

The Senate Transportation Committee offered the following substitute to HB 1135:

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 2 of Chapter 5 of Title 32 of the Official Code of Georgia Annotated,
2 relating to the State Public Transportation Fund, so as to provide procedures for financing
3 multiyear construction agreements; to provide for a definition; to provide for related matters;
4 to provide for an effective date; to repeal conflicting laws; and for other purposes.

5 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

6 **SECTION 1.**

7 Article 2 of Chapter 5 of Title 32 of the Official Code of Georgia Annotated, relating to the
8 State Public Transportation Fund, is amended by adding a new Code section to read as
9 follows:

10 "32-5-28.

11 (a) As used in this Code section, the term 'multiyear construction agreements' means any
12 construction agreements for the building of projects which do not obligate present funds
13 for the full amount of obligation the state may bear under the full term of the construction
14 agreement.

15 (b) The department shall do all of the following with respect to multiyear construction
16 agreements:

17 (1) Establish necessary management controls to facilitate the use of cash flow financing,
18 such as establishment of a financial planning committee, development of a monthly
19 financing report, establishment of appropriate fund cash level targets, review of revenue
20 forecasting procedures, and reduction of accrued unbilled costs;

21 (2) Report annually, not later than October 1 of each year, to a joint meeting of the
22 House and Senate Transportation Committees on its cash management policies and
23 results;

24 (3) Provide any requested reports, data, or information that the Georgia State Financing
25 and Investment Commission may request in order to set the multiyear contract value
26 authority; and

27 (4) Submit annually a multiyear contract value authority request to the Georgia State
28 Financing and Investment Commission.

29 (c) With regard to the department's procedures for awarding multiyear construction
30 agreements, the Georgia State Financing and Investment Commission may establish a total
31 multiyear contract value based upon the Governor's estimate of motor fuel tax funds for
32 subsequent fiscal years and other information as the Georgia State Financing and
33 Investment Commission may require. In setting the multiyear contract value authority, the
34 Georgia State Financing and Investment Commission shall take into consideration the
35 known and anticipated obligations of the department, including, but not limited to, any
36 multiyear construction agreements the department has entered into previously. The
37 Georgia State Financing and Investment Commission may set a total multiyear contract
38 value authority for the department each fiscal year and may, during the fiscal year, revise
39 such contract value authority as necessary as determined by the Georgia State Financing
40 and Investment Commission. Any multiyear construction agreement entered into by the
41 department that is not in compliance with the multiyear contract value authority set by the
42 Georgia State Financing and Investment Commission shall be void and of no effect.

43 (d) The department shall maintain an available cash balance at the end of each month
44 equal to at least 10 percent of the unpaid balance of the total multiyear construction
45 agreement obligations. In the event this cash position is not maintained, no further
46 multiyear construction agreement commitments shall be entered into until the cash balance
47 has been regained. For the purposes of awarding contracts involving federal aid, any
48 amount due from a binding federal government obligation as a result of unreimbursed
49 expenditures may be considered as cash for the purposes of this subsection.

50 (e) At the beginning of each fiscal year, transportation project appropriations shall be
51 encumbered for the estimated payments for multiyear construction agreement work to be
52 performed in the appropriation fiscal year. The allotments shall be based on estimated
53 revenues and shall be subject to the maximum contract value authority established by the
54 Georgia State Financing and Investment Commission. Payment for multiyear construction
55 agreements performed pursuant to contract in any fiscal year other than the current fiscal
56 year shall be subject to appropriations by the General Assembly. Multiyear construction
57 agreements shall contain a schedule of estimated completion progress, and any acceleration
58 of this progress shall be subject to the approval of the department, provided funds are
59 available. The department shall have the right to terminate without further obligation any
60 multiyear construction agreement if the department determines that adequate funds will not
61 be available for all of the payment obligations of the department. The department's
62 determination regarding the availability of funds for its obligations shall be conclusive and
63 binding on all parties to the contract. In the event of termination of any contract, the

64 contractor shall be given a written notice of termination at least 60 days before completion
65 of scheduled work for which funds are available. In the event of termination, the contractor
66 shall be paid for the work already performed in accordance with the contract specifications.
67 (f) The provisions of subsection (e) of this Code section shall be incorporated verbatim in
68 all multiyear construction agreements.

69 (g) The provisions of this Code section shall not apply to multiyear construction
70 agreements awarded by the department prior to July 1, 2010. No multiyear construction
71 agreement shall be entered into under the provisions of this Code section until the Georgia
72 State Financing and Investment Commission has established the total multiyear contract
73 value authority for the current and future fiscal years and adopted such fiscal policies
74 regarding multiyear construction agreements authorized under this Code section."

75 **SECTION 2.**

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

78 **SECTION 3.**

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