage of  
2164 mineral resources produced therefrom;

2165 (4) The right to construct and use such canals and roads as are necessary for lessee's  
2166 operations under the lease; and

2167 (5) The right to remove at any time from the leased premises any property placed thereon  
2168 by lessee.

2169 (c) When any person shall desire to lease any state owned lands pursuant to this Code  
2170 section, application therefor shall be made to the GSA in writing. The application shall  
2171 include an accurate legal description and a locational, dimensional, and directional sketch  
2172 acceptable to the GSA or a plat of survey of the land sought to be leased and such other  
2173 information as the GSA may require and shall further include a certified check for \$50.00  
2174 which shall be deposited with the GSA as evidence of the good faith of the applicant,  
2175 which sum shall only be returned to an applicant who bids for but fails to secure a lease.

2176 (d) When the GSA shall desire to lease state owned lands, or upon receipt of an application  
2177 by any person desiring to lease any state owned lands, the GSA shall make an inspection  
2178 of the land sought to be leased and such geophysical and geological surveys thereof as the  
2179 GSA may deem necessary. The GSA, after receiving a report on the nature, character,  
2180 surroundings, and mineral resource value of the land, may offer for lease, through public  
2181 competitive bidding, all or any portion of the land described in the application. The GSA  
2182 shall cause to be published once a week for two consecutive weeks in the legal organ and  
2183 in one or more newspapers of general circulation in the county or counties wherein is  
2184 situated the land to be bid upon and in the legal organ of Fulton County an advertisement  
2185 of an invitation for bids setting forth therein an accurate legal description of the land  
2186 proposed to be leased; the date, time, and place when and where bids therefor will be  
2187 received; and such other information as the GSA may deem necessary. Prior to the  
2188 advertising, the GSA shall prepare a proposed form of lease and appropriate instructions  
2189 which shall be furnished to prospective bidders under such conditions as the GSA may  
2190 prescribe. Sealed bids shall be submitted to the GSA and each bid shall be accompanied  
2191 by a bid bond or such other security as may be prescribed by the GSA.

2192 (e) All bids shall be opened in public on the date and at the time and place specified in the  
2193 advertisement of the invitation for bids. The GSA shall formally determine and announce  
2194 which bid and bidder it considers to be most advantageous to the state. The GSA shall

2195 have the right to reject any or all bids and bidders and the right to waive formalities in  
2196 bidding.

2197 (f) The GSA, acting for and on behalf of and in the name of the state, is authorized to  
2198 execute, grant, and convey a lease pursuant to this Code section on any state owned land  
2199 to any state agency without the necessity of complying with the public competitive bid  
2200 procedure stated in this Code section; provided, however, the mineral resources so mined,  
2201 dredged, and removed from the state owned land must be utilized on projects of the state  
2202 agency.

2203 (g) Each lease granted under this Code section after competitive bidding shall provide for  
2204 a primary term of not more than ten years and shall provide for a royalty on production  
2205 therefrom of not less than one-eighth part of any oil produced and saved, or the value of  
2206 same, and one-eighth part of the gas, or the value of same, that may be produced from and  
2207 is sold or used off the premises. The lease shall provide for delay rentals in the sum of at  
2208 least 10¢ per net mineral acre payable on or before the first anniversary date of the lease,  
2209 25¢ per net mineral acre payable on or before the second anniversary date of the lease, 50¢  
2210 per net mineral acre payable on or before the third anniversary date of the lease, and at least  
2211 \$1.00 per net mineral acre payable on or before each subsequent anniversary date during  
2212 the primary term of the lease. The lease may contain such other provisions, including  
2213 provisions for offset drilling, protection from drainage, pooling, and lease maintenance by  
2214 resumption of interrupted delay rental payments, operations for drilling, production, and  
2215 force majeure, as may be desired or determined appropriate by the GSA.

2216 (h) An electric log of each development well shall be filed with the GSA and with the  
2217 Department of Natural Resources within 30 days after the well has been completed or  
2218 abandoned. An electric log of each exploratory well shall be filed with the GSA within six  
2219 months after the completion or abandonment of the well; but, if the operator of the well  
2220 requests that the log be treated as confidential, the request for confidentiality shall be  
2221 honored strictly for an additional period of six months; provided, however, that nothing in  
2222 this article shall be construed so as to repeal any requirement of Part 2 of Article 2 of  
2223 Chapter 4 of Title 12.

2224 (i) The development and operation of oil and gas wells on state owned lands shall be done,  
2225 so far as practicable, in such manner as to prevent the pollution of water; destruction of  
2226 fish, oysters, and marine life; and the obstruction of navigation.

2227 (j) Notwithstanding any other provisions of this Code section to the contrary, when it is  
2228 determined to be in the best interest of the state, the GSA, acting for and on behalf of and  
2229 in the name of the state, is further authorized and empowered to grant and convey to any  
2230 person a lease which authorizes the person to dredge a portion of the bottom or bank of a

2231 state owned waterway or waters and to appropriate any and all products from such  
2232 dredging, subject to the following conditions:

2233 (1) A written request for a lease and a locational, dimensional, and directional sketch or  
2234 a plat of survey of the proposed lease premises, prepared at the sole cost and expense of  
2235 the person requesting the lease, in form and content acceptable to and approved by the  
2236 GSA, and showing and describing thereon the lease premises of the lease, must be  
2237 received by the GSA detailing therein the reason and all the particulars for the request  
2238 and outlining the purpose and use to be made of any and all products derived from such  
2239 dredging. If a sketch is submitted to and is approved and accepted by the GSA,  
2240 paragraph (3) of subsection (b) of Code Section 50-16-122, relating to the requirement  
2241 of the filing with the Secretary of State of a plat of survey with a conveyance disposing  
2242 of real property, shall be relaxed; and the Secretary of State in such a transaction shall  
2243 accept in lieu of the required plat of survey the sketch which was approved and accepted  
2244 by the GSA;

2245 (2) The GSA shall forward for comment and advice to the Department of Natural  
2246 Resources and to the state agency, department, authority, commission, official, or board  
2247 (if other than the Department of Natural Resources) that has current custody and control  
2248 of the proposed lease premises, the written request and sketch or plat of survey received  
2249 by the GSA;

2250 (3) The GSA shall investigate, require compliance with all conditions laid down by the  
2251 GSA, and determine the form and all of the terms, conditions, provisions, and  
2252 considerations of, incorporations in, and attachments to each such lease negotiated,  
2253 prepared, executed, and issued (granted and conveyed) by the GSA; provided, however,  
2254 that the term of any such lease shall not exceed five years and provided, further, that any  
2255 such lease shall contain a provision requiring that any activity undertaken pursuant to the  
2256 lease be in compliance with the applicable provisions of all state environmental or natural  
2257 resources laws administered or enforced by the Department of Natural Resources or its  
2258 successor and with all applicable policies of the Georgia Coastal Management Board or  
2259 its successor;

2260 (4) Both the Department of Natural Resources and any state agency, department,  
2261 authority, commission, official, or board that has current custody and control of the  
2262 proposed lease premises must execute the written grant and conveyance of lease, each  
2263 indicating by the execution that it has no objection to the granting and conveying of the  
2264 lease; and

2265 (5) The form of execution by the GSA which is acting for and on behalf of and in the name  
2266 of the state of each such lease shall be as follows:

2267 STATE OF GEORGIA  
 2268 Acting By And Through The  
 2269 General Services Administration  
 2270 By: \_\_\_\_\_ (Seal)  
 2271 Name: \_\_\_\_\_  
 2272 Title: Commissioner of the  
 2273 General Services Administration  
 2274 Attest: \_\_\_\_\_ (Seal)  
 2275 Name: \_\_\_\_\_  
 2276 Title: Secretary of State  
 2277 (State Seal)

2278 Signed, sealed, and  
 2279 delivered in  
 2280 the presence of:

2281 \_\_\_\_\_

2282 Witness

2283 \_\_\_\_\_

2284 Notary public

2285 My commission expires \_\_\_\_\_.

2286 (Notary public seal impressed here)

2287 (k)(1) As used in this subsection, the term:

2288 (A) 'Eligible person' means any person who is the owner of the oil and gas interests in  
 2289 lands adjoining the state owned land sought to be leased by said person such that at  
 2290 least 75 percent of the boundary of the state owned land sought to be leased is bordered  
 2291 by said adjoining lands.

2292 (B) 'Oil and gas' shall include affiliated hydrocarbons and gases.

2293 (C) 'Owner of the oil and gas interests in lands' means the person or persons who have  
 2294 the right to drill for oil and gas on those lands and appropriate the production either for  
 2295 themselves and another or others.

2296 (2) Notwithstanding any other provisions of this Code section to the contrary, when it  
 2297 is determined by the GSA to be in the best interests of the State of Georgia, the GSA,  
 2298 acting for and on behalf of and in the name of the State of Georgia, is authorized to grant  
 2299 and convey to any eligible person an oil and gas lease which authorizes such person to  
 2300 extract and remove from state owned lands all oil, gas, and affiliated hydrocarbons and

2301 gases without the necessity of complying with the public competitive bid procedure set  
2302 forth in this Code section, subject to and upon the following conditions:

2303 (A) Upon application by any interested person for an oil and gas lease pursuant to this  
2304 subsection, the GSA shall determine whether or not the applicant is an eligible person.  
2305 If the GSA determines that the applicant is an eligible person, then the GSA is  
2306 authorized to grant and convey to the applicant an oil and gas lease covering the state  
2307 owned land sought to be leased and described in the application without the necessity  
2308 of complying with the public competitive bid procedure set forth in this Code section.  
2309 Nothing in this subsection shall prevent the GSA from complying with the public  
2310 competitive bid procedure set forth in this Code section when leasing the state owned  
2311 land described in the application or any other state owned land if it finds such procedure  
2312 to be in the best interests of the State of Georgia;

2313 (B) The application for the oil and gas lease shall be in writing and shall contain a  
2314 request for an oil and gas lease; a description of the state owned land sought to be  
2315 leased; a locational, dimensional, and directional sketch in a form acceptable to the  
2316 GSA or a plat of survey of the state owned land sought to be leased; a true statement  
2317 that the applicant is the owner of the oil and gas interests in lands adjoining the state  
2318 owned land sought to be leased such that at least 75 percent of the boundary of the state  
2319 owned land sought to be leased is bordered by said adjoining lands; copies of all oil and  
2320 gas leases or deeds to the lands adjoining the state owned lands sought to be leased and  
2321 by which the applicant claims the ownership of the oil and gas interests; and a list of  
2322 the names and addresses of all owners of the oil and gas interests in the lands adjoining  
2323 the state owned land sought to be leased describing the nature of their interest. The  
2324 entire application shall be in a form acceptable to the GSA;

2325 (C) Any lease granted to any person pursuant to this subsection shall be subject to  
2326 subsection (g) of this Code section;

2327 (D) Prior to the execution of any oil and gas lease pursuant to this subsection, the GSA  
2328 shall enter into an agreement with the department or agency which has legal title to or  
2329 custody of the state owned lands sought to be leased. The agreement shall contain the  
2330 department's or agency's certification that the state owned land is available for leasing  
2331 and such other terms and provisions which the parties to the agreement deem necessary  
2332 to protect the state owned land; and

2333 (E) The form of execution by the commissioner, who is acting for and on behalf of and  
2334 in the name of the State of Georgia, of each oil and gas lease shall be as set forth in  
2335 paragraph (5) of subsection (j) of this Code section.

