

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

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 audits of the authority; to provide for an
8 exemption from taxes; to provide for automatic repeal of the authority; to amend Code
9 Section 32-2-2 of the Official Code of Georgia Annotated, relating to powers and duties of
10 the Department of Transportation, so as to remove provisions relative to the authority of that
11 department with respect to state aircraft; to amend Chapter 19 of Title 50 of the Official Code
12 of Georgia Annotated, relating to state government transportation services, so as to repeal
13 Article 2, the "Air Transportation Act," relating to the powers and duties of the Department
14 of Transportation with respect to state air transportation; to provide for other related matters;
15 to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

20 style="text-align:center">"CHAPTER 5

21 6-5-1.

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

23 6-5-2.

24 As used in this chapter, the term:

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

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

28 6-5-3.

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

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

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

49 (d) The authority shall be subject to Chapter 13 of Title 50, the 'Georgia Administrative
50 Procedure Act.'

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

58 6-5-4.

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

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

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

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

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

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

91 (5) Identify the costs associated with the purchase, operation, maintenance, and
92 administration of state aircraft and aviation operations and related facilities, training, and
93 education, develop an appropriate billing structure, and charge agencies and other state
94 entities for the costs of state aircraft and aviation operations; provided, however, that any

95 billing to an agency by the authority shall be suspended whenever the Governor declares
96 a state of emergency on any cost associated with aircraft used during and in response to
97 the state of emergency;

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

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

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

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

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

110 (d) The funds and assets of the authority, as well as the performance of the authority, its
111 services, and equipment, shall be audited annually by the state auditor. The initial audit
112 shall be concluded no later than December 30, 2010. The results of such audit shall be
113 open to inspection at reasonable times by any person. A copy of the audit report shall be
114 sent to the state accounting officer. The authority shall also provide the Governor, the
115 Speaker of the House, the President of the Senate, the chairperson of the House Committee
116 on Public Safety and Homeland Security, the chairperson of the Senate Public Safety
117 Committee, the chairperson of the Senate Veterans, Military and Homeland Security
118 Committee, the chairperson of the House Committee on Transportation, and the
119 chairperson of the Senate Transportation Committee with a copy of the state audit report
120 which shall include a full report of the activities and services of the authority. The
121 performance audit report shall be provided no later than December 31, 2013.

122 6-5-5.

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

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

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

128 (3) To acquire in its own name by purchase, on such terms and conditions and in such
129 manner as it may deem proper real property or rights of easements therein or franchises
130 necessary or convenient for its corporate purposes and to use the same so long as its

131 corporate existence shall continue and to lease or make contracts with respect to the use
132 of or disposal of the same in any manner it deems to the best advantage of the authority.
133 No property shall be acquired under this chapter upon which any lien or other
134 encumbrance exists unless at the time such property is so acquired a sufficient sum of
135 money is deposited in trust to pay and redeem the fair value of the lien or encumbrance;
136 and if the authority shall deem it expedient to construct any project on lands which are
137 a part of the real estate holdings of the state, the Governor is authorized to execute for and
138 on behalf of the state a lease of the lands to the authority for such parcel or parcels as
139 shall be needed for a period not to exceed 50 years. If the authority shall deem it
140 expedient to construct any project on any other lands the title to which shall then be in
141 the state, the Governor is authorized to convey, for and in behalf of the state, title to such
142 lands to the authority;

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

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

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

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

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

167 6-5-6.

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

170 6-5-7.

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

175 (b) In order to ensure that addressing emergency law enforcement needs is the authority's
 176 first priority, the authority, in coordination with the Board of Public Safety, shall adopt
 177 policies and procedures to ensure that responding to emergencies, imminent threats to
 178 individual and public safety, natural disasters, or other emergency law enforcement needs
 179 is met. The authority shall be exempt from all sales and use tax on property purchased,
 180 leased, or used by the authority.

181 6-5-8.

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

184 6-5-9.

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

187 6-5-10.

188 This chapter shall stand repealed on July 1, 2014, unless it is further extended by an Act
 189 of the General Assembly."

190 **SECTION 2.**

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

194 ~~"(16)(A) Reserved; All state aircraft required for the proper conduct of the business of~~
 195 ~~the several administrative departments, boards, bureaus, commissions, authorities,~~
 196 ~~offices, or other agencies of Georgia and authorized agents of the General Assembly, or~~
 197 ~~either branch thereof, and department owned airfields and their appurtenances shall be~~
 198 ~~managed and maintained by the department. The cost for the use of such state aircraft~~

199 shall be charged by the department to the using agency. The amount of such charge shall
 200 be determined by the department. The department shall be authorized to dispose of any
 201 state aircraft and apply the proceeds derived therefrom to the purchase of replacement
 202 aircraft when the director of the Office of Planning and Budget shall authorize such
 203 actions, notwithstanding any other provisions of law to the contrary.

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

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

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

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

220 **SECTION 3.**

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

224 "ARTICLE 2

225 RESERVED

226 ~~50-19-20.~~

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

228 ~~50-19-21.~~

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

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

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

233 ~~50-19-22.~~

234 ~~All state aircraft required for the proper conduct of the business of the several~~
235 ~~administrative departments, boards, bureaus, commissions, authorities, offices, or other~~
236 ~~agencies of the state or for authorized agents of the General Assembly, or either branch~~
237 ~~thereof, shall be managed and maintained by the department. The cost for the use of such~~
238 ~~state aircraft shall be charged by the department to the using agency. The amount of the~~
239 ~~charge shall be determined by the department.~~

240 ~~50-19-23.~~

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

- 242 ~~(1) To supervise, maintain, and schedule all state aircraft;~~
243 ~~(2) To maintain a detailed record of all flights made by state aircraft;~~
244 ~~(3) To initiate a proficiency program for pilot employees;~~
245 ~~(4) To discontinue the employment of any pilot employed by the Department of~~
246 ~~Transportation to fly state aircraft upon such pilot's reaching 65 years of age;~~
247 ~~(5) To establish priorities concerning the use of state aircraft;~~
248 ~~(6) To execute such contracts as may be necessary to carry out this article; and~~
249 ~~(7) To assign special purpose state aircraft and personnel to any other department or~~
250 ~~agency of state government.~~

251 ~~50-19-24.~~

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

- 253 ~~(1) To promulgate such rules and regulations as may be necessary to effectuate the~~
254 ~~purposes of this article; and~~
255 ~~(2) To establish a timetable for bringing all state aircraft under this article.~~

256 ~~50-19-25.~~

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

262 ~~50-19-26.~~

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

265 **SECTION 4.**

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