

The Senate Committee on Transportation offered the following substitute to HB 577:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 12-7-6 of the Official Code of Georgia Annotated, relating to best
2 management practices and minimum requirements for rules, regulations, ordinances, or
3 resolutions for land-disturbing practices, so as to provide for the adoption of rules by the
4 Board of Natural Resources relative to requests for variances for road construction and
5 maintenance projects undertaken by the Georgia Department of Transportation; to amend
6 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,
7 so as to provide for a proposal guaranty for bids upon certain projects; to provide for the
8 licensing of airports; to provide for definitions; to provide for issuance of cease and desist
9 orders and punishment; to revise bond validation processes for the State Road and Tollway
10 Authority; to amend Code Section 40-6-181 of the Official Code of Georgia Annotated,
11 relating to maximum speed limits, so as to provide for posting of signage of maximum speed
12 limits; to provide for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14

SECTION 1.

15 Code Section 12-7-6 of the Official Code of Georgia Annotated, relating to best management
16 practices and minimum requirements for rules, regulations, ordinances, or resolutions for
17 land-disturbing practices by the Board of Natural Resources, is amended by adding a new
18 subsection to read as follows:

19 "(b.1) On or before June 30, 2022, the board shall promulgate rules and regulations that
20 contain specific criteria for the approval or denial by the director of requests for variances
21 for road construction and maintenance projects undertaken by the Department of
22 Transportation when:

23 (1) An alteration within the buffer area has been authorized pursuant to a permit issued
24 by the United States Army Corps of Engineers under Section 404 of the Federal Water
25 Pollution Control Act of 1972, as amended, or Section 10 of the Rivers and Harbors Act
26 of 1899; provided, however, that adequate erosion control measures are incorporated into
27 the project plans and specifications and such measures are fully implemented; or

28 (2) The land-disturbing activity is not eligible for a permit issued by the United States
29 Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act
30 of 1972, as amended, and involves the piping, filling, or rerouting of waters that are not
31 jurisdictional waters of the United States regardless as to whether or not such waters have
32 been classified as primary or secondary trout waters."

33

SECTION 2.

34 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,
35 is amended in Code Section 32-2-65, relating to advertising for bids, by revising
36 paragraph (5) of subsection (b) as follows:

37 "(5) The amount of the required proposal guaranty, if one is required;"

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SECTION 3.

39 Said title is further amended in Code Section 32-2-68, relating to proposal guaranty by bidder
40 for highway projects, by revising subsection (a) as follows:

41 "(a) No bid for capital construction or capital maintenance will be considered by the
42 department unless it is accompanied by a proposal guaranty in the form of a certified check
43 or other acceptable security payable to the treasurer of the department for an amount
44 deemed by the department to be in the public interest and necessary to ensure that the
45 successful bidder will execute the contract ~~on which he bid~~ upon."

46

SECTION 4.

47 Said title is further amended by revising Code Section 32-9-8, relating to licensing airports,
48 as follows:

49 "32-9-8.

50 (a) As used in this Code section, the term:

51 (1) 'Aircraft' means any machine, whether heavier or lighter than air, used or designed
52 for navigation of or flight in the air.

53 (2) 'Airport' means any area of land, water, or mechanical structure which is used for the
54 landing and takeoff of aircraft and is open to the general public, as evidenced by the
55 existence of a current and approved Federal Aviation Administration Form 7480-I or any
56 successor application, for such use without prior permission or restrictions and includes
57 any appurtenant structures and areas which are used or intended to be used for airport
58 buildings, other airport facilities, rights of way, or easements; provided, however, that
59 the term 'airport' shall not include the following facilities used as airports:

60 (A) Facilities owned or operated by the United States government or an agency
61 thereof;

62 (B) Privately owned facilities not open to the general public when such airports do not
63 interfere with the safe and efficient use of air space of an airport for which a license or