2336 50-5-173.

2337 (a) The GSA, acting for and on behalf of and in the name of the state, is empowered to  
 2338 take or damage by condemnation and the power of eminent domain for the public purposes  
 2339 of the state any private property upon first paying or tendering just and adequate  
 2340 compensation to the owner of such private property. The power of eminent domain shall  
 2341 be cumulative of any other power of eminent domain provided by law. Condemnation  
 2342 proceedings by the GSA, acting for and on behalf of and in the name of the state, shall take  
 2343 the form provided in Chapter 1 of Title 22 and Articles 1 and 2 of Chapter 2 of Title 22 or  
 2344 the form provided in Article 3 of Chapter 2 of Title 22. The power of condemnation and  
 2345 eminent domain to take or damage private property authorized by this Code section shall  
 2346 neither supersede nor abridge the powers of condemnation and eminent domain to take or  
 2347 damage private property given severally to the Department of Transportation and the Board  
 2348 of Regents of the University System of Georgia.

2349 (b) The GSA, acting for and on behalf of and in the name of the state, is also authorized  
 2350 to acquire public property or an interest therein by condemnation and the power of eminent  
 2351 domain when such acquisition is approved by the State Commission on the Condemnation  
 2352 of Public Property. Condemnation proceedings by the GSA shall take the form provided  
 2353 in Article 3 of Chapter 2 of Title 22. As used in this subsection, the term 'public property'  
 2354 has the same meaning provided for in Code Section 50-16-180.

2355 50-5-174.

2356 The Department of Natural Resources is authorized to convey to municipalities, counties,  
 2357 or combinations thereof, in the name of the state, by appropriate instrument, all of the  
 2358 state's interest in any real property donated to the department at any time, in parcels not  
 2359 exceeding three acres, to be used for the construction and operation thereon of  
 2360 boat-launching ramps without the prior approval of the GSA. The conveyance may be  
 2361 made without prior appraisal, without a plat, and without public bidding procedures and  
 2362 shall be made for nominal consideration or such consideration as may be agreed upon  
 2363 between the department and the other party or parties to the conveyance.

2364 50-5-175.

2365 The Department of Natural Resources, the Public Service Commission, and all other state  
 2366 agencies are requested and directed to provide such technical assistance and services as  
 2367 shall be requested and needed by the GSA in the execution and performance of its duties  
 2368 under this article.

2369 50-5-176.

2370 This article shall be liberally construed so as to effectuate the purposes of the article."

2371 **SECTION 1-2.**

2372 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
2373 is amended by revising Chapter 20, relating to personnel administration, as follows:

2374 "CHAPTER 20

2375 ARTICLE 1

2376 45-20-1.

2377 (a) It is the purpose of this article to establish in the state a system of personnel  
2378 administration which will attract, select, and retain the best employees based on merit, free  
2379 from coercive political influences, with incentives in the form of equal opportunities for  
2380 all; which will provide technically competent and loyal personnel to render impartial  
2381 service to the public at all times and to render such service according to the dictates of  
2382 ethics and morality; and which will remove unnecessary and inefficient employees. It is  
2383 specifically the intent of the General Assembly to promote this purpose by allowing  
2384 agencies greater flexibility in personnel management so as to promote the overall  
2385 effectiveness and efficiency of state government. To this end, and in accordance with Code  
2386 Sections 45-20-2 and 45-20-6, all positions filled after July 1, 1996, shall be included in  
2387 the unclassified service ~~of the State Personnel Administration~~ as defined in this article,  
2388 except as provided in Code Section 15-11-24.3. It is also specifically the intent of the  
2389 General Assembly that employees in the classified service prior to July 1, 1996, shall  
2390 continue to be employees in the classified service so long as they remain in classified  
2391 positions or as otherwise provided by law. It is further specifically the intent of the General  
2392 Assembly that state government operate within a framework of consistent core personnel  
2393 policies and practices across all state agencies and entities and that the state's most valued  
2394 resource, its employees, be managed in a manner to promote work force productivity and  
2395 sound business practices.

2396 (b) In order to achieve these purposes, it is the policy of the state that agencies treat all  
2397 employees in accordance with the following principles:

2398 (1) Assuring fair treatment of applicants and employees in all aspects of personnel  
2399 administration without regard to race, color, national origin, sex, age, disability, religious  
2400 creed, or political affiliations. This 'fair treatment' principle includes compliance with all  
2401 state and federal equal employment opportunity and nondiscrimination laws;

- 2402 (2) Recruiting, selecting, and advancing employees on the basis of their relative ability,  
 2403 knowledge, and skills, including open consideration of qualified applicants for initial  
 2404 employment;
- 2405 (3) Providing equitable and adequate compensation based on merit, performance, job  
 2406 value, and competitiveness within applicable labor markets;
- 2407 (4) Training employees, as needed, to assure high quality performance and to provide  
 2408 work force skills needed to maintain and advance the state's goals and objectives;
- 2409 (5) Retaining employees on the basis of the adequacy of their performance, correcting  
 2410 inadequate performance where possible and appropriate, and separating employees whose  
 2411 performance is inadequate; and
- 2412 (6) Assuring that employees are protected against coercion for partisan political purposes  
 2413 and are prohibited from using their official authority for the purpose of interfering with  
 2414 or affecting the result of an election or nomination for office.
- 2415 (c) It shall be the responsibility of the ~~State Personnel Administration~~ Georgia Services  
 2416 Administration to perform the following functions:
- 2417 (1) Establish and maintain a state-wide system of pay ranges for all job classes;
- 2418 (2) Define job classes, establish associated minimum qualifications for those classes, and  
 2419 assign those classes to appropriate pay ranges;
- 2420 (3) Develop and maintain a common employment application form to be used by all  
 2421 applicants for state employment; which ~~form~~ may be supplemented as necessary by  
 2422 agencies in seeking information about agency job classes;
- 2423 (4) Serve as the central contact point for all potential employees in order to streamline  
 2424 state-wide recruiting for applicants, to provide for a state-wide applicant data base, to  
 2425 refer applicants to agencies, and make applicant data available to agencies for review and  
 2426 consideration;
- 2427 (5) ~~Upon request, develop~~ Develop, validate, or develop and validate applicant screening  
 2428 devices being utilized by agencies;
- 2429 (6) ~~Upon request, administer~~ Administer screening devices on behalf of agencies;
- 2430 (7) Make employment related training available to agencies and allow agencies the  
 2431 opportunity to provide input into the nature and scope of said training programs;
- 2432 (8) In consultation with agencies, establish state-wide criteria for the implementation of  
 2433 rules and policies adopted by the ~~State Personnel Board~~ commissioner of the Georgia  
 2434 Services Administration which agencies shall use in developing internal processes for  
 2435 classification, compensation, pay for performance, and performance management,  
 2436 including processes involved in defining job classes, establishing and applying associated  
 2437 minimum qualifications, assigning jobs to appropriate state-wide pay ranges, developing  
 2438 and applying applicant screening methods, and measuring worker effectiveness;

2439 (9) Audit agencies' processes as referred to in paragraph (8) of this subsection and report  
 2440 findings annually to the Governor and the General Assembly in conjunction with an  
 2441 annual report on the overall status of the state work force. The ~~State Personnel~~  
 2442 ~~Administration~~ Georgia Services Administration shall not be required to distribute copies  
 2443 of the findings or annual report referred to in this paragraph to the members of the  
 2444 General Assembly but shall notify the members of the availability of the materials in the  
 2445 manner which it deems to be most effective and efficient;

2446 (10) Serve as consultant to agencies on work force planning and effective work force  
 2447 strategies, provide technical support assistance, and direct services to agencies as  
 2448 requested; and

2449 (11) Maintain and make available to the public at large a state-wide central registry of  
 2450 employment vacancies and job announcements in state government as provided to the  
 2451 ~~State Personnel Administration~~ Georgia Services Administration by agencies.

2452 (d) Subsection (c) of this Code section shall not apply to the legislative or judicial  
 2453 branches or to the board of regents.

2454 (e) Each agency shall develop an annual work force plan according to state-wide criteria  
 2455 and guidelines and shall provide a report of such plan annually to the ~~State Personnel~~  
 2456 ~~Administration~~ Georgia Services Administration for incorporation into the state-wide work  
 2457 force plan to be submitted to the Governor and the General Assembly by December 31 of  
 2458 each year for the subsequent fiscal year.

2459 (f) In the event agencies do not use a competitive civil service examination to fill some or  
 2460 all of their unclassified positions, it is expressly the intent of the General Assembly that  
 2461 appropriate consideration be given to veterans as defined under Article IV, Section III,  
 2462 Paragraph II of the Constitution of Georgia and Article 2 of Chapter 2 of this title in the  
 2463 filling of job vacancies in this state. Guidelines defining consideration practices shall be  
 2464 developed at the state level. Agencies shall specify agency policies and practices to  
 2465 implement appropriate consideration of military veterans in filling agency job vacancies.

2466 (g) The rules of statutory construction contained in Chapter 3 of Title 1, relating to general  
 2467 provisions concerning the construction of statutes, as now or hereafter amended, shall  
 2468 apply to this article.

2469 45-20-2.

2470 As used in this chapter, the term:

2471 (1) 'Appointing authority' means the person or groups of persons authorized by law or  
 2472 delegated authority to make appointments to fill positions.

2473 (2) 'Classified service' means that employment status conferring rights of appeal, as set  
 2474 forth in Code Sections 45-20-8 and 45-20-9. 'Classified service' includes only those

2475 employees of state departments as defined in this Code section who were in the classified  
 2476 service as of June 30, 1996, and who have remained in classified positions without a  
 2477 break in service since that date.

2478 ~~(3) 'Commissioner of personnel administration' and 'commissioner' mean the chief~~  
 2479 ~~executive officer of the State Personnel Administration who is responsible for~~  
 2480 ~~administering the state personnel program in accordance with applicable state and federal~~  
 2481 ~~laws and the policies and rules of the State Personnel Board.~~

2482 ~~(4)~~ 'Classified employee' means an employee who was in the classified service as of June  
 2483 30, 1996, and who has remained in a classified position without a break in service since  
 2484 that date.

2485 ~~(5)~~(4) 'Classified position' means a position that was classified on June 30, 1996, and that  
 2486 subsequent to June 30, 1996, has not been held by an unclassified employee.

