

House Bill 556

By: Representative Wilkinson of the 52nd

A BILL TO BE ENTITLED
AN ACT

1 To provide a short title; to amend Article 3 of Chapter 82 of Title 36 of the Official Code of
2 Georgia Annotated, relating to revenue bonds, so as to provide a definition; to provide
3 requirements, standards, and restrictions applicable to persons and entities that desire to
4 intervene in bond validation proceedings and to attorneys that have been sanctioned by a
5 court or that have been determined by a court to have engaged in unethical conduct for
6 purposes of bond validation proceedings and for purposes of legal actions involving issues
7 regarding the valuation of property for purposes of assessing property taxes if such issues
8 relate to the issuance of bonds by a public body; to amend Chapter 15 of Title 50 of the
9 Official Code of Georgia Annotated, relating to public lawsuits, so as to make provisions for
10 claims of opposing parties and intervenors that lack merit under laws relating to public
11 lawsuits, and for the imposition of triple damages in certain cases; to provide for related
12 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

15 This Act shall be known and may be cited as the "Integrity in Public Proceedings Act."

16 SECTION 2.

17 Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated, relating to
18 revenue bonds, is amended by revising Code Section 36-82-77, relating to hearing and
19 judgment on validation, parties to proceedings, right of appeal, and review of valuation of
20 existing undertakings, as follows:

21 "36-82-77.

22 (a) As used in this Code section, the term 'qualified intervenor' means every citizen of this
23 state, except:

24 (1) A person or entity who or which a court has sanctioned, before or after the effective
25 date of this Code section, in any bond validation action by striking the pleadings of such

26 person or entity, dismissing such person or entity as a party, or awarding attorney's fees
 27 payable by such person or entity; and

28 (2) A person or entity who or which engaged in unethical conduct as determined by a
 29 court in any bond validation action in an order entered before or after the effective date
 30 of this Code section.

31 Without limitation, a person or entity shall not be a qualified intervenor if such person or
 32 entity is controlled by another person or entity who or which is not a qualified intervenor.

33 ~~(a)~~ (b) Within the time prescribed in the order or such further time as he or she may fix,
 34 the judge of the superior court shall proceed to hear and determine all questions of law and
 35 of fact in the case and shall render judgment thereof. ~~Any citizen of this state~~ Except as
 36 provided in subsection (d) of this Code section, any qualified intervenor who is a resident
 37 of the governmental body which desires to issue such bonds may, by proper intervention,
 38 become a party to the proceedings at or before the time date originally set for the hearing,
 39 without regard to any continuances, and any party thereto who is dissatisfied with the
 40 judgment of the court confirming and validating the issuance of the bonds or refusing to
 41 confirm and validate the issuance of the bonds and the security therefor may appeal from
 42 the judgment under the procedure provided by law in cases of injunction. Only a party to
 43 the proceedings at the time the judgment appealed from is rendered may appeal from such
 44 judgment.

45 ~~(b)~~ (c) Whenever any governmental body values existing undertakings as permitted by law
 46 in connection with the issuance of bonds, the superior courts may review such action,
 47 which review shall be had in the proceedings to validate the revenue bonds.

48 (d) The General Assembly finds and determines that the provision in subsection (b) of this
 49 Code section allowing any qualified intervenor who is a resident of the governmental body
 50 which desires to issue the subject bonds to become, by proper intervention, a party to the
 51 proceedings before the date originally set for the hearing is intended to promote the public
 52 interest of the citizens of such governmental body generally and that such public interest
 53 cannot be entrusted to those who come before the court with unclean hands. In order to
 54 accomplish such intention, it is necessary to provide certain standards that must be met by
 55 certain parties to such proceedings and to provide certain related requirements, standards,
 56 and restrictions. Accordingly, the following provisions shall be applicable to such
 57 proceedings:

58 (1) Only a party to such proceedings shall participate therein or object to the validation
 59 of the subject bonds. A person or entity shall only become a party by intervening therein
 60 prior to the date originally set for the hearing, without regard to any continuances. All
 61 attorneys for all qualified intervenors shall be physically present at all proceedings.
 62 Among other sanctions for noncompliance with any of the preceding requirements, the

63 court may dismiss the subject intervention, which dismissal shall be final and not subject
64 to appellate review except through a writ of certiorari to the Supreme Court;

65 (2) All pleadings on behalf of a qualified intervenor shall be accompanied by an affidavit
66 of such qualified intervenor swearing that he or she has read and understood the
67 allegations contained therein and believes that such allegations are true. Among other
68 sanctions for noncompliance with such requirement, the court may dismiss the subject
69 intervention, which dismissal shall be final and not subject to appellate review except
70 through a writ of certiorari to the Supreme Court;

71 (3) Only a qualified intervenor who is a resident of the governmental body which desires
72 to issue bonds may intervene in and become a party to any bond validation action that
73 may be commenced after the effective date of this Code section. After the effective date
74 of this Code section, an attorney shall not accept or continue legal representation of any
75 party in a bond validation case if such attorney could not qualify as a qualified intervenor,
76 disregarding for such purpose the citizenship of such attorney, any provision of the law
77 notwithstanding. Each qualified intervenor and his or her attorney shall submit to the
78 court in any bond validation proceeding pending on the effective date of this Code
79 section, within ten days after the effective date of this Code section, and in any
80 proceeding commenced after the effective date of this Code section, upon its
81 commencement, an affidavit that such qualified intervenor and his or her attorney,
82 respectively, are in compliance with this subsection. For noncompliance with any of the
83 provisions of this subsection, the court shall, without prejudice to other sanctions that
84 might be available, dismiss the subject intervention, which dismissal shall be final and
85 not subject to appellate review except through a writ of certiorari to the Supreme Court;
86 and

