

House Bill 1060 (AS PASSED HOUSE AND SENATE)

By: Representatives Stephens of the 164th, Williams of the 165th, Barnard of the 166th, Parrish of the 156th, O`Neal of the 146th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 52 of the Official Code of Georgia Annotated, relating to the
2 Georgia Ports Authority, so as to provide for the comprehensive revision of provisions
3 regarding such authority; to change certain provisions regarding definitions; to change
4 certain provisions regarding projects and facilities; to change certain provisions regarding
5 powers of such authority; to change certain provisions regarding revenue bonds; to change
6 certain provision regarding fees, rentals, and charges; to change certain provisions regarding
7 operational duties; to change certain provision regarding status, investment, sale, and
8 reinvestment of moneys; to provide for related matters; to provide an effective date; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Chapter 2 of Title 52 of the Official Code of Georgia Annotated, relating to the Georgia Ports
13 Authority, is amended by revising Code Section 52-2-2, relating to definitions regarding such
14 authority, as follows:

15 "52-2-2.

16 As used in this chapter, the term:

17 (1) 'Authority' means the Georgia Ports Authority created by Code Section 52-2-4.

18 (2) 'Bonds' or 'revenue bonds' means any bonds issued by the authority under this
19 chapter, including refunding bonds.

20 (3) 'Cost of the project' means the cost of acquisition and construction, the cost of all
21 lands, properties, rights, easements, and franchises acquired, the cost of all machinery and
22 equipment, financing charges, interest prior to and during construction or installation and
23 for ~~one year~~ up to three years after completion of construction or installation, cost of
24 engineering, architectural, and legal expenses and of plans and specifications and other
25 expenses necessary or incident to determining the feasibility or practicability of the
26 project, administrative expense, the costs of establishing and maintaining any necessary

27 funds and reserve funds with respect to the financing or operation of any project, and
 28 such other expenses as may be necessary or incident to the financing herein authorized,
 29 ~~the~~ including the fees and costs of trustees, paying agents, remarketing agents, and other
 30 fiscal agents, costs of bond insurance, letter of credit fees, reimbursement agreement fees,
 31 and other loan, credit enhancement, or guarantee fees and, to the completion of
 32 construction or installation of any project, the placing of the same in operation, and the
 33 condemnation of property necessary for such construction, installation, and operation.

34 (4) 'Harbor' includes any place natural or artificial in which vessels capable of moving
 35 articles of commerce on water may be loaded, unloaded, or accommodated.

36 (5) 'Port' and 'seaport' include any place natural or artificial in which seagoing vessels
 37 may be sheltered or loaded or unloaded.

38 (6) 'Project' includes wharves, docks, ships, piers, quays, elevators, cranes, cargo
 39 handling equipment, computer hardware and software, technology, compresses,
 40 refrigeration storage plants, and warehouses and may include buildings and facilities or
 41 equipment and machinery to be used in the manufacturing, processing, assembling,
 42 storing, or handling of any cargo, agricultural or manufactured produce or products or
 43 produce and products of mining or industry, if the use and operation thereof, in the
 44 judgment of the authority, will result in the increased use of port facilities, the
 45 development of the system of state docks, or, in connection therewith, promote the
 46 agricultural, industrial, and natural resources of this state; provided, however, that no
 47 such building or facility ~~may~~ shall be constructed by the authority unless the building or
 48 facility is located on or in the environs of property ~~now owned by~~ in which the authority;
 49 ~~or hereafter acquired by the authority, for port development purposes~~ has an interest.

50 Any project may include other structures and any and all facilities needful for the
 51 convenient use of the same in the aid of commerce, including the dredging of harbors and
 52 approaches thereto and the construction of belt-line railroads, railroad sidings, roads,
 53 highways, bridges, causeways, and approaches, necessary or useful in connection
 54 therewith, and shipping facilities and transportation facilities incident thereto and useful
 55 or convenient for the use thereof, including terminal railroads, and also airports, seaplane
 56 bases, and air transportation terminals. There may be included as a part of any project
 57 any public utility facilities necessary or desirable to supply public utility services to other
 58 parts of such project or to the users of any of the facilities of the authority, which public
 59 utility facilities may include, ~~but~~ without limitation, facilities for the supplying of
 60 electricity, gas, and water and for the collection and disposal of storm and sanitary
 61 sewage. There may be included as part of any project all appurtenances, equipment, and
 62 machinery of every kind and nature necessary or desirable for the full utilization of the
 63 project."