64 an airport operating certificate issued under 14 C.F.R. Part 139 of the regulations of the
65 Federal Aviation Administration or any successor regulation has been granted; and
66 (C) Facilities being operated pursuant to ~~a current airport operating certificate issued~~
67 ~~by the Federal Aviation Administration~~ 14 C.F.R. Part 139 relating to certification
68 requirements for airports serving scheduled air carrier operations or any successor
69 agency of the United States government; ~~and~~

70 ~~(D) Any facility served by a scheduled air carrier operating under a certificate of public~~
71 ~~convenience and necessity issued by the Civil Aeronautics Board or any successor~~
72 ~~agency of the United States government.~~

73 (3) 'Person' means an individual, firm, corporation, partnership, company, association,
74 joint-stock association, municipality, county, or state agency, authority, or political
75 subdivision and includes any director, employee, agent, trustee, receiver, assignee, or
76 other similar representative thereof.

77 (b) It is declared that the operation of airports used by the public for general aviation
78 purposes but which are operated without regulation as to minimum and uniform safety
79 requirements endangers the lives and property of persons operating aircraft at these
80 facilities, the passengers of aircraft operated by such persons, and the occupants of lands
81 in the vicinity of such facilities. For the purpose of establishing and improving a system
82 of safer airports and to foster safer operating conditions at these airports, the department
83 is authorized and directed to provide for the licensing of airports. The department may
84 charge a license fee of \$100.00 per runway, up to a maximum of \$400.00, for each original
85 license and each renewal thereof. All licenses shall be renewed biennially. ~~In~~
86 ~~promulgating the rules and regulations establishing minimum standards, the department~~
87 ~~shall consult with the Georgia Aviation Trades Association.~~

88 (c) The department shall issue a permit license or renewal thereof to any owner of an
89 airport ~~who~~ that applies for a permit license or renewal thereof, if, upon investigation, the
90 department determines that the airport meets minimum standards, prescribed by the

91 department in its rules and regulations, in the areas of geometric layout, navigational aids,
92 lighting, approach surfaces, landing surfaces, runway markings, and separation between
93 airport sites, provided that no permit license shall be denied the owner or operator of an
94 airport in existence on July 1, 1978, because of the failure to meet minimum standards
95 prescribed with regard to geometric layout and separation between airport sites.

96 (d) ~~Within nine months after July 1, 1978, the~~ The department shall promulgate and
97 publish reasonable rules and regulations establishing the minimum standards provided for
98 in subsection (c) of this Code section, the procedure for obtaining, renewing, and revoking
99 a license, and such other procedures and conditions as are reasonable and necessary to
100 carry out this Code section.

101 (e) ~~Within six months after the effective date of the rules and regulations adopted by the~~
102 ~~department, the owner of each airport in this state shall apply, on forms prescribed by the~~
103 ~~department, for a license to operate the airport.~~ Within 60 days after the receipt of a
104 properly filled out application for a license, with appropriate fee, the department shall act
105 upon the application.

106 (f) All applications for renewal of a license shall be made to the department no later than
107 60 days prior to the expiration of the existing license.

108 (g) Applications for a license or renewal thereof may be denied, or a license may be
109 revoked, by the department, after notice and opportunity for hearing to the licensee, when
110 the department shall reasonably determine:

111 (1) That the licensee has failed to comply with the conditions of the license or renewal
112 thereof;

113 (2) That the licensee has failed to comply with the minimum standards prescribed by the
114 department pursuant to this Code section; or

115 (3) That because of changed physical or legal conditions or circumstances the airport has
116 become either unsafe or unusable for the purposes for which the license or renewal was
117 issued.