2487 (5) 'Commissioner' means the commissioner of the Georgia Services Administration  
 2488 provided for in Chapter 5 of Title 50.

2489 (6) 'Department' and 'agency' are synonymous and mean all separate and distinct  
 2490 divisions and subdivisions of state government whose heads are legally authorized to  
 2491 appoint employees to positions; but these terms shall not include authorities, public  
 2492 corporations, the legislative and judicial branches, and the board of regents. 'Department'  
 2493 and 'agency' shall include an agency assigned to a department for administrative purposes  
 2494 and shall also include local departments of public health, county departments of family  
 2495 and children services, community service boards, and units of the Department of Defense  
 2496 with local employees.

2497 (7) 'Employment at will' means an employment relationship in which either party to the  
 2498 relationship may sever the relationship at any time for any reason other than an unlawful  
 2499 reason.

2500 (8) 'Georgia Services Administration' or 'GSA' means the state agency created under  
 2501 Chapter 5 of Title 50.

2502 ~~(8)~~(9) 'Position' means a set of duties and responsibilities assigned or delegated by  
 2503 competent authority for performance by one person.

2504 ~~(9)~~(10) 'Rules and regulations' and ~~'merit system rules and regulations'~~ mean means the  
 2505 governing provisions ~~of the State Personnel Administration~~ for administration of this  
 2506 chapter, as adopted by the State Personnel Board and approved by the Governor which  
 2507 give force and effect to the policies of the State Personnel Board commissioner and  
 2508 approved by the Governor; provided, however, that the rules and regulations formerly  
 2509 adopted by the State Personnel Board shall remain in effect until amended or superseded  
 2510 by the commissioner.

2511 ~~(10)~~(11) 'State Personnel Board' and 'board' are synonymous and mean the body  
 2512 authorized by Article IV, Section III, Paragraph I of the Constitution of Georgia.

2513 ~~(11) 'State Personnel Board policies' means those policies adopted by the board and~~  
 2514 ~~approved by the Governor which describe the goals and objectives of the state personnel~~  
 2515 ~~program and serve as a basis for the formulation and administration of the merit system~~  
 2516 ~~rules and regulations.~~

2517 (12) 'Unclassified service' means employment at will and includes all employees except  
 2518 those in the classified service as defined in this Code section.

2519 (13) 'Working test' or 'working test period' means a probationary period of employment  
 2520 in a classified position during which the employee must demonstrate to the satisfaction  
 2521 of the appointing authority that he or she has the knowledge, ability, aptitude, and other  
 2522 necessary qualities to perform satisfactorily the duties of the position in which employed.  
 2523 The working test period shall apply to each promotion of a classified employee to a  
 2524 classified position. The commissioner may fix the length of the working test period for  
 2525 any job at not less than six months nor more than 18 months exclusive of any time in  
 2526 nonpay status; provided, however, that the length of the working test period for troopers  
 2527 of the Uniform Division of the Department of Public Safety shall be 18 months.

2528 (14) 'Working test employee' or 'employee on working test' means a classified employee  
 2529 serving a working test period in the position in which he or she is employed; provided,  
 2530 however, that an employee serving a working test period following a promotion in the  
 2531 same department from a lower class in which he or she had successfully completed a  
 2532 working test period shall retain appeal rights in the lower class until he or she  
 2533 successfully completes the working test period in the job to which he or she has been  
 2534 promoted.

2535 45-20-3.

2536 (a)(1) The State Personnel Board shall prescribe ~~the guidelines~~ policy direction by which  
 2537 the state's personnel policies shall be administered. The state's personnel policies shall  
 2538 constitute a state merit system of personnel administration subject to governance by the  
 2539 commissioner under the policy direction provided by the board. The board shall hold  
 2540 regular meetings as needed for the proper discharge of its duties.

2541 (2) Members of the board shall receive no salary but shall receive the same expense  
 2542 allowance per day as that received by a member of the General Assembly for each day  
 2543 such member is attending meetings or performing official business for the board, plus  
 2544 reimbursement for actual transportation costs while traveling by public carrier or the legal  
 2545 mileage rate for the use of a personal automobile in connection with such attendance or  
 2546 official business.

2547 (3) Three members shall constitute a quorum. Only the votes of a majority of the  
 2548 members present shall be necessary for the transaction of any business or discharge of  
 2549 any duties of the State Personnel Board, provided there is a quorum.

2550 (b) It shall be the specific duty and function of the ~~State Personnel Board~~ GSA:

2551 (1) To represent the public interest in the improvement of personnel administration in all  
 2552 state departments;

2553 (2) To determine appropriate human resource management goals and objectives and  
 2554 prescribe policies for their accomplishment;

2555 (3) At public hearings, to adopt and amend policies, rules, and regulations effectuating  
 2556 the ~~State Personnel Administration~~ and the state's personnel policies and practices subject  
 2557 to approval by the Governor. ~~Notice of State Personnel Board meetings shall be released~~  
 2558 ~~to all departments and agencies and shall be prominently posted at the office of the State~~  
 2559 ~~Personnel Administration at least ten days prior to each board meeting;~~

2560 (4) Where the ~~board~~ GSA deems a review appropriate, for employees of the classified  
 2561 service, to ensure that a review is afforded on a dismissal and other adverse personnel  
 2562 actions defined by the rules and regulations of the ~~State Personnel Board~~. All appeals  
 2563 determinations of the ~~board~~ GSA shall be written and documented as to findings of fact,  
 2564 bases for decisions, and prescribed remedies;

2565 (5) To assure the administration of state and federal laws relating to state personnel  
 2566 administration; and

2567 ~~(6) To establish an annual budget covering all the costs of State Personnel Board~~  
 2568 ~~operations, said budget to be incorporated as a component of the annual budget of the~~  
 2569 ~~State Personnel Administration; and~~

2570 ~~(7)~~(6) To promote public understanding of the purposes, policies, and practices of ~~the~~  
 2571 ~~State Personnel Administration~~ state personnel system and to advise and assist the several  
 2572 state departments in fostering merit selection and securing the interest of institutions of  
 2573 learning and of civic, professional, and other organizations in the improvement of  
 2574 personnel standards under the state's personnel system.

2575 45-20-3.1.

2576 (a) At least 30 days prior to the date of a public hearing held to consider the adoption of  
 2577 rules or regulations to effectuate this chapter, the ~~State Personnel Board~~ commissioner shall  
 2578 transmit a notice containing an exact copy of the proposed rule or regulation to each  
 2579 member of the ~~State and Local Governmental Operations~~ Government Oversight  
 2580 Committee of the Senate and the House Committee on Governmental Affairs ~~Committee~~  
 2581 ~~of the House of Representatives~~. The notice shall provide a citation to the authority  
 2582 pursuant to which the proposed rule or regulation is to be adopted and, if it amends an

2583 existing rule or regulation, such existing rule or regulation shall be clearly identified. The  
 2584 notice shall also state the date, time, and place of the public hearing at which adoption of  
 2585 the proposed rule shall be considered.

2586 (b) If, prior to the date of the public hearing at which the proposed rule or regulation is to  
 2587 be considered for adoption, the ~~chairman~~ chairperson of either legislative committee  
 2588 specified in subsection (a) of this Code section notifies the commissioner of ~~personnel~~  
 2589 ~~administration and the State Personnel Board~~ that the committee objects to the adoption of  
 2590 the proposed rule or regulation or has questions concerning the purpose, nature, or  
 2591 necessity of the proposed rule or regulation, it shall be the duty of the ~~State Personnel~~  
 2592 ~~Board~~ commissioner to consult with the committee prior to the adoption of the proposed  
 2593 rule or regulation.

2594 (c) If the ~~State Personnel Board~~ commissioner finds that the immediate adoption of a rule  
 2595 or regulation is necessary to secure or protect the interests of the ~~State Personnel~~  
 2596 ~~Administration~~ GSA, such rule or regulation may be adopted on an emergency basis  
 2597 without following the procedures required by this Code section. In that event, the ~~State~~  
 2598 ~~Personnel Board~~ commissioner shall adopt a resolution declaring the existence of an  
 2599 emergency and explaining the basis for such declaration as a condition necessary to adopt  
 2600 a rule or regulation on an emergency basis. Any rule or regulation adopted pursuant to the  
 2601 authority of this subsection shall expire in not more than 120 days immediately following  
 2602 its adoption, but the adoption of an identical rule pursuant to the requirements of this Code  
 2603 section shall not be precluded.

2604 (d) Reserved. ~~By not later than August 1, 1985, the State Personnel Board shall file with~~  
 2605 ~~the Secretary of State a certified copy of all rules or regulations which were adopted by~~  
 2606 ~~said board prior to July 1, 1985, and which are of force and effect on July 1, 1985, or which~~  
 2607 ~~were adopted prior to July 1, 1985, to become effective after that date. Any rule or~~  
 2608 ~~regulation adopted by the State Personnel Board prior to July 1, 1985, which is not filed~~  
 2609 ~~with the Secretary of State by August 1, 1985, shall be void and of no force and effect after~~  
 2610 ~~August 1, 1985.~~

2611 (e) Each rule or regulation adopted by the ~~State Personnel Board~~ commissioner on or after  
 2612 July 1, ~~1985~~ 2010, shall when approved by the Governor become effective upon approval  
 2613 by the Governor adoption by the commissioner or such later date as is specified in the rule  
 2614 or regulation. The commissioner of ~~personnel administration~~ shall immediately file an  
 2615 original and two copies of the rule or regulation in the office of the Secretary of State.

2616 (f) Rules or regulations filed with the Secretary of State pursuant to ~~subsections (d) and~~  
 2617 ~~subsection~~ (e) of this Code section shall contain a citation to the authority pursuant to  
 2618 which the rules or regulations are adopted and, when existing rules or regulations are  
 2619 amended, the filings ~~required by said subsections (d) and (e)~~ shall clearly identify the

2620 existing rules or regulations. The Secretary of State shall endorse on each filing ~~required~~  
 2621 ~~by subsections (d) and (e) of this Code section~~ the time and date of the filing and shall  
 2622 maintain a file of the rules and regulations for public inspection.

2623 (g) Rules and regulations filed with the Secretary of State pursuant to the requirements of  
 2624 subsections ~~(d)~~, (e); and (f) of this Code section shall be published by the Secretary of State  
 2625 as a part of the rules of state agencies published by the Secretary of State pursuant to Code  
 2626 Section 50-13-7.

2627 (h) The courts shall take judicial notice of any rule which has become effective pursuant  
 2628 to this chapter.

2629 45-20-4.