64

SECTION 2.

65 Said chapter is further amended by revising Code Section 52-2-3, relating to projects and
66 facilities of such authority, as follows:

67 "52-2-3.

68 Any project shall be deemed 'self-liquidating' if, in the judgment of the authority, the
69 revenues and earnings ~~thereof of the authority or of the project or from the terminal or~~
70 facilities of which the project shall become a part will be sufficient to pay the cost of
71 constructing, maintaining, repairing, and operating the project and to pay the principal and
72 interest of revenue bonds which may be issued for the cost of such project. Any buildings
73 or facilities acquired by the authority under this chapter which are to be utilized in the
74 manufacturing, processing, assembling, storing, or handling of any agricultural or
75 manufactured produce or products or produce and products of mining or industry, which
76 may be acquired by the authority for operation by a corporation, entity, or persons other
77 than the authority, as distinguished from facilities acquired by the authority for operation
78 by it as a port and allied facilities for the direct use of the public, shall be acquired and
79 financed under this chapter only if, prior to the issuance of bonds therefor, the authority
80 shall have entered into a lease or leases thereof or an agreement or agreements for the sale
81 thereof pursuant to the terms of which the lessees or purchasers shall pay to the authority
82 such rentals or installment purchase payments, or both, as upon the basis of determinations
83 and findings to be made by the authority will be fully sufficient to pay principal of and
84 interest on the bonds issued by the financing thereof, to build up and maintain any reserves
85 deemed by the authority to be advisable in connection therewith, and to pay the cost of
86 maintaining the buildings and facilities in good repair and of keeping them properly
87 insured, unless the leases or agreements obligate the lessees or purchasers to pay for such
88 insurance or maintenance. The authority is given full power and discretion to enter into
89 any such agreements or leases as may in its judgment be desirable for the best interests of
90 the authority. Any such agreement or lease may provide that any surplus capacity of the
91 buildings or facilities which are the subject matter thereof may be utilized by and for the
92 benefit of the general public, in which event, such surplus capacity may be maintained or
93 operated, or both, by either the authority or by the lessee or purchaser under the lease or
94 agreement, or in part by each, all as may be provided in the lease or agreement. Any
95 project may include in part one or more buildings or facilities or combinations thereof to
96 be leased or sold as provided in this ~~paragraph~~ Code section and in part other facilities
97 described in paragraph (6) of Code Section 52-2-2, the revenues of the whole being
98 allocated and pledged to the financing of the project as a whole; and in such event, the
99 requirements of this ~~paragraph~~ Code section applicable to buildings or facilities to be

100 leased or sold shall be applicable only to the part of the project which consists of the
 101 buildings or facilities to be so leased or sold."

102 **SECTION 3.**

103 Said chapter is further amended by revising Code Section 52-2-9, relating to powers of such
 104 authority, as follows:

105 "52-2-9.

