

House Bill 644

By: Representative Smith of the 113th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 6 of the Official Code of Georgia Annotated, relating to powers
2 of local governments as to air facilities, so as to create the Major Airport Operations Board;
3 to provide for its membership, duties, powers, and responsibilities; to transfer certain
4 authority pertaining to major airports from counties, municipalities, and other political
5 subdivisions to such board; to provide a short title; to provide legislative findings and
6 declarations; to provide for related matters; to provide an effective date; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 3 of Title 6 of the Official Code of Georgia Annotated, relating to powers of local
11 governments as to air facilities, is amended by adding a new Article 3 to read as follows:

12 "ARTICLE 3

13 6-3-30.

14 This article shall be known and may be cited as the 'Major Airport Operations Act.'

15 6-3-31.

16 The General Assembly finds and declares that the construction, equipment, improvement,
17 maintenance, and operation of major airports or landing fields which are located in this
18 state, owned by political subdivisions, and used for public commercial aviation may
19 significantly affect the public welfare not only of such political subdivisions but also this
20 state as a whole. The General Assembly further finds and declares that, for reasons of
21 safety, security, economy, and efficiency, the public welfare of this state is best served by
22 having authority over such activities for such major airports or landing fields vested in a
23 board created by the General Assembly for such purpose as provided by this article.

24 6-3-32.

25 If any airport or landing field which is located in this state, owned by a county,
26 municipality, or other political subdivision of this state, and used for public commercial
27 aviation has in excess of 400,000 takeoffs and landings in any calendar year, then, as to
28 such airport or landing field, on and after July 1 immediately following such calendar year,
29 the authority otherwise provided to such county, municipality, or other political subdivision
30 under Code Section 6-3-25 shall be transferred to, vested in, and exercised exclusively by
31 the Major Airport Operations Board created by this article; provided, however, that the
32 expense of any construction, equipment, improvement, maintenance, and operation of such
33 airport shall remain a responsibility of the county, municipality, or other political
34 subdivision; and provided, further, that such Major Airport Operations Board is expressly
35 denied the authority to condemn, issue bonds, or levy taxes for airport or landing field
36 purposes.

37 6-3-33.

38 (a) There is created the Major Airport Operations Board, which shall be a body corporate
39 and politic and an instrumentality of the State of Georgia.

40 (b) The board shall consist of the following members:

41 (1) The head of the executive branch of government of each political subdivision which
42 owns any airport or landing field, the management of which is transferred to the board
43 by Code Section 6-3-32, who shall serve ex officio;

44 (2) The presiding officer of the legislative branch of government of each political
45 subdivision which owns any airport or landing field, the management of which is
46 transferred to the board by Code Section 6-3-32, who shall serve ex officio;

47 (3) If a political subdivision referred to in paragraphs (1) and (2) of this subsection is a
48 municipality, the head of the executive branch of government of each county within
49 which lies any part of such airport or landing field, the management of which is
50 transferred to the board by Code Section 6-3-32, who shall serve ex officio; and

51 (4) Three members to be appointed by a majority of those members of the board who
52 serve ex officio pursuant to paragraphs (1) and (2) of this subsection, selected from a list
53 of at least three nominees for each such position to be submitted by the State
54 Transportation Board for such purpose; provided, however, that each such set of three
55 nominees shall consist of at least two persons with experience in public commercial
56 aviation; and provided, further, that at all times at least two of the members serving
57 pursuant to appointment under this paragraph shall be persons with experience in public
58 commercial aviation. If any appointment under this paragraph has not been made by a
59 majority of those members serving ex officio pursuant to paragraphs (1) and (2) of this

60 subsection within 30 days after a list of nominees for such position has been submitted
61 by the State Transportation Board in accordance with this paragraph, then the State
62 Transportation Board shall forthwith make the appointment. The lists of nominees for
63 initial members of the board shall be submitted by the State Transportation Board not
64 later than June 1, 2009.

65 (c)(1) One member appointed pursuant to paragraph (4) of subsection (b) of this Code
66 section shall be designated by the State Transportation Board to serve for an initial term
67 of office ending June 30, 2011, and until his or her successor is appointed and qualified.

68 (2) One member appointed pursuant to paragraph (4) of subsection (b) of this Code
69 section shall be designated by the State Transportation Board to serve for an initial term
70 of office ending June 30, 2013, and until his or her successor is appointed and qualified.

71 (3) One member appointed pursuant to paragraph (4) of subsection (b) of this Code
72 section shall be designated by the State Transportation Board to serve for an initial term
73 of office ending June 30, 2015, and until his or her successor is appointed and qualified.

