

Senate Bill 183

By: Senators Beach of the 21st, Walker III of the 20th, Martin of the 9th and Miller of the 49th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Part 1 of Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia
2 Annotated, relating to general provisions relative to the State Road and Tollway Authority,
3 so as to provide for a definition; to provide for powers of the authority; to allow for the
4 indefinite collection of tolls in certain instances; to provide for submission of an annual
5 report on certain toll collections to the General Assembly; to provide for letting of contracts
6 by competitive bids; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Part 1 of Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated,
11 relating to general provisions relative to the State Road and Tollway Authority, is amended
12 in Code Section 32-10-60, relating to definitions, by revising paragraph (8) as follows:

13 "(8) 'Self-liquidating' means that, in the judgment of the authority, the revenues and
14 earnings to be derived by the authority from any project or combination of projects or
15 from any other revenues available to the authority, together with any maintenance, repair,
16 operational services, funds, rights of way, engineering services, and any other in-kind
17 services to be received by the authority from appropriations of the General Assembly, the
18 department, other state agencies or authorities, the United States government, or any
19 county~~or~~, municipality, person, firm, corporation, limited liability company, or other type
20 of entity shall be sufficient to provide for the maintenance, repair, and operation and to
21 pay the principal and interest of revenue bonds which may be issued for the cost of such
22 project, projects, or combination of projects."

23 **SECTION 2.**

24 Said part is further amended in Code Section 32-10-63, relating to general powers of the
25 authority, by revising paragraphs (5), (8), (14), and (15) and adding a new paragraph to read
26 as follows:

27 "(5) To make such contracts, leases, or conveyances as the legitimate and necessary
28 purposes of this article shall require, including but not limited to contracts for
29 construction or maintenance of projects, provided that the authority shall consider the
30 possible economic, social, and environmental effects of each project, and the authority
31 shall assure that possible adverse economic, social, and environmental effects relating to
32 any proposed project have been fully considered in developing such project and that the
33 final decision on the project is made in the best overall public interest, taking into
34 consideration the need for fast, safe, and efficient transportation, public services, and the
35 cost of eliminating or minimizing adverse economic, social, and environmental effects.
36 Furthermore, in order to assure that adequate consideration is given to economic, social,
37 and environmental effects of any tollway project under consideration, the authority shall:

38 (A) Follow the processes required for federal-aid highway projects, as determined by
39 the National Environmental Policy Act of 1969, as amended, except that final approval
40 of the adequacy of such consideration shall rest with the Governor, as provided in
41 subparagraph (C) of this paragraph, acting as the chief executive of the state, upon
42 recommendation of the commissioner, acting as chief administrative officer of the
43 Department of Transportation;

44 (B) In the location and design of any project, avoid the taking of or disruption of
45 existing public parkland or public recreation areas unless there are no prudent or
46 feasible project location alternates. The determination of prudence and feasibility shall
47 be the responsibility of the authority as part of the consideration of the overall public
48 interest;

49 (C) Not approve and proceed with acquisition of rights of way and construction of a
50 project until: (i) there has been held, or there has been offered an opportunity to hold,
51 a public hearing or public hearings on such project in compliance with requirements of
52 the Federal-aid Highway Act of 1970, as amended, except that neither acquisition of
53 right of way nor construction shall be required to cease on any federal-aid project which
54 has received federal approval pursuant to the National Environmental Policy Act of
55 1969, as amended, and is subsequently determined to be eligible for construction as an
56 authority project utilizing, in whole or in part, a mix of federal funds and authority
57 funds; and (ii) the adequacy of environmental considerations has been approved by the
58 Governor, for which said approval of the environmental considerations may come in
59 the form of the Governor's acceptance of a federally approved environmental document;
60 and

61 (D) Let by public competitive bid upon plans and specifications approved by the chief
 62 engineer or his or her successors all contracts for the construction of projects, except
 63 as otherwise provided for projects authorized under any provisions of Code Sections
 64 32-2-78 through 32-2-81;"

65 "(8)(A) To borrow money for any of its corporate purposes, to issue negotiable revenue
 66 bonds payable from revenues of such projects, and to provide for the payment of the
 67 same and for the rights of the holders thereof; and

