

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

AS PASSED SENATE

**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:

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

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

6-5-3.

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

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

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

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

6-5-4.

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

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

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

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

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

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

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

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

(6) Retain appropriate external consulting and auditing expertise;

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

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

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

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

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

6-5-5.

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

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

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

(3) To acquire in its own name by purchase, on such terms and conditions and in such manner as it may deem proper real property or rights of easements therein or franchises necessary or convenient for its corporate purposes and to use the same so long as its corporate existence shall continue and to lease or make contracts with respect to the use of or disposal of the same in any manner it deems to the best advantage of the authority. No property shall be acquired under this chapter upon which any lien or other encumbrance exists unless at the time such property is so acquired a sufficient sum of money is deposited in trust to pay and redeem the fair value of the lien or encumbrance;

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

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

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

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

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

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

6-5-6.

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

6-5-7.

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

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

6-5-8.

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

6-5-9.

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

SECTION 2.

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

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

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

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

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

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

SECTION 3.

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

"ARTICLE 2

RESERVED

~~50-19-20.~~

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

~~50-19-21.~~

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

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

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

~~50-19-22.~~

~~All state aircraft required for the proper conduct of the business of the several administrative departments, boards, bureaus, commissions, authorities, offices, or other agencies of the state or for authorized agents of the General Assembly, or either branch 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.