74 (4) Terms of each appointed member, other than an initial term provided by
75 paragraph (1), (2), or (3) of this subsection, shall be for six years beginning on July 1
76 immediately following the expiration of the previous term of office and until their
77 successors are appointed and qualified. Appointed members shall be eligible for
78 renomination and reappointment; provided, however, that no such member shall serve
79 more than two terms consecutively. Any vacancy in the office of an appointed member
80 shall be filled in the same manner as the original appointment, and the person so
81 appointed shall serve the unexpired term of the member whose vacancy is being filled.
82 The list of nominees for any successor shall be submitted by the State Transportation
83 Board not later than 60 days prior to the expiration of the term of office, and the list of
84 nominees to fill any vacancy shall be submitted by the State Transportation Board not
85 later than 30 days after the office becomes vacant.

86 (d) A majority of the total number of members of the board provided by subsection (b)
87 of this Code section shall constitute a quorum for the transaction of business, and a
88 majority vote of those members present at any meeting when there is a quorum shall be
89 sufficient to take any action permitted to the board under this Code section. No vacancy
90 on the board shall prevent the board from carrying out its duties unless such vacancy results
91 in a lack of a quorum, except that a majority vote of those members serving ex officio
92 pursuant to paragraphs (1) and (2) of subsection (b) of this Code section shall be sufficient
93 for purposes of making appointments under paragraph (4) of subsection (b) of this Code
94 section.

95 (e) The members of the board shall select from their membership a chairperson and a vice
96 chairperson at the first meeting held after July 1 in each odd-numbered year. The board
97 shall also select a secretary and a treasurer who need not be members of the board.

98 (f) The members of the board shall not receive a salary, but appointed members shall
99 receive the same expense allowance provided for members of certain boards by subsection
100 (b) of Code Section 45-7-21 while in the performance of their duties on behalf of the board.
101 Employees of the board shall receive such reasonable compensation for their services as
102 determined by the members of the board.

103 (g) The board shall have perpetual existence. Any change in name or composition of the
104 board shall in no way affect the vested rights of any person under this article or impair the
105 obligations of any contracts existing under this article.

106 (h) The members of the board shall be accountable in all respects as trustees. The board
107 shall keep suitable and proper books and records of all receipts, income, and expenditures
108 of every kind and shall submit for inspection and audit all the books and records with a
109 proper statement of the board's financial position to the state auditor for an annual audit and
110 for such other audits and inspections as the state auditor may from time to time require.

111 (i) The board shall have all of the powers necessary, proper, or convenient to carry out and
112 effectuate the purposes and provisions of this article, including without limitation the
113 authority vested in the board by Code Section 6-3-32. Without limiting the generality of
114 the foregoing, the powers of the board shall include the powers:

115 (1) To bring and defend actions;

116 (2) To adopt and amend a corporate seal;

117 (3) To make and execute contracts, agreements, and other instruments necessary, proper,
118 or convenient to exercise the powers of the board and to further the public purpose for
119 which the board is created, including, but not limited to, contracts for construction of
120 airport facilities, leases of airport facilities, operation of airport facilities, agreements for
121 loans to finance projects, and contracts with respect to the use of airport facilities,
122 including negotiated contracts with air carriers and vendors for the use of airport
123 facilities;

124 (4) To borrow money to further or to carry out its public purpose and to execute notes,
125 other obligations, leases, trust indentures, trust agreements, agreements for the sale of its
126 notes, other obligations, loan agreements, mortgages, deeds to secure debt, trust deeds,
127 security agreements, assignments, and such other agreements or instruments as may be
128 necessary or desirable, in the judgment of the board, to evidence and to provide security
129 for such borrowing; provided, however, that such notes or other obligations shall not be
130 deemed to be a debt of the State of Georgia or a pledge of the faith and credit of the state
131 and shall be payable solely from funds of the board established for such purpose;