2630 ~~(a) There is created the position of commissioner of personnel administration. The~~  
 2631 ~~commissioner shall be appointed by the Governor after consultation with the State~~  
 2632 ~~Personnel Board subject to confirmation by the Senate. The Governor shall fix the~~  
 2633 ~~compensation of the commissioner, who shall serve at the pleasure of the Governor.~~

2634 ~~(b) The duties and responsibilities of the commissioner in the administration of this~~  
 2635 ~~chapter shall be:~~

2636 ~~(1) To serve as executive secretary to the board, to attend meetings as directed by the~~  
 2637 ~~board, and to provide such professional, technical, and other supportive assistance as may~~  
 2638 ~~be required by the board in the performance of its duties;~~

2639 ~~(2) Consistent with board policy, to administer the operations of the State Personnel~~  
 2640 ~~Administration and to otherwise act in the capacity of chief executive officer of the state~~  
 2641 ~~personnel administration program;~~

2642 ~~(3)(1) To submit to the Governor the adopt rules and regulations adopted by the State~~  
 2643 ~~Personnel Board effectuating the State Personnel Administration. Such rules and~~  
 2644 ~~regulations when approved by the Governor shall have the force and effect of law and~~  
 2645 ~~shall be binding upon the state departments covered by this article and shall include~~  
 2646 ~~provisions for the establishment and maintenance of classification and compensation~~  
 2647 ~~plans, the conduct of examinations, appointments, promotions, transfers, demotions,~~  
 2648 ~~appeals of classified employees, reports of performance, payroll certification, and other~~  
 2649 ~~phases of personnel administration. Such rules and regulations shall define and prohibit~~  
 2650 ~~improper political activity by any departmental employee of the State Personnel Board~~  
 2651 ~~Georgia Services Administration or any employee covered under the terms of this article~~  
 2652 ~~and shall provide that there shall be no discrimination for or against any person or~~  
 2653 ~~employee in any manner, to include, but not be limited to, hiring, discharge,~~  
 2654 ~~compensation, benefits, terms or conditions of employment, promotion, job classification,~~  
 2655 ~~transfer, privileges, or demotion because of political affiliation, religious affiliation, race,~~

2656 creed, national origin, sex, age between 40 and 70 years, or physical disability. Such  
 2657 rules and regulations shall conform to the minimum standards for merit systems of  
 2658 personnel administration as specified by those federal departments from which federal  
 2659 funds are obtained for use by the several state departments covered by this article.  
 2660 Compensation plans and modifications thereto promulgated under the rules and  
 2661 regulations of the commissioner shall become effective as adopted upon approval of the  
 2662 director of the Office of Planning and Budget;

2663 ~~(4)(2)~~ To administer the rules and regulations ~~and all other operational aspects of the~~  
 2664 ~~State Personnel Administration~~ and to assure compliance therewith in all departments;

2665 ~~(5)(3)~~ To appoint and prescribe the duties of ~~the merit system~~ GSA staff;

2666 ~~(6)(4)~~ To establish ~~an annual budget covering all the costs of operating the State~~  
 2667 ~~Personnel Administration including the State Personnel Board, and the costs of~~  
 2668 ~~administering such federal laws relating to personnel administration as the Governor may~~  
 2669 ~~direct including the Intergovernmental Personnel Act of 1970, and to determine an~~  
 2670 ~~equitable basis of prorating the annual costs among the several departments covered~~  
 2671 ~~served by the State Personnel Administration~~ GSA based on each department's pro rata  
 2672 share of services provided, with the amounts and rates for such services to be established  
 2673 in each general or amended appropriations Act, provided that upon approval of such  
 2674 budget by the Governor, the Governor shall be empowered to direct that the necessary  
 2675 pro rata share of the several assessed departments concerned be made available for  
 2676 expenditure by the State Personnel Administration in the same manner as appropriated  
 2677 funds are expended by other departments of the state;

2678 ~~(7)(5)~~ To ensure compliance with all applicable state and federal statutes and regulations  
 2679 concerning discrimination in employment, personnel administration, and related matters;  
 2680 and

2681 ~~(8)(6)~~ To cooperate with appointing authorities in the administration of this article in  
 2682 order to promote public service and establish conditions of service which will attract and  
 2683 retain employees of character and ability and to increase efficiency and economy in  
 2684 governmental departments by improving the methods of personnel administration with  
 2685 full recognition of the requirements and needs of management; and.

2686 ~~(9)~~ ~~To appoint and prescribe the duties of a deputy commissioner of personnel~~  
 2687 ~~administration who shall be the second highest executive officer in the State Personnel~~  
 2688 ~~Administration and the deputy executive secretary to the State Personnel Board, and to~~  
 2689 ~~appoint and prescribe the duties of such other assistant commissioners of personnel~~  
 2690 ~~administration as the commissioner deems appropriate. The deputy commissioner and~~  
 2691 ~~the assistant commissioners shall have the authority to perform any duty assigned to the~~  
 2692 ~~commissioner if delegated to them by the commissioner.~~

2693 45-20-5.

2694 Reserved.

2695 ~~(a) There is created the Council for State Personnel Administration. The objectives of the~~  
2696 ~~council shall be:~~

2697 ~~(1) To promote improvements in the personnel program in state government;~~

2698 ~~(2) To provide a forum for the interchange of information relating to the state personnel~~  
2699 ~~program;~~

2700 ~~(3) To serve as a channel through which the operating agencies may express their~~  
2701 ~~opinions on matters affecting state personnel;~~

2702 ~~(4) To seek equitable interpretation and application of the laws, rules, regulations,~~  
2703 ~~policies, and procedures which affect state personnel management and administration;~~  
2704 ~~and~~

2705 ~~(5) To strive for professional consensus consistent with the democratic process in all~~  
2706 ~~actions which it may undertake.~~

2707 ~~(b) Membership in the council shall be as defined in the bylaws of the council.~~

2708 ~~(c) The council is authorized to adopt bylaws which prescribe its organizational structure,~~  
2709 ~~officers and terms and conditions of office, meeting schedules, and such other~~  
2710 ~~organizational and operational procedures as are necessary for its lawful and effective~~  
2711 ~~functioning. As the professional association authorized to represent the interests of the~~  
2712 ~~several departments in the area of state personnel administration, the council shall through~~  
2713 ~~its offices have direct access to the board, the commissioner, the Governor, and the General~~  
2714 ~~Assembly to present grievances, suggestions, and recommendations.~~

2715 45-20-6.

2716 (a) The classified service as defined by Code Section 45-20-2 shall consist of only those  
2717 employees who were in the classified service on June 30, 1996, and who have remained  
2718 in a classified position without a break in service since that date. Any officer or employee  
2719 who ~~occupies~~ occupied a classified position under the State Personnel Administration prior  
2720 to July 1, 1996, or as provided in Code Section 15-11-24.3 shall remain in the classified  
2721 service so long as such officer or employee shall remain in a classified position or as  
2722 otherwise provided by law. Employees in the classified service shall have, upon  
2723 completing a working test period, appeal rights as provided in Code Sections 45-20-8 and  
2724 45-20-9.

2725 (b) The unclassified service as defined by Code Section 45-20-2 shall consist of all  
2726 employees in the departments of state government not included in the classified service  
2727 under this article. Employees in the unclassified service shall be employees at will and  
2728 shall not be afforded appeal rights.

2729 (c) Exclusion from the classified service shall not exclude any employee, officer, or  
 2730 official from eligibility for membership or membership in the Employees' Retirement  
 2731 System of Georgia, provided that such employee, officer, or official is otherwise eligible  
 2732 for membership under Chapter 2 of Title 47.

2733 (d) It is the intent of the General Assembly that employees in the classified service be  
 2734 required to serve a working test period before they obtain rights of appeal and that the  
 2735 successful completion of this probationary period is part of the employment examination  
 2736 procedure. Each employee serving in a working test period shall be provided with  
 2737 management review by the appointing authority within ten calendar days of the date the  
 2738 employee has completed one-half of the working test period or as near to such date as is  
 2739 practicable. The management review shall include an evaluation of the employee's  
 2740 progress and recommendations, if any, for corrective action. The provision of management  
 2741 review pursuant to this subsection is solely for the purpose of promoting efficient  
 2742 management and employee development and shall not be interpreted as granting any  
 2743 additional rights to a working test employee. The ~~State Personnel Board~~ commissioner  
 2744 shall be responsible for adopting and amending rules and regulations establishing the  
 2745 guidelines to be used by the appointing authority in completing the management review  
 2746 pursuant to this subsection.

2747 45-20-7.

2748 Reserved.

2749 45-20-8.

2750 (a) Classified employees who have successfully completed a working test period may be  
 2751 dismissed from employment or otherwise adversely affected as to compensation or  
 2752 employment status only if such action is taken in accordance with the rules and regulations  
 2753 ~~of the State Personnel Board~~ governing adverse actions and appeals for classified  
 2754 employees.

2755 (b) This article is not intended to create a property interest in the job, but rather to create  
 2756 only a procedure under which classified employees can be dismissed or otherwise  
 2757 adversely affected. The procedure adopted for dismissing a classified employee from  
 2758 employment or otherwise adversely affecting his or her compensation or employment  
 2759 status shall include, as a minimum, that the appointing authority must provide the classified  
 2760 employee with reasons for the action and an opportunity to file an appeal and request a  
 2761 hearing which may be held before ~~either the board or~~ an administrative law judge of the  
 2762 Office of State Administrative Hearings; provided, however, that the hearing may be held  
 2763 subsequent to the effective date of the dismissal or other purported adverse action;

2764 provided, further, that the right to appeal shall not apply when persons are dismissed or  
 2765 otherwise adversely affected as to compensation due to curtailment of funds or reduction  
 2766 in staff when such action is in accordance with the rules and regulations ~~of the State~~  
 2767 ~~Personnel Board~~.

2768 (c) No adverse action appealed to the ~~State Personnel Board~~ Georgia Services  
 2769 Administration under the rules and regulations ~~of the board~~, this article, or otherwise shall  
 2770 be considered invalid for failure to follow or comply with the rules and regulations ~~of the~~  
 2771 ~~board~~, this article, or any other requirement unless it is shown that the individual against  
 2772 whom the action has been taken has been substantially harmed by the procedural failure.

2773 (d) The decision of the ~~board~~ Office of State Administrative Hearings on an appeal as to  
 2774 whether a dismissal or other adverse action was in accordance with the rules and  
 2775 regulations ~~prescribed by the State Personnel Board~~ shall be binding upon the appointing  
 2776 authority. The ~~board~~ Office of State Administrative Hearings may modify the action of the  
 2777 appointing authority but may not increase the severity of such action on the employee.  
 2778 Such appointing authority shall promptly comply with such order as may be issued as a  
 2779 result of the appeal to the ~~State Personnel Board~~ Office of State Administrative Hearings.  
 2780 The decision of the ~~board~~ Office of State Administrative Hearings shall not limit the rights  
 2781 of the employee or the department to judicial review as to errors of law, and such decision  
 2782 shall be stayed pending other further appeal.

