

Senate Bill 353

By: Senators Beach of the 21st and Albers of the 56th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 62 of Title 36 of the Official Code of Georgia Annotated, relating to
2 development authorities, so as to change a definition; to provide for revision of public
3 purpose; to provide for changes to general powers; to provide for changes to certain revenue
4 bond provisions; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 62 of Title 36 of the Official Code of Georgia Annotated, relating to development
9 authorities, is amended by revising subparagraph (H) of paragraph (6) of Code
10 Section 36-62-2, relating to definition of "project," as follows:

11 "(H) The acquisition, construction, improvement, or modification of any property, real
12 or personal, which shall be suitable for or used as or in connection with:

13 (i) Sports facilities, including private training and related office and other facilities
14 when authorized by the governing authority of the political subdivision or municipal
15 corporation in which the facility is to be constructed and maintained if such sports
16 facilities promote trade, commerce, industry, and employment opportunities by
17 hosting regional, state-wide, or national events;

18 (ii) Convention or trade show facilities;

19 (iii) Airports, docks, wharves, mass commuting facilities, parking facilities, or
20 storage or training facilities directly related to any of the foregoing;

21 (iv) Facilities for the local furnishing of electric energy or gas;

22 (v) Facilities for the furnishing of water, if available, on reasonable demand to
23 members of the general public; and

24 ~~(vi) Hotel and motel facilities for lodging which also may provide meals, provided~~
25 ~~that such facilities are constructed in connection with and adjacent to convention,~~

26 ~~sports, or trade show facilities. No project as defined by this division shall be exempt~~
 27 ~~from any ad valorem taxation; and~~
 28 (vii)(vi) Amphitheatres with seating capacity exceeding 1,000 patrons and any
 29 facilities directly related to the operation of such amphitheatres, if such amphitheatres
 30 promote trade, commerce, industry, and employment opportunities by hosting
 31 regional, state-wide, or national events;"

32 **SECTION 2.**

33 Said chapter is further amended by revising Code Section 36-62-3, relating to constitutional
 34 authority for the chapter, finding of public purposes, and tax exemptions, as follows:

35 "36-62-3.

36 This chapter is passed pursuant to authority granted the General Assembly by Article IX,
 37 Section VI, Paragraph III of the Constitution of this state. Each authority created by this
 38 chapter is created for nonprofit and public purposes, and it is found, determined, and
 39 declared that the creation of each such authority and the carrying out of its corporate
 40 purposes is in all respects for the benefit of the people of this state and that the authority
 41 is an institution of purely public charity and will be performing an essential governmental
 42 function in the exercise of the power conferred upon it by this chapter. For such reasons,
 43 the state covenants, from time to time, with the holders of the bonds issued under this
 44 chapter that such authority shall be required to pay no taxes or assessments imposed by the
 45 state or any of its counties, municipal corporations, political subdivisions, or taxing districts
 46 upon any property acquired by the authority or under its jurisdiction, control, possession,
 47 or supervision or leased by it to others (~~other than property leased for the purposes of a~~
 48 ~~'project' as defined in subparagraph (J) or (K) of paragraph (6) of Code Section 36-62-2,~~
 49 ~~which shall be taxable by the state and its counties, municipal corporations, political~~
 50 ~~subdivisions, and taxing districts) or upon its activities in the operation or maintenance of~~
 51 any such property or on any income derived by the authority in the form of fees, recording
 52 fees, rentals, charges, purchase price, installments, or otherwise, and that the bonds of such
 53 authority, their transfer, and the income therefrom shall at all times be exempt from
 54 taxation within this state. The tax exemption provided in this Code section shall not
 55 include any exemption from sales and use tax on property purchased by the authority or for
 56 use by the authority."