- 132 (5) To apply for and accept loans and grants, either or both, of money, materials, or
133 property of any kind from the United States government or the State of Georgia or any
134 political subdivision, authority, agency, or instrumentality of either of them, upon such
135 terms and conditions as the United States government or the State of Georgia or such
136 political subdivision, authority, agency, or instrumentality of either of them shall impose;
- 137 (6) To hold, use, administer, and expend such sum or sums as may be received as income
138 or gifts or as may be appropriated by a county, municipality, or other political subdivision
139 for any of the purposes of the board;
- 140 (7) To enter into agreements with the federal government or any agency or corporation
141 thereof to use the facilities of the federal government or agency or corporation thereof in
142 order to further or carry out the public purposes of the board;
- 143 (8) To extend credit or make loans to any person, corporation, partnership, limited or
144 general, or other entity for the costs of any project, which credit or loans may be
145 evidenced or secured by loan agreements, notes, mortgages, deeds to secure debt, trust
146 deeds, security agreements, assignments, or other instruments or by rentals, revenues,
147 fees, or charges, upon such terms and conditions as the board shall determine to be
148 reasonable in connection with such extension of credit or loans, including provision for
149 the establishment and maintenance of reserve funds, and, in the exercise of powers
150 granted in connection with any project, the board shall have the right and power to
151 require the inclusion in any such loan agreement, note, mortgage, deed to secure debt,
152 trust deed, security agreement, assignment, or other instrument of such provisions or
153 requirements for guarantee of any obligations, insurance, construction, use, operation,
154 maintenance, and financing of a project and such other terms and conditions as the board
155 may deem necessary or desirable;
- 156 (9) To receive and use the proceeds of any tax levied by the State of Georgia or any
157 county or municipality thereof to pay the costs of any project or for any other purpose for
158 which the board may use its own funds pursuant to this Code section;
- 159 (10) To receive and administer gifts, grants, and devises of money and property of any
160 kind and to administer trusts;
- 161 (11) To use any real property, personal property, or fixtures or any interest therein and
162 to rent or lease such property to or from others or make contracts with respect to the use
163 thereof;
- 164 (12) To acquire, accept, or retain equitable interests, security interests, or other interests
165 in any real property, personal property, or fixtures by loan agreement, note, mortgage,
166 deed to secure debt, trust deed, security agreement, assignment, pledge, conveyance,
167 contract, lien, loan agreement, or other consensual transfer in order to secure the
168 repayment of any moneys loaned or credit extended by the board;

169 (13) To appoint, select, and employ officers, agents, and employees, including airport
170 managers, engineers, surveyors, architects, urban or city planners, construction experts,
171 fiscal agents, attorneys, and others, and to fix their compensation and pay their expenses.
172 The board shall have exclusive authority to appoint, select, and employ any airport
173 manager for any airport under the board's jurisdiction;

174 (14) To make, contract for, or otherwise cause to be made long-range plans or proposals
175 for projects in cooperation with those political subdivisions within which such projects
176 are located or are proposed to be located;

177 (15) To make reasonable regulations for installation, construction, maintenance, repairs,
178 renewal, and relocation of pipes, mains, conduits, cables, wires, towers, poles, and other
179 equipment and appliances of any public utility in, on, along, over, or under any airport
180 facility or project;

181 (16) To request that the political subdivision for which the board is managing, operating,
182 and maintaining an airport acquire through the exercise of the power of eminent domain
183 any real property or rights or interests therein, including easements, as necessary or
184 convenient for the accomplishment of the purposes of this article;

185 (17) To contract for or to provide for and maintain a security force with respect to the
186 airport facilities and properties managed, operated, and maintained by the board. Except
187 as otherwise provided by the federal Aviation and Transportation Security Act, Public
188 Law 107-71, such security force shall have the duty to protect persons and property
189 located within the boundaries of the airport facilities and properties and to control
190 pedestrian and vehicular traffic on such property, and to protect the public peace, health,
191 and safety. For these purposes, members of the security force shall be peace officers and
192 shall have authority equivalent to the authority of law enforcement officers of the county
193 in which such officers are discharging their duties;

194 (18) To exercise any power granted by laws of the State of Georgia to public or private
195 corporations which is not in conflict with the Constitution and laws of the State of
196 Georgia; and

197 (19) To do all things necessary, proper, or convenient to carry out the powers conferred
198 by this article, including the adoption of rules and regulations.

199 (j) It is found, determined, and declared that the creation of the board and the carrying out
200 of its corporate purposes are in all respects for the benefit of the people of this state and
201 constitute a public purpose and that the board will be performing an essential governmental
202 function in the exercise of the powers conferred on it by this article. The State of Georgia
203 covenants that the board shall not be required to pay any taxes or assessments upon any of
204 the property acquired by it or under its jurisdiction, control, possession, or supervision or
205 upon facilities erected, maintained, or acquired by it or any fees, rentals, or other charges

206 for the use of such facilities or other income received by the board; provided, however, that
207 in no event shall these exemptions extend to any lessee or other private person or entity.
208 (k) The Attorney General shall provide legal counsel and representation for the board. The
209 provisions of Code Sections 45-15-13 through 45-15-16 shall be fully applicable to the
210 board the same as if it were a state authority named therein.
211 (l) Nothing contained in this article shall be construed to impair any rights afforded the
212 state under the Constitution of the United States nor to waive any immunities of the state.
213 (m) Members and employees of the board shall be subject to the applicable provisions of
214 Chapter 10 of Title 45."

215 **SECTION 2.**

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

218 **SECTION 3.**

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