2783 (e) For purposes of this Code section and Code Section 45-20-9, administrative law judges  
 2784 appointed by the chief state administrative law judge pursuant to Article 2 of Chapter 13  
 2785 of Title 50 ~~are authorized to~~ shall hold hearings and otherwise assist the ~~State Personnel~~  
 2786 ~~Board~~ Georgia Services Administration in the resolution of appeals.

2787 45-20-9.

2788 (a) Any laws to the contrary notwithstanding, all hearings on dismissals, other adverse  
 2789 personnel actions, and other purported violations of the rules and regulations as applied to  
 2790 classified employees shall be instituted by filing a written appeal with the Office of State  
 2791 Administrative Hearings upon such ground and in such form and under such procedure as  
 2792 may be prescribed by rules and regulations of the office. The party appealing and the  
 2793 department from whose action the appeal is taken shall be notified in writing within 15  
 2794 days from the filing of the appeal that an appeal has been filed and the time for which a  
 2795 hearing is scheduled.

2796 (b) The ~~State Personnel Board, any member of the board, or an~~ administrative law judge  
 2797 shall have the authority to do the following in connection with any hearing on a dismissal  
 2798 or other purported violation of the rules and regulations: administer oaths and affirmations;  
 2799 sign and issue subpoenas; rule upon offers of proof; regulate the course of the hearing, set

2800 the time and place for continued hearings, and fix the time for filing briefs; dispose of  
 2801 motions to dismiss for lack of ~~the board's~~ jurisdiction over the subject matter or parties or  
 2802 for any other ground; dispose of motions to amend or to intervene; provide for the taking  
 2803 of testimony by deposition or interrogatory; and reprimand or exclude from the hearing any  
 2804 person for any indecorous or improper conduct committed in the ~~presence of the board or~~  
 2805 ~~the administrative law judge~~ conduct of the proceedings.

2806 (c) Subpoenas shall be issued without discrimination between public and private parties.  
 2807 When a subpoena is disobeyed, any party may apply to the superior court of the county  
 2808 where the hearing is being held for an order requiring obedience. Failure to comply with  
 2809 such order shall be cause for punishment as for contempt of court. The costs of securing  
 2810 the attendance of witnesses, including fees and mileage, shall be computed and assessed  
 2811 in the same manner as prescribed by law in civil cases in the superior court. Once issued  
 2812 a subpoena may be quashed by ~~the board or an administrative law judge~~ if it appears that  
 2813 the subpoena was used primarily as a means of harassment, that the testimony or  
 2814 documents sought are cumulative, that the testimony or documents sought are not relevant,  
 2815 that the testimony or documents sought are not material, that to respond to the subpoena  
 2816 would be unduly burdensome, or that for other good reasons basic fairness dictates that the  
 2817 subpoena should not be enforced.

2818 (d) With respect to all hearings before the ~~board or~~ the administrative law judge:

2819 (1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules  
 2820 of evidence as applied in the trial of civil nonjury cases in the superior courts of Georgia  
 2821 shall be followed. Evidence not admissible thereunder may be admitted if it is of a type  
 2822 commonly relied upon by reasonably prudent ~~men~~ persons in the conduct of their affairs.  
 2823 The ~~board~~ proceedings shall give effect to the rules of privilege recognized by law.  
 2824 Objections to evidentiary offers may be made and shall be noted in the record. Subject  
 2825 to these requirements, when a hearing will be expedited and the interests of the parties  
 2826 will not be prejudiced substantially, any part of the evidence may be received in written  
 2827 form;

2828 (2) Documentary evidence may be received in the form of copies or excerpts if the  
 2829 original is not readily available. Upon request and at the discretion of the administrative  
 2830 law judge ~~or board~~, parties shall be given an opportunity to compare the copy with the  
 2831 original;

2832 (3) A party may conduct such cross-examination as shall be required for a full and true  
 2833 disclosure of the facts;

2834 (4) Official notice may be taken of judicially recognizable facts. In addition, official  
 2835 notice may be taken of technical facts within the ~~board's~~ Georgia Services  
 2836 Administration's specialized knowledge. Parties shall be notified either before or during

2837 the hearing by reference in preliminary reports or otherwise of the material officially  
 2838 noticed, including any staff memoranda or data; and they shall be afforded an opportunity  
 2839 to contest the material so noticed. The ~~board's~~ Georgia Services Administration's  
 2840 experience, technical competence, and specialized knowledge may be utilized in the  
 2841 evaluation of the evidence.

2842 (e)(1) ~~With respect to hearings at which the board did not preside at the presentation of~~  
 2843 ~~the evidence, the~~ The administrative law judge who presided shall issue an initial decision  
 2844 within 30 days from the close of the evidence or if necessary within a longer period of  
 2845 time as ordered by the ~~board~~ or the administrative law judge. The initial decision shall  
 2846 be transmitted to the ~~board~~ Georgia Services Administration, and copies shall be sent to  
 2847 the parties or their representatives. In the absence of an application for review from an  
 2848 adversely affected party to the ~~board~~ Georgia Services Administration within 30 days  
 2849 from the date the initial decision was issued or in the absence of an order by the ~~board~~  
 2850 GSA within such time for review on its own motion, the decision shall become the  
 2851 decision of the ~~board~~ GSA without further proceedings or notice; and any right of  
 2852 additional appeals shall be extinguished.

2853 (2) On review of the entire record from the administrative law judge, the ~~board~~ GSA  
 2854 shall have all the powers it would have in presiding at the reception of the evidence,  
 2855 including the review of any motions granted or denied by the administrative law judge  
 2856 and including the review of any action taken by the administrative law judge. Both  
 2857 parties shall have the right to present oral arguments to the ~~board~~ GSA. Any presentation  
 2858 to the ~~board~~ GSA on the matter by an administrative law judge shall be made in the  
 2859 presence of the parties. ~~No administrative law judge shall be present during the board's~~  
 2860 ~~deliberations and voting on the application.~~ At its discretion, the ~~board~~ GSA may take  
 2861 additional testimony or remand the matter to the administrative law judge for such  
 2862 purpose.

2863 (f) Unless precluded by law, informal disposition of any proceeding before the ~~board~~ GSA  
 2864 or the administrative law judge may be made by stipulation, agreed settlement, consent  
 2865 order, or default.

2866 (g) As a part of the initial decision or order subsequent to any hearing, the administrative  
 2867 law judge ~~or the board~~ shall include findings of fact and conclusions of law separately  
 2868 stated and the effective date of the decision or order. Findings of fact, if set forth in  
 2869 statutory language, shall be accompanied by a concise and explicit statement of the  
 2870 underlying facts supporting the findings. Copies of the decision or order shall be mailed  
 2871 to all parties of record.

2872 (h) Any party, including the state and any state board, bureau, commission, or department,  
 2873 who has exhausted all administrative remedies available before the ~~board~~ GSA and who

2874 is aggrieved by a final decision or order of the board GSA on any hearing may seek judicial  
2875 review of the final decision or order of the board GSA in the superior court of the county  
2876 of the place of employment of the employee.

2877 (i) Proceedings for review shall be instituted by filing a petition with the court within 30  
2878 days after the decision or order is rendered. Copies of the petition shall be served upon the  
2879 board GSA and all parties of record. The petition shall state the nature of the petitioner's  
2880 interest, the facts showing that the petitioner is aggrieved by the decision of the board GSA,  
2881 and the grounds upon which the petitioner contends the decision or order should be  
2882 reversed or remanded. The petition may be amended with leave of court.

2883 (j) Within 30 days after the service of the petition or within further time allowed by the  
2884 court, the board GSA shall transmit to the reviewing court the original or a certified copy  
2885 of the entire record of the proceeding under review. By stipulation of all parties to the  
2886 review proceeding the record may be shortened. A party unreasonably refusing to stipulate  
2887 to limit the record may be taxed by the court for the additional costs. The court may require  
2888 or permit subsequent corrections or additions to the record.

2889 (k) The filing of the petition shall stay the enforcement of the board's GSA's decision or  
2890 order.

2891 (l) If before the date set for hearing the appeal by the superior court application is made  
2892 to the court for leave to present additional evidence and it is shown to the satisfaction of  
2893 the court that the additional evidence is material and there were good reasons for failure  
2894 to present it in the proceedings before the board GSA, the court may order that the  
2895 additional evidence be taken before the board GSA upon conditions determined by the  
2896 court. The board GSA may modify its findings and decision or order by reason of the  
2897 additional evidence and shall file that evidence and any modifications, new findings, or  
2898 decisions and orders with the reviewing court.

2899 (m) The review shall be conducted by the court without a jury and shall be confined to the  
2900 record. The court shall not substitute its judgment for that of the board GSA as to the  
2901 weight of the evidence on questions of fact. The court may affirm the decision or order of  
2902 the board GSA or remand the case for further proceedings. The court may reverse the  
2903 decision or order of the board GSA if substantial rights of the petitioner have been  
2904 prejudiced because the board's GSA's findings, inferences, conclusions, decisions, or orders  
2905 are:

- 2906 (1) In violation of constitutional or statutory provisions;
- 2907 (2) In excess of the statutory authority of the board GSA;
- 2908 (3) Made upon unlawful procedure;
- 2909 (4) Clearly erroneous in view of the reliable, probative, and substantial evidence on the  
2910 whole record; or

2911 (5) Arbitrary, capricious, or characterized by abuse of discretion or clearly unwarranted  
2912 exercise of discretion.

2913 (n) A party aggrieved by an order of the court in a proceeding authorized under this Code  
2914 section may appeal to the Supreme Court of Georgia or the Court of Appeals of Georgia  
2915 in accordance with Article 2 of Chapter 6 of Title 5.

2916 45-20-10.

2917 In order to furnish the Governor, the General Assembly, and the general public with  
2918 statistical information which can be used in planning departmental programs and  
2919 budgeting, each official required under present law to submit a quarterly budget to the  
2920 Office of Planning and Budget shall submit to the commissioner such payroll and other  
2921 essential personnel data as may be prescribed and approved by the Governor. The  
2922 commissioner shall compile and consolidate reports pertaining to the number of personnel,  
2923 salaries, length of service, type of work, distribution of ~~employees by departments~~ filled  
2924 and unfilled full-time employee positions of each agency at the budgetary program level,  
2925 and other pertinent personnel information.

2926 45-20-11.

2927 ~~Reserved. The state auditor shall perform periodic operational audits of the State Personnel~~  
2928 ~~Administration. Such audits shall also be performed at the request of the Governor, the~~  
2929 ~~commissioner, or the General Assembly. Reports of audit findings shall be filed with the~~  
2930 ~~board, the commissioner, and the Governor. The state auditor shall not be required to file~~  
2931 ~~copies of the audit findings with the members of the General Assembly but shall notify the~~  
2932 ~~members of the availability of audit findings in the manner which he or she deems to be~~  
2933 ~~most effective and efficient.~~

2934 45-20-12.

