

Senate Bill 85

By: Senators Heath of the 31st, Cowser of the 46th, Pearson of the 51st, Butterworth of the 50th, Tolleson of the 20th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 6 of the Official Code of Georgia Annotated, relating to aviation, so as to
2 create the Georgia Aviation Authority; to provide for a short title and definitions; to provide
3 for the membership, governance, operation, powers, duties, and administrative attachment
4 of the authority; to provide that the general purpose of the authority shall be to acquire,
5 operate, maintain, house, and dispose of all state aviation assets; to provide for the transfer
6 of certain employees for administrative purposes only; to provide for other matters related
7 to the authority and its creation; to provide for a performance audit of the authority; to amend
8 Code Section 32-2-2 of the Official Code of Georgia Annotated, relating to powers and
9 duties of the Department of Transportation, so as to remove provisions relative to the
10 authority of that department with respect to state aircraft; to amend Chapter 19 of Title 50
11 of the Official Code of Georgia Annotated, relating to state government transportation
12 services, so as to repeal Article 2, the "Air Transportation Act," relating to the powers and
13 duties of the Department of Transportation with respect to state air transportation; to provide
14 for other related matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Title 6 of the Official Code of Georgia Annotated, relating to aviation, is amended by adding
18 a new chapter to read as follows:

19 "CHAPTER 5

20 6-5-1.

21 This chapter shall be known and may be cited as the 'Georgia Aviation Authority Act.'

22 6-5-2.

23 As used in this chapter, the term:

24 (1) 'Authority' means the Georgia Aviation Authority.

25 (2) 'State aircraft' means any aircraft, including equipment, owned, leased, rented,
26 chartered, or otherwise obtained by the authority.

27 6-5-3.

28 (a) There is created a body corporate and politic to be known as the Georgia Aviation
29 Authority which shall be deemed to be an instrumentality of the state and a public
30 corporation, and by that name, style, and title the body may contract and be contracted
31 with, implead and be impleaded, and bring and defend actions in all courts. The authority
32 shall consist of the Governor or his or her designee, the Lieutenant Governor or his or her
33 designee, the Speaker of the House of Representatives or his or her designee, the
34 commissioner of transportation, the commissioner of public safety, the commissioner of
35 natural resources, the director of the State Forestry Commission, and two persons from the
36 aviation business community with one such member of the aviation business community
37 to be appointed by the Speaker of the House of Representatives, and the other such member
38 of the aviation business community to be appointed by the President of the Senate. The
39 chairperson of the authority shall be a member of the authority elected for a two-year term
40 by a majority vote of the members of the authority. A chairperson may not serve more than
41 two consecutive terms as chairperson. The authority shall make rules and regulations for
42 its own government. It shall have perpetual existence.

43 (b) The authority is assigned to the Department of Administrative Services for
44 administrative purposes only as prescribed in Code Section 50-4-3.

45 (c) The authority may in its discretion employ an executive director and other personnel.
46 The authority may also by agreement with any department or agency of state government
47 make use of personnel of such department or agency.

48 (d) The authority may designate personnel positions employed by the authority as peace
49 officers who shall be required by the terms of their employment to give their full time to
50 the preservation of public order, the protection of life and property, the detection of crime,
51 and such other duties as may be specified by the authority. Personnel in such positions
52 shall comply with the requirements of Chapter 8 of Title 35, the 'Georgia Peace Officer
53 Standards and Training Act,' and shall have the power of arrest in the performance of their
54 duties.

55 6-5-4.

56 (a) The general purpose of the authority shall be to acquire, operate, maintain, house, and
57 dispose of all state aviation assets, to provide aviation services and oversight of state
58 aircraft and aviation operations to ensure the safety of state air travelers and aviation

