

The House Committee on Governmental Affairs offers the following substitute to SB 85:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,  
2 so as to provide for the priority of certain liens regarding assessments for downtown  
3 development authorities; to revise the definition of project as applicable to development  
4 authorities; to modify the tax exemption of development authorities; to correct  
5 cross-references; to provide for the membership of such authorities; to provide for related  
6 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
10 by adding a new Code section to Chapter 42, relating to downtown development authorities,  
11 to read as follows:

12 "36-42-17.

13 A lien for any assessment under Code Section 36-42-16 that relates to any project under  
14 subparagraph (B) of paragraph (6) of Code Section 36-42-3 shall have the same priority as  
15 municipal liens under paragraph (4) of subsection (b) and subparagraph (g)(2)(B) of Code  
16 Section 48-2-56."

17 **SECTION 2.**

18 Said title is further amended by repealing in its entirety paragraph (6) of Code  
19 Section 36-62-2, relating to definitions regarding development authorities, and enacting a  
20 new paragraph (6) to read as follows:

21 "(6) 'Project' means the acquisition, construction, installation, modification, renovation,  
22 or rehabilitation of land, interests in land, buildings, structures, facilities, or other  
23 improvements and the acquisition, installation, modification, renovation, rehabilitation,  
24 or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature  
25 whatsoever used on, in, or in connection with any such land, interest in land, building,  
26 structure, facility, or other improvement for the essential public purpose of the

27 development of trade, commerce, industry, and employment opportunities. A project  
 28 may be for any industrial, commercial, business, office, parking, public, or other use,  
 29 provided that a majority of the members of the authority determines, by a duly adopted  
 30 resolution, that such project and such use thereof would further the public purpose of this  
 31 chapter."

32 **SECTION 3.**

33 Said title is further amended by revising Code Section 36-62-3, relating to the constitutional  
 34 authority for said chapter, finding of public purposes, and tax exemption, 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 4.**

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

61 "(a) There is created in and for each county and municipal corporation in the state a public  
 62 body corporate and politic to be known as the 'development authority' of such county or  
 63 municipal corporation, which shall consist of a board of not less than seven and not more  
 64 than nine directors to be appointed by resolution of the governing body of the county or  
 65 municipal corporation. At the expiration of the current terms of office of the first four  
 66 members of the board of directors, the governing body of the county or municipal  
 67 corporation shall elect successors to such members to serve for initial terms of two years  
 68 and shall elect successors to the remaining members of the board for initial terms of four  
 69 years. Thereafter, the terms of all directors shall be for four years. The terms of any  
 70 directors added to the original seven directors shall be four years. If, at the end of any term  
 71 of office of any director, a successor thereto has not been elected, the director whose term  
 72 of office has expired shall continue to hold office until his or her successor is so elected.  
 73 In addition to the directors appointed by the governing body of the county or municipal  
 74 corporation, one member of the governing body shall be selected to serve on such board  
 75 of directors. Such person shall be selected in January for a four-year term of office, not to  
 76 exceed such person's term of office on the governing body."

#### 77 SECTION 5.

78 Said title is further amended by revising Code Section 36-62-7, relating to the prohibition on  
 79 the operation of projects by governmental units and the sale or lease of property for  
 80 operation, as follows:

81 "36-62-7.

82 No project acquired under this chapter shall be operated by an authority or any municipal  
 83 corporation, county, or other governmental subdivision. Such a project shall be leased or  
 84 sold to, or managed by, one or more persons, firms, or private corporations. Any  
 85 disposition of real property by an authority pursuant to paragraph (7) of Code  
 86 Section 36-62-6 shall be made to one or more persons, firms, corporations, or  
 87 governmental or public entities. If revenue bonds or other obligations are to be issued to  
 88 pay all or part of the cost of the project, the project must be so leased or the contract for its  
 89 sale or management must be entered into prior to or simultaneously with the issuance of  
 90 the bonds or obligations; provided, however, that the acquisition and development of land  
 91 by an authority as the site for an industrial park ~~as provided in this chapter~~ or the  
 92 acquisition and development of land by an authority as the site for a sports facility or  
 93 amphitheater ~~in accordance with Code Section 36-62-2~~ and the operation of such a sports  
 94 facility or amphitheater shall not be deemed to be the operation of a project and,  
 95 notwithstanding anything in this chapter to the contrary, an authority shall not be required  
 96 to enter into a lease of such a project or a contract for its sale or management as a condition

97 to the issuance of bonds or other obligations of the authority to provide financing therefor.  
98 If sold, the purchase price may be paid at one time or in installments falling due over not  
99 more than 40 years from the date of transfer of possession. The lessee or purchaser shall  
100 be required to pay all costs of operating and maintaining the leased or purchased property  
101 and to pay rentals or installments in amounts sufficient to pay the principal of and the  
102 interest and premium, if any, on all of its bonds and other obligations as such principal and  
103 interest become due. If the project is managed, the management contract must contain a  
104 term not less than the final maturity date of any bonds or other obligations of the authority  
105 to provide financing for the managed project and must provide that all costs of operating  
106 and maintaining the managed project, including all management fees payable under the  
107 management contract, shall be paid solely from the revenues of the managed project and  
108 from the proceeds of any bonds or other obligations of the authority to provide financing  
109 for the managed project. Any such management contract may contain provisions allowing  
110 the authority to terminate the management contract, but if the authority exercises any right  
111 to terminate a management contract, it must immediately enter into another management  
112 contract meeting the requirements of this Code section."

113 **SECTION 6.**

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

116 **SECTION 7.**

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