68 (B) To extend credit or make loans to any person, firm, corporation, limited liability
 69 company, or other type of entity for the planning, design, construction, acquisition,
 70 financing, refinancing, operating, maintaining, or carrying out of any project. Such
 71 credit or loans may be secured by loan agreements, deeds to secure debt, security
 72 agreements, contracts, and all other instruments, tolls, fees, or charges, upon such terms
 73 and conditions as the authority shall determine reasonable in connection with such
 74 loans, including provision for the establishment and maintenance of reserves and
 75 insurance funds. Any contract, loan agreement, deed to secure debt, security
 76 agreement, or other instrument, may include provisions for guaranty, insurance,
 77 construction, use, operation, maintenance, and financing of a project as the authority
 78 may deem necessary or desirable;"

79 "(14)(A) To pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any
 80 property of the authority, including but not limited to real property, fixtures, personal
 81 property, intangible property, revenues, income, charges, fees, or other funds and to
 82 execute any lease, trust indenture, trust agreement, resolution, agreement for the sale
 83 of the authority's bonds, loan agreement, mortgage, deed to secure debt, trust deed,
 84 security agreement, assignment, or other agreement or instrument as may be necessary
 85 or desirable, in the judgment of the authority, to secure such bonds; and

86 (B) To acquire, accept, or retain equitable interests, security interests, or other interests
 87 in any property, real or personal, by deed to secure debt, assignment, security
 88 agreement, pledge, conveyance, contract, lien, loan agreement, or other consensual
 89 transfer, with any such instrument terminating when the bonds for the project are
 90 retired, in order to secure the repayment of any moneys loaned or credit extended by
 91 the authority;

92 (15) To incorporate one or more nonprofit corporations as subsidiary corporations of the
 93 authority for the purpose of carrying out any of the powers of the authority and to
 94 accomplish any of the purposes of the authority. Any subsidiary corporations created
 95 pursuant to this power shall be created pursuant to Chapter 3 of Title 14 and the Secretary
 96 of State shall be authorized to accept such filings. Upon dissolution of a subsidiary
 97 corporation of the authority, any assets shall revert to the authority or to any successor,

98 or failing such succession, to the state. The authority shall not be liable for the debts or
 99 obligations or bonds of any subsidiary corporation or for the actions or omissions to act
 100 of any subsidiary corporation unless the authority expressly so consents; and
 101 (16) To do all things necessary or convenient to carry out the powers expressly given in
 102 this article."

103 **SECTION 3.**

104 Said part is further amended by revising Code Section 32-10-65.1, relating to expiration of
 105 tolls established under article, as follows:

106 "32-10-65.1.

107 (a) Every Except as provided for in subsection (b) of this Code section, every toll
 108 established under this article ~~must~~ shall expire after a specified period of time ~~and may be~~
 109 unless extended beyond said time by approval of the State Road and Tollway Authority.

110 (b) Notwithstanding any provision of this article to the contrary, if the repayment of
 111 financing is not the primary or exclusive purpose for the exercise of the authority's toll
 112 power, the authority shall not be required to establish an expiration date.

113 (c) The authority shall submit an annual report to the House Committee on Transportation
 114 and the Senate Transportation Committee detailing the amount of funds collected pursuant
 115 to subsection (b) of this Code section and how such funds have been used or disposed of
 116 by the authority."

117 **SECTION 4.**

118 Said part is further amended by revising Code Section 32-10-68, relating to letting of
 119 contracts by competitive bid, as follows:

120 "32-10-68.

121 All contracts of the authority for the construction of any project authorized by this article
 122 shall be let to the reliable bidder submitting the lowest sealed bid upon plans and
 123 specifications approved by the department, except as otherwise provided for projects
 124 authorized under any provisions of Code Sections 32-2-78 through 32-2-81. The
 125 procedures for letting such bids shall conform to those prescribed for the department in
 126 Code Sections 32-2-64 through 32-2-72 and 32-2-78 through 32-2-81."

127 **SECTION 5.**

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