2935 (a) ~~The State Personnel Board and the State Personnel Administration are~~ GSA is  
2936 authorized and directed to implement a sequential series of leadership development courses  
2937 of study and preparation in order to enhance the capacity of supervisors, managers, and  
2938 executives to lead people at the direct, organizational, and strategic levels.

2939 (b) The Governor's Executive Leadership Institute is implemented by the ~~State Personnel~~  
2940 ~~Board and the State Personnel Administration~~ GSA with the following objectives:

2941 (1) To establish and maintain a state government executive leadership development  
2942 program to train and prepare current and future state government leaders;

2943 (2) To foster and maintain higher developmental, educational, and ethical standards in  
2944 the field and practice of public leadership and management; and

2945 (3) To assist agencies of state government by establishing a more objective measure of  
2946 a leader's professional preparation and knowledge.

2947 45-20-13.

2948 Reserved.

2949 45-20-14.

2950 Reserved.

2951 45-20-15.

2952 (a) As used in this Code section, the term:

2953 (1) 'Counseling session' means any discussions or meetings between a state employee  
2954 and an official or other employee of the ~~State Personnel Administration~~ GSA which are  
2955 conducted under an official program established by the commissioner.

2956 (2) 'Information' means any written document or material acquired or produced as a part  
2957 of a counseling session or the contents thereof and the contents of any discussions held  
2958 as a part of a counseling session.

2959 (3) 'Program' means the employee relations counseling function established by the  
2960 commissioner under which an employee is entitled to confidential counseling with regard  
2961 to job related problems.

2962 (b) Except as provided in subsections (c), (d), and (e) of this Code section, information  
2963 received or developed by the ~~State Personnel Administration~~ GSA staff in performing its  
2964 counseling functions shall be maintained as confidential by the ~~State Personnel~~  
2965 ~~Administration~~ GSA and shall not be subject to disclosure by the ~~State Personnel~~  
2966 ~~Administration~~ GSA unless such information relates directly to proof of the possible  
2967 violation of a criminal statute.

2968 (c) Information may be disclosed if such disclosure is authorized, in writing, by all parties  
2969 to the counseling session in which the information was produced.

2970 (d)(1) Nothing contained in this Code section shall be construed to prohibit any person  
2971 from disclosing any fact the knowledge of which was obtained independently of a  
2972 counseling session.

2973 (2) The ~~State Personnel Administration~~ GSA counselor may disclose information  
2974 obtained in a counseling session to a manager of the ~~State Personnel Administration~~ GSA  
2975 for the purpose of employee counseling. Any such disclosure shall be confidential and  
2976 the person to whom the information is disclosed shall be subject to the restrictions  
2977 contained in subsection (b) of this Code section.

2978 (e) Information received by a ~~State Personnel Administration~~ GSA counselor during a  
 2979 counseling session which indicates that unlawful activity is being conducted in the  
 2980 employee's agency may be disclosed to the commissioner. The commissioner may then  
 2981 notify the commissioner of any agency involved, the Governor, or the Attorney General  
 2982 for appropriate action.

2983 (f) Any hearing before the ~~board~~ GSA or one of its hearing officers regarding the dismissal  
 2984 of a classified employee ~~must~~ shall be held in the county in which the employee is  
 2985 employed unless all parties agree to another location.

2986 45-20-16.

2987 (a) As a part of employee compensation, the ~~State Personnel Board~~ commissioner shall  
 2988 establish rules for the accrual and usage of leave and holidays and for compensation due  
 2989 to emergency closure of state offices or facilities for nontemporary employees. All  
 2990 agencies of the executive branch, exclusive of the Board of Regents of the University  
 2991 System of Georgia, shall provide for the accrual and usage of leave and holidays and for  
 2992 compensation due to emergency closure of state offices or facilities for nontemporary  
 2993 employees in accordance with ~~State Personnel Board~~ such rules.

2994 (b) Any employee who has accumulated sick leave shall be authorized to utilize such sick  
 2995 leave in accordance with the criteria established in the rules and regulations ~~of the State~~  
 2996 ~~Personnel Board~~; provided, however, that whenever an employee is sick and absent from  
 2997 work, the employee may be required to report each day by telephone to the appropriate  
 2998 authority. An employee shall not be required to provide documentation for the use of less  
 2999 than 17 hours of sick leave in any 30 day period, unless the employee has demonstrated  
 3000 excessive or abusive use of sick leave. The ~~State Personnel Board~~ commissioner shall  
 3001 establish rules and regulations that define excessive or abusive use.

3002 (c) An employee who has accrued more than 15 days of sick leave as of November 30 of  
 3003 any year may, by written notification to the appointing authority by no later than December  
 3004 31 of that year, convert up to three days of accrued sick leave in excess of 15 days to  
 3005 personal leave. Any personal leave not used by December 31 of the following year, or  
 3006 upon termination, shall be forfeited and not restored to the employee.

3007 (d) Personal leave may be used by the employee for personal reasons the same as annual  
 3008 leave upon approval by the employee's appointing authority. The employee shall normally  
 3009 be required to provide the appointing authority with a 24 hour advance notice for use of  
 3010 personal leave. Every reasonable effort shall be made by the appointing authority to  
 3011 accommodate employees on their requests for use of personal leave.

3012 (e) If the appointing authority disagrees with the claim of sickness or need to utilize sick  
 3013 leave made by the employee pursuant to subsection (d) of this Code section, the appointing

3014 authority may disapprove the use of such sick leave in accordance with the criteria  
 3015 established in the rules and regulations of the State Personnel Board. The employee may  
 3016 contest the disapproval of the sick leave through the department's employee complaint  
 3017 procedure.

3018 (f) Any nontemporary employee in classified or unclassified service who forfeits  
 3019 accumulated sick leave as a result of withdrawal from employment with the state shall be  
 3020 entitled to regain such accumulated sick leave after such employee returns to state  
 3021 employment and remains in service for a period of two consecutive years.

3022 (g) The ~~State Personnel Board~~ commissioner shall adopt regulations to implement the  
 3023 provisions of this Code section. ~~The leave regulations of the board in effect on July 1,~~  
 3024 ~~1991, and not in conflict with this Code section shall remain in effect until amended,~~  
 3025 ~~changed, modified, or repealed by the board.~~

3026 45-20-17.

3027 Reserved.

3028 45-20-18.

3029 Any state employee who commits a validated act of abuse towards a member of the public  
 3030 while performing employment duties shall not be eligible for any wage incentive payment  
 3031 during the period such act occurred.

3032 45-20-19.

3033 (a) This subsection shall apply whenever any department or agency proposes to eliminate  
 3034 one or more nontemporary positions or terminate the employment of one or more  
 3035 nontemporary employees through a reduction in force. No position elimination or  
 3036 employment termination subject to this subsection ~~may~~ shall become effective until at least  
 3037 30 days after the affected employee has been notified in writing by the department or  
 3038 agency. Such notice must contain at a minimum:

3039 (1) A statement of the nature of the proposed action to be taken with respect to the  
 3040 affected employee;

3041 (2) An explanation of the rights of the affected employee ~~with respect~~ due to the  
 3042 proposed reduction in force, including any right of appeal, or other opportunities ~~with~~  
 3043 ~~respect to~~ regarding possible continued employment, any opportunities to apply for  
 3044 employment with any public or private party assuming the functions of the employee, or  
 3045 any other similar opportunities; and

3046 (3) An explanation of the affected employee's rights and options ~~with respect to~~  
 3047 regarding his or her employment benefits, including but not limited to any right to  
 3048 continued participation in any retirement system or insurance plan.

3049 (b) This subsection shall apply whenever any department or agency proposes to eliminate  
 3050 25 or more nontemporary positions or terminate 25 or more nontemporary employees  
 3051 through a reduction in force. At least 15 days prior to giving the employee notice required  
 3052 by subsection (a) of this Code section, the department or agency shall give written notice  
 3053 to the President of the Senate and the Speaker of the House of the proposed reduction in  
 3054 force. Such notice shall:

3055 (1) Identify the facilities and operations to be affected and the estimated number of  
 3056 employees to be affected; and

3057 (2) State the reasons for the proposed action.

3058 (c) Subsections (a) and (b) of this Code section shall not apply to a reduction in force  
 3059 which must become effective immediately because the department or agency has  
 3060 insufficient funds available to pay the salaries of the affected employees.

3061 45-20-20.

3062 (a) As used in this Code section, the term:

3063 (1) 'Employing unit' means that budget unit under the Appropriations Act through which  
 3064 an officer or employee receives compensation for services rendered as such officer or  
 3065 employee.

3066 (2) 'Federal law' means Section 3(a) of the Military Selective Service Act (50 App.  
 3067 U.S.C.A. 451, et seq.).

3068 (b) A state officer, other than an elected officer whose office is created by the Constitution,  
 3069 shall not be eligible to take office if such person is a male between 18 and 26 years of age  
 3070 unless, prior to taking the oath of office, such person presents proof to the Secretary of  
 3071 State of having registered with the Selective Service System as required by federal law or  
 3072 of being exempt from such registration.

3073 (c) A person employed by the state before July 1, 1998, other than an officer specified or  
 3074 exempted by subsection (b) of this Code section, who is a male between 18 and 26 years  
 3075 of age shall be terminated for cause unless, by January 1, 1999, such person presents proof  
 3076 to the employing unit of state government of having registered with the Selective Service  
 3077 System as required by federal law or of being exempt from such registration.

3078 (d) A person ~~may~~ shall not be hired as an employee of the state on or after July 1, 1998,  
 3079 other than an officer specified or exempted by subsection (b) of this Code section, if that  
 3080 person is a male between 18 and 26 years of age unless, prior to such hiring, such person  
 3081 presents proof to the employing unit of state government of having registered with the

3082 Selective Service System as required by federal law or of being exempt from such  
3083 registration.

3084 45-20-21.

3085 The ~~State Personnel Board~~ commissioner shall provide for a performance management  
3086 system for the periodic review and rating of the quality and quantity of work performed by  
3087 employees. All agencies of the executive branch, exclusive of the Board of Regents of the  
3088 University System of Georgia, shall provide for the review and rating of the quality and  
3089 quantity of work performed by employees.

3090 ARTICLE 2

3091 45-20-30.

3092 Each state, county, and municipal officer and employee in this state shall be allowed a  
3093 leave of absence, without loss of pay, of not more than eight hours in each calendar year  
3094 for the purpose of donating blood. This absence shall be computed at two hours per  
3095 donation, up to four times per year. However, any such officer or employee who donates  
3096 blood platelets or granulocytes through the plasmapheresis process shall be allowed a leave  
3097 of absence, without loss of pay, of not more than 16 hours in each calendar year which  
3098 shall be computed at four hours per donation, up to four times per year.

3099 45-20-31.