118 (h) The decision of the department to deny or revoke any license or renewal thereof shall
119 be subject to review in the manner prescribed for the review of contested cases as
120 prescribed by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

121 (i)(1) ~~It After September 30, 1979, it shall be unlawful for any person to own or operate~~
122 ~~an airport without first obtaining and thereafter maintaining a valid license as required~~
123 ~~by this Code section. Any person owning or operating an airport without a valid license~~
124 ~~as prescribed by this Code section shall be subject to a civil penalty in an amount not to~~
125 ~~exceed \$100.00, to be imposed by the commissioner.~~

126 (2) Whenever it appears or is made known to the department that any person is operating
127 an airport without a valid license, the department may issue an initial written cease and
128 desist order requiring such person to cease and desist immediately from such
129 unauthorized activity. Such cease and desist order shall become final 20 calendar days
130 from the date of issuance as noted on the order. If the proper license or evidence of
131 exemption from licensure requirements during the time of the alleged unlicensed activity
132 is provided to the department's satisfaction within the 20 day period, the order shall not
133 become final and shall be rescinded in writing by the department. Review of an
134 administrative decision of the department entered pursuant to this paragraph shall be
135 available solely in the superior court of the county of domicile of the department and
136 shall be filed no later than 30 days after the department's cease and desist order becomes
137 final.

138 (3) When a person fails to comply with the terms of a final cease and desist order of the
139 department, the department may, through the Attorney General and upon three days'
140 written notice to such person, petition the superior court in the county where the
141 unlicensed airport is located for an order directing such person to obey the final cease and
142 desist order of the department. Upon the filing of such petition, the court shall allow a
143 motion to show cause as to why a final cease and desist order of the department should

144 be affirmed. After a hearing upon the merits or after failure of such person to appear
145 when ordered, the court may grant the petition of the department.

146 (4)(A) Any person that violates the terms of an order issued pursuant to this subsection
147 shall be liable to the department for a civil penalty not to exceed \$1,000.00 per violation
148 per day.

149 (B) In determining the amount of penalty, the department shall consider the
150 appropriateness of the penalty relative to the gravity of the violation, the history of any
151 previous violation by such person, and any other such contributing factors or
152 circumstances. The department may, in its discretion, compromise or modify any
153 penalty that is subject to imposition or has been imposed pursuant to this paragraph.
154 Any violator that is assessed a civil penalty may also be assessed the cost of collection,
155 including, but not limited to, interest, court costs, and attorney's fees.

156 (C) Any person assessed a civil penalty as provided in this paragraph shall have the
157 right to request a hearing into the matter as provided for in Chapter 13 of Title 50, the
158 'Georgia Administrative Procedure Act' within ten days after notification of the
159 assessment has been served upon the person involved; otherwise, such penalty shall be
160 final.

161 (5) All penalties and fines recovered by the department pursuant to paragraph (4) of this
162 subsection shall be paid to the general fund of the state; provided, however, that the
163 department in its discretion may remit such amounts net of the cost of recovery if the
164 department makes an accounting of all such costs and expenses of recovery."

165 **SECTION 5.**

166 Said title is further amended by revising Code Section 32-10-107, relating to confirmation
167 and validation of bonds for the State Road and Tollway Authority, as follows:

168 "32-10-107.
169 Bonds of the authority shall be confirmed and validated in accordance with Article 3 of
170 Chapter 82 of Title 36, the 'Revenue Bond Law.' The petition for validation for conduit
171 bonds issued pursuant to paragraph (8) of Code Section 32-10-63 shall also make any
172 person, firm, corporation, limited liability company, or other type of private entity a party
173 defendant to such action, if such person, firm, corporation, limited liability company, or
174 other type of private entity has contracted or will contract with the authority ~~with respect~~
175 ~~to the project for which~~ to provide funds for the repayment of revenue bonds which are to
176 be issued and are sought to be validated. The bonds, when validated, and the judgment of
177 validation shall be final and conclusive with respect to the validity of such bonds and
178 against the authority and against all other persons or entities, regardless of whether such
179 persons or entities were parties to such validation proceedings."

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SECTION 6.

181 Code Section 40-6-181 of the Official Code of Georgia Annotated, relating to maximum
182 speed limits, is amended by revising paragraph (1) of subsection (b) as follows:

183 "(1) Thirty miles per hour in any urban or residential district unless otherwise designated
184 by appropriate signs;"

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SECTION 7.

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