59 property, to achieve policy objectives through aviation missions, and to provide for the
60 efficient operation of state aircraft. All aircraft owned or operated as of July 1, 2009, or
61 a later date determined by the Governor, by any other entity of state government shall be
62 transferred on that date to the custody and control of the authority; provided, however, that
63 this chapter shall have no application to aircraft owned or operated by the Department of
64 Defense. On and after July 1, 2009, or a later date determined by the Governor, no other
65 entity of state government shall acquire, lease, or charter any aircraft other than through the
66 authority. Any person who is employed by an entity of state government as a pilot and
67 who is required by the terms of his or her employment to comply with the requirements of
68 Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act,' shall remain
69 in the employment of the employing agency but shall be transferred for administrative
70 purposes only to the authority on July 1, 2009, in compliance with subsection (c) of Code
71 Section 6-5-3. All state aircraft required for the proper conduct of the business of the
72 several administrative departments, boards, bureaus, commissions, authorities, offices, or
73 other agencies of Georgia and authorized agents of the General Assembly, or either branch
74 thereof, and department owned airfields and their appurtenances shall be managed and
75 maintained by the authority. The cost for the use of such state aircraft shall be charged by
76 the authority to the using state entity. The amount of such charge shall be determined by
77 the authority. The authority shall be authorized to dispose of any state aircraft and apply
78 the proceeds derived therefrom to the purchase of replacement aviation assets.

79 (b) In the furtherance of its purpose, the authority shall have the power to:

80 (1) Organize, staff, train personnel to operate, maintain, house, purchase, and dispose of
81 aviation assets;

82 (2) Purchase, maintain, develop, and modify facilities to support aviation assets and
83 operations;

84 (3) Develop operating, maintenance, safety, security, training, education, and scheduling
85 standards for state aviation operations and conduct inspections, audits, and other similar
86 oversight to determine practices and compliance with such standards;

87 (4) Develop an accountability system for state aviation operations and activities;

88 (5) Identify the costs associated with the purchase, operation, maintenance, and
89 administration of state aircraft and aviation operations and related facilities, training, and
90 education, develop an appropriate billing structure, and charge agencies and other state
91 entities for the costs of state aircraft and aviation operations; provided, however, that any
92 billing to an agency by the authority shall be suspended whenever the Governor declares
93 a state of emergency on any cost associated with aircraft used during and in response to
94 the state of emergency;

95 (6) Retain appropriate external consulting and auditing expertise;

96 (7) Engage aviation industry representatives to ensure best practices for state aviation
97 assets;

98 (8) Delegate certain powers pursuant to this chapter to other state entities; and

99 (9) Otherwise implement appropriate and efficient management practices for state
100 aviation operations.

101 (c) The authority shall provide priority support for those state agencies and departments,
102 including local and state public safety and law enforcement entities, whose operations
103 require aviation operations. No state entity other than the authority shall be authorized to
104 expend state funds to purchase, lease, rent, charter, maintain, or repair state aircraft to be
105 used in connection with state business or to employ a person whose official duties consist
106 of piloting state aircraft without the approval of the authority.

107 (d) The funds and assets of the authority, as well as the performance of the authority, its
108 services, and equipment, shall be independently audited biennially. The initial audit shall
109 be concluded no later than November 30, 2011. The results of such audit shall be open to
110 inspection at reasonable times by any person. A copy of the audit report shall be sent to
111 the state auditor and the state accounting officer. The authority shall also provide the
112 Governor, the Speaker of the House, the President of the Senate, the chairperson of the
113 House Committee on Public Safety and Homeland Security, the chairperson of the Senate
114 Public Safety Committee, and the chairperson of the Senate Veterans, Military and
115 Homeland Security Committee with a copy of the independent audit report which shall
116 include a full report of the activities and services of the authority. The performance audit
117 report shall be provided no later than December 31, 2011, and every two years thereafter.

118 6-5-5.

119 In addition to the powers specified in Code Section 6-5-4, the authority shall have the
120 powers:

121 (1) To have a seal and alter the same at its pleasure;

122 (2) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and
123 personal property of every kind and character for its corporate purposes;

124 (3) To acquire in its own name by purchase, on such terms and conditions and in such
125 manner as it may deem proper real property or rights of easements therein or franchises
126 necessary or convenient for its corporate purposes and to use the same so long as its
127 corporate existence shall continue and to lease or make contracts with respect to the use
128 of or disposal of the same in any manner it deems to the best advantage of the authority.