3100 (a) Each employee of the State of Georgia or of any branch, department, board, bureau,  
3101 or commission of the State of Georgia who serves as an organ donor for the purpose of  
3102 transplantation shall receive a leave of absence, with pay, of 30 days and such leave shall  
3103 not be charged against or deducted from any annual or sick leave and shall be included as  
3104 service in computing any retirement or pension benefits. The employee shall not be  
3105 entitled to such leave of absence with pay unless he or she furnishes to his or her supervisor  
3106 or other proper authority a statement from a medical practitioner who is to perform such  
3107 transplantation procedure or from a hospital administrator that the employee is making an  
3108 organ donation as provided in this Code section. If such donation does not occur, the  
3109 provisions of this Code section shall not be applicable. For the purposes of this Code  
3110 section, the term 'organ' means a human organ, including an eye, that is capable of being  
3111 transferred from the body of a person to the body of another person.

3112 (b) Each employee of the State of Georgia or of any branch, department, board, bureau,  
3113 or commission of the State of Georgia who serves as a bone marrow donor for the purpose  
3114 of transplantation shall receive a leave of absence, with pay, of seven days and such leave

3115 shall not be charged against or deducted from any annual or sick leave and shall be  
 3116 included as service in computing any retirement or pension benefits. The employee shall  
 3117 not be entitled to such leave of absence with pay unless he or she furnishes to his or her  
 3118 supervisor or other proper authority a statement from a medical practitioner who is to  
 3119 perform such transplantation procedure or from a hospital administrator that the employee  
 3120 is serving as a bone marrow donor as provided in this Code section. If such donation does  
 3121 not occur, the provisions of this Code section shall not be applicable.

3122 **ARTICLE 3**

3123 45-20-50.

3124 It is the purpose of this article to permit voluntary deductions from wages or salaries of  
 3125 employees of the State of Georgia for the benefit of eligible charitable health and human  
 3126 care organizations and to provide for the distribution of funds collected through a process  
 3127 which involves minimal disruption of work time and provides reasonable assurance to the  
 3128 employees that their contributions are well used.

3129 45-20-51.

3130 As used in this article, the term:

3131 (1) 'Agency' means any agency, as defined in Code Section 45-20-2, which has full-time  
 3132 paid state employees and, in addition thereto, shall include the board of regents, all units  
 3133 of the university system, public authorities, and public corporations.

3134 (2) 'Charitable organization' means any voluntary health, welfare, educational, or  
 3135 environmental restoration or conservation agency that is:

3136 (A) A private, self-governing, nonprofit organization chartered or authorized to do  
 3137 business in the State of Georgia by the office of the Secretary of State;

3138 (B) Exempt from taxation under Code Section 48-7-25;

3139 (C) One to which contributions are authorized as deductible by Section 170 of the  
 3140 United States Internal Revenue Code, as amended;

3141 (D) Qualified as an organization as defined in Section 501(c)(3) of the United States  
 3142 Internal Revenue Code; and

3143 (E) Not a religious organization except that a religious organization is not disqualified  
 3144 to the extent that it operates a health, welfare, educational, or environmental restoration  
 3145 or conservation function on a nonsectarian basis with a distinct and separate budget for  
 3146 this function.

3147 (3) 'Eligible voluntary charitable organization' means a charitable organization which:

3148 (A) Actively conducts health, welfare, educational, or environmental restoration or  
3149 conservation programs and provides services to individuals directed at one or more of  
3150 the following common human needs within a community: family and child care  
3151 services; protective services for children and adults; services for children and adults in  
3152 foster care; services related to the management and maintenance of the home; day-care  
3153 services for adults; transportation services; information, referral, and counseling  
3154 services; the preparation and delivery of meals; adoption services; emergency shelter,  
3155 care, and relief services; safety services; neighborhood and community organization  
3156 services; recreation services; social adjustment and rehabilitation services; health  
3157 support services; or a combination of such services designed to meet the special needs  
3158 of specific groups such as children and youth, the aged, the ill and infirm, or the  
3159 physically disabled; or provides services concerned with the ecological impact of  
3160 altering the environment; or provides services concerned with the cultivation or  
3161 imparting of knowledge or skills;

3162 (B) Provides direct and substantial services on a state-wide basis; is one of the  
3163 federated charitable organizations that coordinates fund raising and allocations for at  
3164 least five local charitable organizations in the various geographic areas in which  
3165 employees are solicited; is a federation of at least five state-wide and local charitable  
3166 organizations which are otherwise qualified under this article and which federation  
3167 expends all funds collected under this article to serve Georgia residents and programs;  
3168 is a health, welfare, educational, or environmental restoration or conservation agency  
3169 which is a member of a federated, nonsectarian, nonpolitical, eligible voluntary  
3170 charitable organization subject to such rules and regulations as the ~~board~~ commissioner  
3171 may prescribe; or is a federated charitable organization that provides direct and  
3172 substantial health and welfare services internationally whose activities do not require  
3173 a local presence or provision of local services, which is authorized and certified by the  
3174 Secretary of State to transact business in Georgia, which is compliant with the U.S.  
3175 Office of Personnel Management's regulations issued pursuant to the authority of 5  
3176 C.F.R. 950.201 and 950.202 for charities participating in the Combined Federal  
3177 Campaign, which has a registered agent in Georgia, and which otherwise meets the  
3178 criteria of this paragraph;

3179 (C) Observes a policy and practice of nondiscrimination on the basis of race, color,  
3180 religion, sex, national origin, or disability, ~~which~~ and such policy is applicable to  
3181 persons served by the agency, to agency staff employment, and to membership on the  
3182 agency's governing board; and

3183 (D) Does not expend a substantial portion of its efforts to influence the outcome of  
3184 elections or the determination of public policy.

3185 No charitable organization shall be approved by the ~~State Personnel Board~~ commissioner  
 3186 under more than one provision of subparagraph (B) of this paragraph.

3187 (4) 'Employee' means any person receiving a payroll check from the state for personal  
 3188 service to an agency.

3189 45-20-52.

3190 The ~~State Personnel Board~~ commissioner shall ~~serve as the policy-setting body~~ set policy  
 3191 for administration of this article and shall have full power to promulgate, adopt, amend, or  
 3192 revoke such rules and regulations consistent with this article as may be necessary to  
 3193 implement this article. The ~~board~~ commissioner shall have specific authority to establish  
 3194 procedures under which charitable organizations may be evaluated for inclusion in the  
 3195 charitable deductions program. Only eligible voluntary charitable organizations which are  
 3196 approved by the ~~board~~ commissioner may participate in the program. Such procedures  
 3197 may include minimum participation levels based upon number of employees making a  
 3198 designated contribution, dollar amounts of designated contributions, or other factors as  
 3199 decided by the ~~board~~ commissioner and may exclude otherwise eligible charitable  
 3200 organizations for failure to attain a minimum participation level.

3201 45-20-53.

3202 (a) Any agency is authorized to deduct from the salaries or wages of its employees  
 3203 amounts designated by the employee for the purpose of contribution to charitable  
 3204 organizations. No such deduction procedure shall be implemented without the approval  
 3205 of the chief executive officer or governing board of the agency.

3206 (b) No deduction shall be made without the written request of the employee; which request  
 3207 shall designate the amount which is to be deducted. Deductions shall be made monthly or  
 3208 to coincide with each pay period as determined by the agency. No deduction shall be made  
 3209 for less than \$1.00 per deduction period or for less than \$1.00 per designated charitable  
 3210 organization. Employees shall be clearly apprised, on solicitation materials, of the manner  
 3211 in which funds will be distributed. All deduction authorizations shall remain continuously  
 3212 in effect until changed or canceled in writing by the employee. No deduction shall be made  
 3213 for the benefit of any organization which fails to secure approval of the ~~board~~  
 3214 commissioner.

3215 45-20-54.

3216 (a) No person shall disclose to any other person names of contributors or the amounts or  
 3217 designations of authorized charitable deductions of another, except as is necessary to  
 3218 accomplish the purpose of this article or as otherwise authorized in writing by the person

3219 whose contributions are sought to be disclosed. This prohibition against disclosure shall  
3220 not, however, bar appropriate state or federal tax authorities from access necessary to  
3221 establish the tax status of charitable organizations receiving these funds.

3222 (b) No person shall pressure, coerce, or in any way intimidate any employee to have  
3223 charitable deductions made from the employee's salary or with reference to the amount of  
3224 deductions to be made. Each agency shall review any violations or alleged violations of  
3225 this subsection and assure that appropriate action is taken. Such action may include,  
3226 without being limited to, discharge from employment, consistent with policies of the  
3227 agency and with the rules and regulations ~~of the board~~.

3228 45-20-54.1.

3229 The ~~board~~ commissioner shall promulgate regulations necessary and expedient to  
3230 accomplishing the distribution of funds deducted from employees' salaries, honoring  
3231 employee designations. Undesignated funds shall be fairly and impartially distributed as  
3232 determined by the ~~board~~ commissioner.

3233 45-20-55.

3234 The state shall be reimbursed by participating charitable organizations, in direct proportion  
3235 to their receipts, for its additional direct cost of making deductions and remitting the  
3236 proceeds. To minimize time and administrative expense, activities related to the  
3237 management of the funds such as preparation of materials, solicitor training, fiscal agent  
3238 duties, and similar activities may be delegated by the ~~board~~ commissioner to a participating  
3239 party.

3240 45-20-56.

3241 Deductions from salaries of employees and transmittal of funds to charitable organizations  
3242 may be offered as a privilege for the convenience of employees and no right of action shall  
3243 accrue to the employee or to any charitable organization for errors, omissions, or decisions  
3244 of administrative employees or officials regarding such deductions. The ~~board~~  
3245 commissioner is the sole judge of charitable organizations approved for participation in the  
3246 program. Charitable organizations may be disapproved without any liability on the part of  
3247 any state official or employee.

## ARTICLE 4

3248  
3249 45-20-70.

3250 As used in this article, the term 'employee assistance program' or 'program' means a service  
3251 established to assist state employees in coping with and overcoming persistent problems  
3252 that jeopardize the employee's effective job performance.

3253 45-20-70.1.

3254 The ~~State Personnel Board~~ commissioner is authorized in its his or her discretion to  
3255 establish an employee assistance program for all state employees and to adopt and  
3256 promulgate rules and regulations for its administration.

3257 45-20-71.

3258 Program related records or activities which might disclose the nature of the services  
3259 provided an employee or the identity of an employee utilizing the program shall be  
3260 maintained on a confidential basis. Such records shall be produced only when the  
3261 commissioner of ~~personnel administration~~ or his or her designee is satisfied it is needed to  
3262 respond to a life-threatening or medical emergency or when written release is given by ~~an~~  
3263 that employee.

## ARTICLE 5

3264  
3265 45-20-90.