87 (4) In order for any person or entity to act voluntarily as a party to any legal action,
88 which is not a bond validation proceeding but which involves issues regarding the
89 valuation of property for purposes of assessing property taxes and in order for an
90 individual to represent as an attorney another person or entity in any such action, such
91 person shall be a qualified intervenor and such attorney shall be a qualified intervenor,
92 disregarding for such purpose the citizenship of such attorney, if the issues in such action
93 relate in any way to the issuance of bonds by a public body, regardless of whether such
94 legal action or bond issuance commenced or took place before or after the effective date
95 of this Code section, any provision of law to the contrary notwithstanding. This
96 paragraph shall not apply to such person or entity or attorney, respectively, in the case of
97 disputes regarding property owned by such person or entity or attorney, respectively. The
98 General Assembly finds and determines that this subsection is intended to promote the
99 public interest and the interest of the administration of justice generally and that such

100 interests cannot be entrusted to those who would come before the court with unclean
 101 hands in a proceeding covered by this subsection."

102 **SECTION 3.**

103 Chapter 15 of Title 50 of the Official Code of Georgia Annotated, relating to public lawsuits,
 104 is amended by revising Code Section 50-15-2, relating to petition by political subdivision for
 105 posting of bond by opposing party or intervenor, hearing, dismissal upon failure to file bond,
 106 and appeal, as follows:

107 "50-15-2.

108 At any time prior to the final determination of a public lawsuit in the trial court or on
 109 appeal, any political subdivision or private person or entity, other than an opposing party
 110 or intervenor, which is a party to the action may petition for an order of the court that the
 111 opposing party or parties or intervenors be dismissed unless such opposing party or parties
 112 or intervenors post a bond with surety to be approved by the court payable to the moving
 113 party or parties for the payment of all damages and costs which may accrue by reason of
 114 such opposition or intervention in the event the moving party ~~prevails~~ or parties prevail.

115 The moving party or parties shall obtain from a judge of the court an order requiring the
 116 opposing party or parties or intervenors to appear at such time and place within 20 days
 117 from the filing of the petition as the judge may direct and to show cause, if any exists, why
 118 the prayers of the petition should not be granted. The petition and order shall be served in
 119 the manner provided by law for the service of orders and pleadings subsequent to the
 120 original complaint. If, at the hearing of the petition on the order to show cause, the court
 121 determines that it is in the public interest or the interest of justice to do so, the court shall
 122 set the amount of bond to be filed by the opposing party or parties or intervenors in an
 123 amount found by the court to cover all damage and costs which may accrue to the political
 124 subdivision or private person or entity by reason of the opposition or intervention in the
 125 event the political subdivision ~~prevails~~ or private person or entity, other than an opposing
 126 party or intervenor, prevails. At such hearing, the court may also find that the claims of the
 127 opposing party or parties or interventors lack merit. In the event the bond is not filed by
 128 the opposing party or parties or intervenors with surety approved by the court within ten
 129 days after the order is entered, the opposing party or parties or intervenors shall be
 130 dismissed by operation of law. Either the opposing party or parties or intervenors, unless
 131 the court found that the claims of the opposing party or parties or intervenors lacked merit,
 132 or the political subdivision or private person or entity, other than an opposing party or
 133 intervenor, may appeal the order under the procedure provided by law in cases of
 134 injunction. ~~The appellate court may stay the lower court order pending its own decision,~~
 135 ~~may set~~ In the event that the trial court determines that the claims of the opposing party or

136 parties or intervenors lack merit, such order shall be final and not be subject to appellate
137 review except through application for a writ of certiorari to the Supreme Court. If an
138 appeal is permitted and is duly taken, the appellate court may only set or modify the
139 amount of a bond to be filed by the opposing party or parties or intervenors in connection
140 therewith, may modify the order of the lower court, or may enter its order as a final order
141 in the case. In the event no bond is filed as provided in this Code section, the opposing
142 party or parties or intervenors shall be dismissed by operation of law; and, upon final
143 determination of the case, no court shall have further jurisdiction of any action involving
144 any issue which was or could have been raised therein. The court, in its final determination
145 of such case, may triple the amount payable to the political subdivision or private person
146 or entity, other than an opposing party or intervenor, for the payment of all damages and
147 costs which may accrue by reason of such opposition or intervention in the event the court
148 finds that an opposing party or intervenor acted in bad faith or out of malice or
149 vindictiveness or was not a qualified intervenor as required by Code Section 36-82-77."

150 **SECTION 4.**

151 Any part of this Act that is finally determined judicially to be unconstitutional or otherwise
152 invalid shall be severed herefrom, and the remaining parts shall continue in full force and
153 effect, the General Assembly hereby declaring that it would have passed such remaining
154 parts in any event.

155 **SECTION 5.**

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

158 **SECTION 6.**

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