129 No property shall be acquired under this chapter upon which any lien or other
130 encumbrance exists unless at the time such property is so acquired a sufficient sum of
131 money is deposited in trust to pay and redeem the fair value of the lien or encumbrance;

132 and if the authority shall deem it expedient to construct any project on lands which are
133 a part of the real estate holdings of the state, the Governor is authorized to execute for and
134 on behalf of the state a lease of the lands to the authority for such parcel or parcels as
135 shall be needed for a period not to exceed 50 years. If the authority shall deem it
136 expedient to construct any project on any other lands the title to which shall then be in
137 the state, the Governor is authorized to convey, for and in behalf of the state, title to such
138 lands to the authority;

139 (4) To appoint and select officers, agents, and employees, including pilots, maintenance
140 workers, engineering, architectural, aviation, and construction experts, fiscal agents, and
141 attorneys, and fix their compensation and otherwise adopt policies that establish a system
142 of sound personnel management;

143 (5) To make contracts and leases and to execute all instruments necessary or convenient,
144 including contracts for construction of projects and leases of projects or contracts with
145 respect to the use of projects which it causes to be erected or acquired; and any and all
146 political subdivisions, departments, institutions, or agencies of the state are authorized to
147 enter into contracts, leases, or agreements with the authority upon such terms and for such
148 purposes as they deem advisable. Without limiting the generality of the above, authority
149 is specifically granted to any department, board, commission, or agency of the state to
150 enter into contracts and lease agreements for the use or concerning the use of any
151 structure, building, or facilities or a combination of any two or more structures, buildings,
152 or facilities of the authority for a term not exceeding 50 years; and any department, board,
153 commission, or agency of the state may obligate itself to pay an agreed sum for the use
154 of the property so leased and also to obligate itself as part of the lease contract to pay the
155 cost of maintaining, repairing, and operating the property leased from the authority;

156 (6) To accept loans or grants of money or materials or property of any kind from the
157 United States or any agency or instrumentality thereof upon such terms and conditions
158 as the United States or the agency or instrumentality may impose;

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

161 (8) To do all things necessary or convenient to carry out the powers expressly given in
162 this chapter.

163 6-5-6.

164 All moneys received pursuant to the authority of this chapter shall be deemed trust funds
165 to be held and applied solely as provided in this chapter.

166 6-5-7.

167 (a) It is found, determined, and declared that the creation of the authority and the carrying
 168 out of its corporate purpose are in all respects for the benefit of the people of this state and
 169 are a public purpose and the authority will be performing an essential governmental
 170 function in the exercise of the power conferred upon it by this chapter.

171 (b) The authority shall coordinate with the Board of Public Safety to provide priority
 172 support for public safety initiatives and urgent or emergency law enforcement missions
 173 and, in so providing, may utilize all aviation fleet resources. The authority shall adopt
 174 policies and procedures to implement this subsection and ensure the public safety aviation
 175 needs of this state are adequately met.

176 6-5-8.

177 Any action to protect or enforce any rights under this chapter shall be brought in the
 178 Superior Court of Fulton County.

179 6-5-9.

180 This chapter, being for the welfare of the state and its inhabitants, shall be liberally
 181 construed to effect the purposes hereof."

182 **SECTION 2.**

183 Code Section 32-2-2 of the Official Code of Georgia Annotated, relating to powers and
 184 duties of the Department of Transportation, is amended by revising paragraph (16) of
 185 subsection (a) as follows:

186 ~~"(16)(A) Reserved; All state aircraft required for the proper conduct of the business of~~
 187 ~~the several administrative departments, boards, bureaus, commissions, authorities,~~
 188 ~~offices, or other agencies of Georgia and authorized agents of the General Assembly, or~~
 189 ~~either branch thereof, and department owned airfields and their appurtenances shall be~~
 190 ~~managed and maintained by the department. The cost for the use of such state aircraft~~
 191 ~~shall be charged by the department to the using agency. The amount of such charge shall~~
 192 ~~be determined by the department. The department shall be authorized to dispose of any~~
 193 ~~state aircraft and apply the proceeds derived therefrom to the purchase of replacement~~
 194 ~~aircraft when the director of the Office of Planning and Budget shall authorize such~~
 195 ~~actions, notwithstanding any other provisions of law to the contrary.~~