106 The authority shall have the following powers:

- 107 (1) To have a seal and alter the same at pleasure;
- 108 (2) To acquire, hold, and dispose of personal property for its corporate purposes;
- 109 (3) To acquire in its own name by purchase, on such terms and conditions and in such
 110 manner as it may deem proper, or by condemnation in accordance with and subject to any
 111 and all existing laws applicable to the condemnation of property for public use, real
 112 property or rights of easements therein or franchises necessary or convenient for its
 113 corporate purposes and to use the same so long as its corporate existence shall continue
 114 and to lease or make contracts with respect to the use of or to dispose of the same in any
 115 manner it deems to the best advantage of the authority. The authority shall be under no
 116 obligation to accept and pay for any property condemned under this chapter, except from
 117 the funds provided under the authority of this chapter. In any proceedings to condemn,
 118 such orders may be made by the court having jurisdiction of the suit, action, or
 119 proceeding as may be just to the authority and to the owners of the property to be
 120 condemned. No property shall be acquired under this chapter upon which any lien or
 121 other encumbrance exists unless at the time the property is so acquired a sufficient sum
 122 of money is deposited in trust to pay and redeem the lien or encumbrance in full;
 123 provided, however, that nothing in this paragraph shall prohibit the authority from
 124 acquiring property, real or personal, tangible or intangible, from the Brunswick Port
 125 Authority as otherwise authorized under this chapter and the laws of this state; and, if the
 126 authority deems it expedient to construct any project on lands the title to which then is
 127 in the State of Georgia, the Governor is authorized to convey, for and in behalf of the
 128 state, title to such lands to the authority upon payment to the Office of Treasury and
 129 Fiscal Services for the credit of the ~~sinking~~ general fund of the state treasury of the
 130 reasonable value of such lands, such value to be determined by three appraisers to be
 131 agreed upon by the Governor and the ~~chairman~~ chairperson of the authority;
- 132 (4) To appoint and select officers, agents, and employees, including engineering,
 133 architectural, and construction experts and attorneys, and to fix their compensation;
- 134 (5) To make contracts and to execute all instruments necessary or convenient, including
 135 contracts for acquisition, construction, and installation of projects and leases of projects

136 or contracts with respect to the use of projects which it causes to be erected or acquired,
137 and to make such contracts and leases with the state, state institutions, and departments
138 and agencies of the state; rentals under leases with the state or any department, agency,
139 or institution of the state shall be paid as provided in the lease contracts from funds
140 appropriated for such purposes by the terms of the Constitution of this state or from any
141 other funds lawfully available.

142 (6) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve,
143 equip, operate, and manage projects, as defined in paragraph (6) of Code Section 52-2-2,
144 to be located on property owned by the authority, the cost of any such project to be paid
145 from the proceeds of revenue bonds or other obligations of the authority or from such
146 proceeds and any grant from the United States of America or any agency or
147 instrumentality thereof;

148 (7) To accept loans and grants, either or both, of money or materials or property of any
149 kind from the United States of America or any agency or instrumentality thereof upon
150 such terms and conditions as the United States of America or such agency or
151 instrumentality may impose;

152 (8) To borrow money for any of its corporate purposes and to issue negotiable revenue
153 bonds payable from earnings of such projects and to provide for the payment of the same
154 and for the rights of the holders thereof;

155 (9) To exercise any power usually possessed by private corporations performing similar
156 functions which is not in conflict with the Constitution and laws of this state;

157 (10) To do all things necessary or convenient to carry out the powers expressly given in
158 this chapter;

159 (11) To act as agent for the United States of America or any agency, department,
160 corporation, or instrumentality thereof in any matter coming within the purposes or
161 powers of the authority;

162 (12) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the
163 manner in which its business may be transacted and in which the power granted to it may
164 be enjoyed, as the authority may deem necessary or expedient in facilitating its business;

165 (13) To do any and all other acts and things in this chapter authorized or required to be
166 done, whether or not included in the general powers mentioned in this Code section;

167 (14) To receive gifts, donations, or contributions from any person, firm, or corporation;

168 (15) To contract with any municipality or county for the leasing, operation, or
169 management of real or personal property in or adjacent to any seaport of this state;

170 (16) To develop and improve the harbors or seaports of this state for the handling of
171 waterborne commerce from and to any part of this state and other states and foreign
172 countries;