57 **SECTION 3.**

58 Said chapter is further amended by revising subsection (c) of Code Section 36-62-4, relating
 59 to development authorities created, appointment and terms of directors, quorum, adoption,
 60 and filing of resolution of need, as follows:

61 "(c) No authority shall transact any business or exercise any powers under this chapter
 62 until the governing body of the county or municipal corporation, by proper resolution,
 63 declares that there is a need for an authority to function in the county or municipal
 64 corporation. A copy of the resolution shall be filed with the Secretary of State, who shall
 65 maintain a record of all authorities activated under this chapter. Unless the resolution of
 66 need adopted and filed by the governing body of the county or municipal corporation in
 67 order for the authority to transact business or exercise its powers under this chapter
 68 modifies, amends, or supersedes it by appropriate action by such governing body, then the
 69 geographical area in which the authority is authorized to function shall remain as originally
 70 set forth in the resolution of need."

71 **SECTION 4.**

72 Said chapter is further amended by revising paragraph (13) of subsection (a) of Code
 73 Section 36-62-6, relating to general powers of the authority, as follows:

74 "(13) To borrow money and issue its revenue bonds and bond anticipation notes from
 75 time to time and to use the proceeds thereof, if any, for the purpose of paying all or part
 76 of the cost of any project, including the cost of extending, adding to, or improving the
 77 project, or for the purpose of refunding any such bonds of the authority theretofore issued
 78 and to otherwise carry out the purposes of this chapter and to pay all other costs of the
 79 authority incident to or necessary and appropriate to such purposes, including the
 80 providing of funds to be paid into any fund or funds to secure such bonds and notes,
 81 provided that all such bonds and notes shall be issued in accordance with the procedures
 82 and subject to the limitations set forth in Code Section 36-62-8;"

83 **SECTION 5.**

84 Said chapter is further amended by revising subsection (g) of Code Section 36-62-8, relating
 85 to obligations of authority, use of proceeds, status as revenue obligations, subsequent series
 86 of bonds or notes, bond anticipation notes, interest rates, issuance, and validation, as follows:

87 "(g) All revenue bonds issued by an authority under this chapter shall be issued and
 88 validated under and in accordance with Article 3 of Chapter 82 of this title, except as
 89 provided in subsection (f) of this Code section and except as specifically set forth below:

- 90 (1) Revenue bonds issued by an authority may be in such form, either coupon or fully
 91 registered, or both coupon and fully registered, and may be subject to such
 92 exchangeability and transferability provisions as the bond resolution authorizing the
 93 issuance of such bonds or any indenture or trust agreement may provide;
- 94 (2) Revenue bonds shall bear a certificate of validation. The signature of the clerk of the
 95 superior court of the judicial circuit in which the issuing authority is located may be made

96 on the certificate of validation of such bonds by facsimile or by manual execution, stating
97 the date on which such bonds were validated; and such entry shall be original evidence
98 of the fact of judgment and shall be received as original evidence in any court in this
99 state;

100 (3) The notice to the district attorney or the Attorney General and the notice to the public
101 of the time, place, and date of the validation hearing need not state the rate of interest the
102 bonds will bear;

103 (4) The term 'cost of project' shall have the meaning prescribed in paragraph (2) of Code
104 Section 36-62-2 whenever referred to in bond resolutions of an authority, bonds and bond
105 anticipation notes issued by an authority, or notices and proceedings to validate such
106 bonds;-

107 (5) The district attorney or the Attorney General shall not be required to appear at the
108 validation hearing or any subsequent proceedings. In the absence of the district attorney
109 or the Attorney General, the authority shall bear the burden of making the case for the
110 validation of the bonds at the validation hearing or any subsequent proceedings;

111 (6) The validation hearing shall provide for confirmation and validation of the bonds and
112 the security for such bonds and may include any ancillary or related agreements or
113 documents as the court deems appropriate; and

114 (7) In the event that no appeal is filed within the time prescribed by law, or if an appeal
115 is filed and the judgment is affirmed on appeal, the judgment of the superior court
116 confirming and validating the issuance of the bonds and the security for such bonds shall
117 be forever conclusive against the governmental body relating to the validity of the bonds
118 and the security for such bonds with respect to all matters and issues that were raised or
119 could have been raised in the bond validation proceeding."

120 **SECTION 6.**

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