3266 As used in this article, the term:

3267 (1) 'Employee' means any employee required to be certified under the provisions of  
3268 Chapter 8 of Title 35 receiving a salary or hourly wage from any state agency,  
3269 department, commission, bureau, board, or authority. 'Employee' shall also include any  
3270 certified employee working under a personnel contract to provide personnel services,  
3271 including but not limited to medical, security, or transportation services to a state or other  
3272 public agency.

3273 (2) 'Established drug test' means the collection and testing of bodily fluids administered  
3274 in a manner equivalent to that required by the Mandatory Guidelines for Federal  
3275 Workplace Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as  
3276 amended) or other professionally valid procedures approved by the ~~State Personnel Board~~  
3277 commissioner.

3278 (3) 'High-risk work' means those duties where inattention to duty or errors in judgment  
3279 while on duty will have the potential for significant risk of harm to the employee, other  
3280 employees, or the general public.

3281 (4) 'Illegal drug' means marijuana as defined in paragraph (16) of Code Section  
 3282 16-13-21, as amended; a controlled substance as defined in paragraph (4) of Code Section  
 3283 16-13-21, as amended; a dangerous drug as defined in Code Section 16-13-71, as  
 3284 amended; or any other controlled substance or dangerous drug that persons are prohibited  
 3285 from using. The term 'illegal drug' shall not include any drug when used pursuant to a  
 3286 valid medical prescription or when used as otherwise authorized by state or federal law.

3287 45-20-91.

3288 (a) Employees working in high-risk jobs shall be subject to random testing for evidence  
 3289 of use of illegal drugs.

3290 (b) The head of each state agency, department, commission, board, bureau, or authority  
 3291 in conjunction with the GSA shall determine those positions and groups of positions whose  
 3292 occupants regularly perform high-risk work where inattention to duty or errors in judgment  
 3293 while on duty will have the potential for significant risk of harm to the employee, other  
 3294 employees, or the general public. This Code section shall not be construed to include  
 3295 employees who do not regularly perform high-risk work regardless of the fact that other  
 3296 employees in the same classification do perform such high-risk work.

3297 45-20-92.

3298 (a) The ~~State Personnel Board~~ commissioner shall adopt rules to establish:

3299 (1) The portion of employees in the high-risk work group that may be selected at random  
 3300 for testing at each testing period;

3301 (2) Methods for assuring that employees are selected for testing on a random basis;

3302 (3) Methods for assuring that privacy intrusions are minimized during collection of body  
 3303 fluid specimens;

3304 (4) Methods for assuring that any body fluid specimens are stored and transported to  
 3305 testing laboratories at proper temperatures and under such conditions that the quality of  
 3306 the specimens shall not be jeopardized;

3307 (5) Methods for assuring that the identity of employees whose tests show the usage of  
 3308 an illegal drug is limited to the staff who are entitled to this information; and

3309 (6) The identification of those persons entitled to the information and shall adopt such  
 3310 other rules as ~~it~~ the commissioner may deem appropriate to carry out the purposes of this  
 3311 article. ~~The board may, in its discretion, delegate to the commissioner of personnel~~  
 3312 ~~administration such authority as appropriate to carry out the purposes of this article.~~

3313 (b) The commissioner shall establish and maintain a list of those laboratories qualified to  
 3314 conduct established drug tests and shall determine which illegal drugs will be the subject  
 3315 of testing; provided, however, that no laboratory shall be so certified unless that laboratory,

3316 on a daily basis, adds to its urine testing program a minimum of 10 percent blind test  
3317 specimens.

3318 45-20-93.

3319 (a) Any employee conducting high-risk work found to have used an illegal drug shall be  
3320 terminated from his or her employment.

3321 (b) Any employee who refuses to provide body fluid specimens, when requested to do so  
3322 in accordance with the random drug testing conducted pursuant to this article and  
3323 administrative rules and regulations promulgated under this article, shall be terminated  
3324 from his or her employment.

3325 **ARTICLE 6**

3326 45-20-110.

3327 As used in this article, the term:

3328 (1) 'Applicant' means a candidate who is offered public employment with any agency,  
3329 department, commission, bureau, board, college, university, institution, or authority of  
3330 any branch of state government or who has commenced employment but has not  
3331 submitted to an established test for illegal drugs.

3332 (2) 'Established test' means the collection and testing of bodily fluids administered in a  
3333 manner equivalent to that required by the Mandatory Guidelines for Federal Workplace  
3334 Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as amended).

3335 (3) 'Illegal drug' means marijuana/cannabinoids (THC), cocaine,  
3336 amphetamines/methamphetamines, opiates, or phencyclidine (PCP). The term 'illegal  
3337 drug' shall not include any drug when used pursuant to a valid prescription or when used  
3338 as otherwise authorized by state or federal law.

3339 (4) 'Job' means a defined set of key responsibilities and performance standards  
3340 encompassing one or more positions sufficiently similar in responsibilities and  
3341 performance standards to be grouped together.

3342 (5) 'Medical review officer' means a properly licensed physician who reviews and  
3343 interprets results of drug testings and evaluates those results together with medical history  
3344 or any other relevant biomedical information to confirm positive and negative results.

3345 (6) 'Position' means a set of duties and responsibilities assigned or delegated by  
3346 competent authority for performance by one person.

3347 45-20-111.

3348 (a) The head of each agency, department, commission, bureau, board, college, university,  
 3349 institution, or authority shall ensure an analysis is completed on all jobs in his or her  
 3350 organization to determine those positions whose duties and responsibilities warrant  
 3351 conducting an established test for illegal drugs in accordance with the provisions of this  
 3352 Code section. The analysis must be completed by July 1, 1995. All jobs established after  
 3353 this date must undergo a similar analysis no later than six weeks after establishment. An  
 3354 applicant for a designated position shall undergo a drug test consistent with these  
 3355 provisions.

3356 (b) An applicant for state employment who is offered employment in a position designated  
 3357 by the head of the agency, department, commission, bureau, board, college, university,  
 3358 institution, or authority as requiring a drug test shall, prior to commencing employment or  
 3359 within ten days after commencing employment, submit to an established test for illegal  
 3360 drugs. ~~All costs of such testing shall be paid from public funds by the employing agency~~  
 3361 ~~or unit of state government.~~ Any such test which indicates the presence of illegal drugs  
 3362 shall be followed by a confirmatory test using gas chromatography/mass spectrometry  
 3363 analysis. If the results of the confirmatory test indicate the presence of illegal drugs, such  
 3364 results shall be reviewed and interpreted by a medical review officer to determine if there  
 3365 is an alternative medical explanation. If the applicant provides appropriate documentation  
 3366 and the medical review officer determines that it was a legitimate usage of the substance,  
 3367 the result shall be reported as negative. Any applicant who fails to provide an alternative  
 3368 medical explanation shall be reported by the medical review officer as having a positive  
 3369 test result. Any applicant offered employment who refuses to submit to an established test  
 3370 for illegal drugs or whose test results are positive shall be disqualified from employment  
 3371 by the state. Such disqualification shall not be removed for a period of two years from the  
 3372 date that such test was administered or offered, whichever is later. ~~The State Personnel~~  
 3373 ~~Board~~ commissioner shall develop rules for the administration of the test and any  
 3374 verification procedures. Other covered units of state government shall also develop rules  
 3375 governing these procedures. The results of such tests shall remain confidential and shall  
 3376 not be a public record unless necessary for the administration of these provisions or  
 3377 otherwise mandated by other state or federal law."

3378 **PART II**

3379 **SECTION 2-1.**

3380 Title 6 of the Official Code of Georgia Annotated, relating to aviation, is amended in Code  
 3381 Section 6-5-3, relating to creation of the Georgia Aviation Authority, by revising subsection  
 3382 (b) as follows:

H. B. 1431

3383 "(b) The authority is assigned to the ~~Department of Administrative Services~~ Georgia  
 3384 Services Administration for administrative purposes only as prescribed in Code Section  
 3385 50-4-3."

3386 **SECTION 2-2.**

3387 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
 3388 in Chapter 5A, relating to the Office of Treasury and Fiscal Services, by adding a new Code  
 3389 section to read as follows:

3390 "50-5A-12.

3391 The Office of Treasury and Fiscal Services is assigned for administrative purposes to the  
 3392 Georgia Services Administration."

3393 **SECTION 2-3.**

3394 Said Title 50 is further amended in Chapter 5B, relating to the State Accounting Office and  
 3395 state accounting officer, by adding a new Code section to read as follows:

3396 "50-5B-6.

3397 The state accounting office is assigned for administrative purposes to the Georgia Services  
 3398 Administration."

3399 **SECTION 2-4.**

3400 Said Title 50 is further amended by revising Code Section 50-9-4, relating to administrative  
 3401 assignment of the Georgia Building Authority, as follows:

3402 "50-9-4.

3403 The authority is assigned to the ~~State Properties Commission~~ Georgia Services  
 3404 Administration for administrative purposes ~~only~~ as prescribed in Code Section 50-4-3."

3405 **SECTION 2-5.**

3406 Said Title 50 is further amended in Article 2 of Chapter 13, relating to the Office of State  
 3407 Administrative Hearings, by adding a new Code section to read as follows:

3408 "50-13-45.

3409 The Office of State Administrative Hearings is assigned for administrative purposes to the  
 3410 Georgia Services Administration."

3411 **SECTION 2-6.**

3412 Said Title 50 is further amended in Code Section 50-25-3, relating to administrative  
 3413 assignment of the Georgia Technology Authority, by revising subsection (a) as follows:

3414 "(a) The authority shall be assigned for administrative purposes to the ~~Department of~~  
3415 ~~Administrative Services~~ Georgia Services Administration, as provided for in Code Section  
3416 50-4-3."

3417 **PART III**

3418 **CORRECTION OF CROSS REFERENCES TO BE ADDED**

3419 **BY COMMITTEE SUBSTITUTE**

3420 **PART IV**

3421 **SECTION 4-1.**

3422 Said Title 50 is further amended by repealing in its entirety Article 2 of Chapter 16, the  
3423 "State Properties Code," and by designating Article 2 as "Reserved."

3424 **SECTION 4-2.**

3425 Appropriations for functions which are transferred by this Act may be transferred as provided  
3426 in Code Section 45-12-90.

3427 **SECTION 4-3.**

3428 Any rules and regulations adopted prior to the effective date of the Act by the State  
3429 Properties Commission and the State Personnel Board shall remain in effect as rules and  
3430 regulations of the Georgia Services Administration until amended or superseded by the  
3431 commissioner of the Georgia Services Administration.

3432 **SECTION 4-4.**

3433 Personnel, equipment, and facilities previously assigned to the State Properties Commission  
3434 and the State Personnel Administration shall on the effective date of this Act be transferred  
3435 to the Georgia Services Administration.

3436 **SECTION 4-5.**

3437 This Act shall become effective on July 1, 2010.

3438 **SECTION 4-6.**

3439 All laws and parts of laws in conflict with this Act are repealed.