- 173 (17) To acquire, construct, equip, maintain, develop, and improve said harbors or
 174 seaports and their port facilities;
- 175 (18) To foster and stimulate the shipment of freight and commerce through such ports,
 176 whether originating within or without this state, including the investigation and handling
 177 of matters pertaining to all transportation rates and rate structures affecting the same;
- 178 (19) To own, lease, and operate tug boats, locomotives, and any and every kind of
 179 character of motive power and conveyances or appliances necessary or proper to carry
 180 passengers, goods, wares, merchandise, or articles of commerce in, on, or around its
 181 projects;
- 182 (20) To hold, use, administer, and expend such sum or sums as may hereafter be
 183 appropriated by authority of the General Assembly for any of the purposes of the
 184 authority;
- 185 (21) To do any other things necessary or proper to foster or encourage the commerce,
 186 domestic or foreign, of the state, of the United States of America, or of the several sister
 187 states; and
- 188 (22) To appoint and select employees designated as security guards who shall have a
 189 limited power to make arrests for certain offenses committed on any property under the
 190 jurisdiction of the Georgia Ports Authority."

191 **SECTION 4.**

192 Said chapter is further amended by revising Code Section 52-2-11, relating to additional
 193 powers regarding indebtedness, as follows:

194 "52-2-11.

195 The Georgia Ports Authority shall have and may exercise the following powers:

196 (1) The authority may borrow money for its corporate purposes and may execute and
 197 deliver long-term and short-term notes, commercial paper, bond anticipation notes, and
 198 other obligations or evidences of indebtedness therefor and may secure such indebtedness
 199 in such manner as the authority may provide by its resolution authorizing the
 200 indebtedness to be incurred, provided that the authority shall not pledge to the payment
 201 of the indebtedness revenue pledged to the payment of any other indebtedness then
 202 outstanding or encumber property in violation of the terms of any existing contract,
 203 agreement, or trust indenture securing existing indebtedness.

204 (2) The authority may from time to time sell or otherwise dispose of surplus personal
 205 property and may sell or otherwise dispose of land and any improvements thereon
 206 acquired by the authority pursuant to law and which the authority may determine is not
 207 required for port or warehouse operations or for the future expansion and improvement
 208 of the state system of docks, including property which is suitable for industrial

209 development. Any such property may be sold, leased, or otherwise disposed of upon
 210 such terms and conditions as may be provided by resolution of the authority. The
 211 proceeds of any such sale shall be used by the authority for the purposes provided by law.
 212 However, any sale of land or leasing of same and mortgaging of same or conveying the
 213 same as security for a loan as provided under this Code section shall be first approved in
 214 writing by the Governor, the state auditor, and the Attorney General."

215 **SECTION 5.**

216 Said chapter is further amended by revising Code Section 52-2-19, relating to revenue bonds,
 217 as follows:

218 "52-2-19.

219 The bonds may be issued in coupon, ~~or in registered, or book-entry form, or both,~~ as the
 220 authority may determine, and provision may be made for the registration of any coupon
 221 bond as to principal alone and also as to both principal and interest."

222 **SECTION 6.**

223 Said chapter is further amended by revising Code Section 52-2-23, relating to approval of
 224 revenue bonds, as follows;

225 "52-2-23.

226 Whenever the authority determines to issue its bonds or other obligations, it shall ~~call upon~~
 227 obtain the approval of the Georgia Building Authority to render advice and to perform, as
 228 its agent, ministerial services in connection with the marketing of the bonds. State
 229 Financing and Investment Commission and otherwise comply with the provisions of
 230 Article 2 of Chapter 17 of Title 50, the 'Georgia State Financing and Investment
 231 Commission Act.'"

232 **SECTION 7.**

233 Said chapter is further amended by revising Code Section 52-2-31, relating to fees, rentals,
 234 and charges, as follows:

235 "52-2-31.

236 (a) The authority is authorized to fix and to revise from time to time fees, rentals, and other
 237 charges for the use of each project and for the services and facilities furnished by the same
 238 and to charge and collect the same and to lease and to make contracts with any person,
 239 firm, or corporation with respect to the use of any project or part thereof. Such rentals and
 240 other charges shall be so fixed and adjusted in respect of the aggregate thereof from the
 241 project or projects for which a single issue of revenue bonds is issued; or from the authority

242 or the terminal or facilities of which the project or projects are a part, so as to provide a
 243 fund sufficient with other revenues of the project or projects, if any, to pay:

- 244 (1) The cost of new construction of projects;
 245 (2) The cost of maintaining, repairing, and operating the project or projects, including
 246 reserves for extraordinary repairs and insurance and other reserves required by the
 247 resolution or trust indenture, unless such cost shall be otherwise provided for; and
 248 (3) The principal of the revenue bonds and the interest thereon as the same shall become
 249 due.