196 ~~(B) The department shall have all those powers and duties formerly set forth in Code~~
 197 ~~Section 50-19-23, which statute relates to the maintenance and operation of state~~
 198 ~~aircraft, supervision of their pilots, and similar matters.~~

199 ~~(C) No department, board, bureau, commission, authority, office, or other agency of~~
 200 ~~Georgia shall be authorized to expend state funds to purchase, lease, rent, charter,~~
 201 ~~maintain, or repair state aircraft to be used in connection with state business or to~~
 202 ~~employ a person whose official duties consist of piloting state aircraft except the~~
 203 ~~Department of Transportation.~~

204 ~~(D) The Department of Administrative Services shall purchase all aircraft for the~~
 205 ~~department in the same manner as other state purchases.~~

206 ~~(E) Anything in this title to the contrary notwithstanding, the State Forestry~~
 207 ~~Commission, the Department of Natural Resources, and the Department of Public~~
 208 ~~Safety may, with the approval of the commissioner of transportation, expend state funds~~
 209 ~~to purchase, lease, rent, charter, maintain, or repair special purpose aircraft necessary~~
 210 ~~to conduct the particular business of said agencies and may employ persons whose~~
 211 ~~official duties consist of piloting said aircraft;"~~

212 **SECTION 3.**

213 Chapter 19 of Title 50 of the Official Code of Georgia Annotated, relating to state
 214 government transportation services, is amended by repealing and reserving Article 2 as
 215 follows:

216 "ARTICLE 2
 217 RESERVED

218 ~~50-19-20.~~

219 ~~This article shall be known and may be cited as the 'Air Transportation Act.'~~

220 ~~50-19-21.~~

221 ~~As used in this article, the term:~~

222 ~~(1) 'Department' means the Department of Transportation.~~

223 ~~(2) 'State aircraft' means any aircraft, including equipment, owned, leased, rented, or~~
 224 ~~chartered by the Department of Transportation.~~

225 ~~50-19-22.~~

226 ~~All state aircraft required for the proper conduct of the business of the several~~
 227 ~~administrative departments, boards, bureaus, commissions, authorities, offices, or other~~
 228 ~~agencies of the state or for authorized agents of the General Assembly, or either branch~~
 229 ~~thereof, shall be managed and maintained by the department. The cost for the use of such~~

230 ~~state aircraft shall be charged by the department to the using agency. The amount of the~~
 231 ~~charge shall be determined by the department.~~

232 ~~50-19-23.~~

233 ~~The department shall have the following powers and duties:~~

234 ~~(1) To supervise, maintain, and schedule all state aircraft;~~

235 ~~(2) To maintain a detailed record of all flights made by state aircraft;~~

236 ~~(3) To initiate a proficiency program for pilot employees;~~

237 ~~(4) To discontinue the employment of any pilot employed by the Department of~~
 238 ~~Transportation to fly state aircraft upon such pilot's reaching 65 years of age;~~

239 ~~(5) To establish priorities concerning the use of state aircraft;~~

240 ~~(6) To execute such contracts as may be necessary to carry out this article; and~~

241 ~~(7) To assign special purpose state aircraft and personnel to any other department or~~
 242 ~~agency of state government.~~

243 ~~50-19-24.~~

244 ~~The department shall have the following powers and duties:~~

245 ~~(1) To promulgate such rules and regulations as may be necessary to effectuate the~~
 246 ~~purposes of this article; and~~

247 ~~(2) To establish a timetable for bringing all state aircraft under this article.~~

248 ~~50-19-25.~~

249 ~~No department, board, bureau, commission, authority, office, or other agency of the state~~
 250 ~~shall be authorized to expend state funds to purchase, lease, rent, charter, maintain, or~~
 251 ~~repair state aircraft to be used in connection with state business or to employ a person~~
 252 ~~whose official duties consist of piloting state aircraft, except the Department of~~
 253 ~~Transportation.~~

254 ~~50-19-26.~~

255 ~~The Department of Administrative Services shall purchase all aircraft for the Department~~
 256 ~~of Transportation in the same manner as other state purchases are made."~~

257 **SECTION 4.**

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