250 (b) The revenues and earnings derived from the projects for which a single issue of bonds
 251 is issued or from the authority or the terminal or facilities of which the project or projects
 252 are a part, except the part of such part thereof revenues and earnings as may be required to
 253 pay the cost of maintaining, repairing, and operating the project or projects or the terminal
 254 or facilities of which the project or projects are a part, and to provide such reserves therefor
 255 as may be provided for in the resolution authorizing the issuance of the revenue bonds or
 256 in the trust indenture, shall be set aside at such regular intervals as may be provided in the
 257 resolution or the trust indenture in a sinking fund which is pledged to, and charged with the
 258 payment of:

- 259 (1) The interest upon the revenue bonds as the interest falls due;
 260 (2) The principal of the bonds as the same falls due;
 261 (3) The necessary charges of paying agents for paying principal and interest; and
 262 (4) Any premium upon bonds retired by call or purchase as hereinabove provided.

263 The use and disposition of such sinking fund shall be subject to such regulations as may
 264 be provided in the resolution authorizing the issuance of the revenue bonds or in the trust
 265 indenture, but, except as may otherwise be provided in the resolution or trust indenture, the
 266 sinking fund shall be a fund for the benefit of all revenue bonds without distinction or
 267 priority of one over another. Subject to the provisions of the resolution authorizing the
 268 issuance of the revenue bonds or the trust indenture, any moneys in such sinking fund in
 269 excess of an amount equal to one year's interest on all revenue bonds then outstanding may
 270 be applied to the purchase or redemption of bonds. All revenue bonds so purchased or
 271 redeemed shall forthwith be canceled and shall not again be issued."

272 **SECTION 8.**

273 Said chapter is further amended by revising Code Section 52-2-33, relating to operational
 274 duties, as follows:

275 "52-2-33.

276 It shall be the duty of the authority to prescribe rules and regulations for the operation of
 277 each project constructed under this chapter, including rules and regulations to ensure

278 maximum use of each such project, and to impose rentals and other charges for the use of
 279 the facilities furnished by or related to the use of such project and to collect the same from
 280 all persons, firms, or corporations using the same."

281 **SECTION 9.**

282 Said chapter is further amended by revising Code Section 52-2-36, relating to status,
 283 investment, sale, and reinvestment of moneys, as follows:

284 "52-2-36.

285 (a) All moneys received pursuant to the authority of this chapter, whether as proceeds from
 286 the sale of revenue bonds, as grants or other contributions, or as revenues and earnings,
 287 shall be deemed to be trust funds to be held and applied solely as provided in this chapter.
 288 The authority shall, in the resolution providing for the issuance of revenue bonds or in the
 289 trust indenture, provide for the payment of the proceeds of the sale of the bonds and the
 290 earnings and revenues to be received to any officer who or any agency, bank, or trust
 291 company which shall act as trustee of such funds and shall hold and apply the funds to the
 292 purposes of this chapter, subject to such regulations as this chapter and the resolution or
 293 trust indenture may provide.

294 (b) Subject to such restriction as provided by resolution passed before the issuance of its
 295 bonds or by the trust indenture securing the bonds, the authority may invest any moneys
 296 received by it pursuant to authority of this chapter in obligations which are eligible as
 297 security for the investment of trust funds ~~under the rules and regulations of the Federal~~
 298 ~~Reserve Board~~; and the authority may, by resolution, provide for the sale of any such
 299 investment and for the reinvestment of the proceeds thereof."

300 **SECTION 10.**

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

303 **SECTION 11.**

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