

The Senate Committee on Rules 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
8 procedures, conditions, and limitations for financing and letting of projects; to provide for
9 definitions; to provide for procedures, conditions, approval, and limitations upon an
10 alternative contracting method to be used for certain projects; to provide for the licensing of
11 airports; to provide for definitions; to provide for issuance of cease and desist orders and
12 punishment; to revise bond validation processes for the State Road and Tollway Authority;
13 to revise powers and definitions relative to such authority; to amend Code Section 40-6-181
14 of the Official Code of Georgia Annotated, relating to maximum speed limits, so as to
15 provide for posting of signage of maximum speed limits; to provide for related matters; to
16 repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18

SECTION 1.

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

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

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

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

37

SECTION 2.

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

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

42

SECTION 3.

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

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

50

SECTION 4.

51 Said title is further amended in Code Section 32-2-69, relating to bidding process and award
52 of contract, by revising subsection (a) as follows:

53 "(a) Except as authorized by Code Sections 32-2-79, ~~and 32-2-80, and 32-2-82~~, the
54 department shall award contracts to the lowest reliable bidder, provided that the department
55 shall have the right to reject any and all such bids whether such right is reserved in the
56 public notice or not and, in such case, the department may readvertise, perform the work
57 itself, or abandon the project."

58

SECTION 5.

59 Said title is further amended by designating Code Sections 32-2-60 through 32-2-77 as new
60 Part 1, designating Code Sections 32-2-78 through 32-2-82 as Part 2, and revising newly
61 designated Part 2 to read as follows:

62

"Part 2

63 32-2-78.

64 As used in this ~~Code section and Code Sections 32-2-79 and 32-2-80~~ part, the term:

65 (1) 'Alternative contracting method' means a method of contracting authorized by Code
 66 Section 32-2-82.

67 (2) 'Construction manager/general contractor' means a person the department has
 68 selected to perform project delivery pursuant to Code Section 32-2-82.

69 ~~(1)~~(3) 'Participating local governing authority' includes the governing authority of any
 70 county or municipality whose geographical jurisdiction includes the project.

71 ~~(2)~~(4) 'Project' means a project an undertaking, including intermodal rail-related and
 72 multimodal transportation solutions, which the department deems appropriate for letting
 73 pursuant to the procedures of Code Section 32-2-79 and Code Section 32-2-80 pursuing
 74 or letting based upon the authority granted in this part."

75 32-2-79.

76 ~~(a) The~~ At a minimum, the staff of the department shall jointly identify and report to the
 77 board by July 31 of each odd-numbered year those ~~projects on the state-wide transportation~~
 78 ~~improvement program or otherwise identified that afford the greatest gains in congestion~~
 79 ~~mitigation or promotion of economic development~~ potential undertakings best suited for
 80 delivery under the procedures of Code Section 32-2-80 and that are expected to provide the
 81 greatest public benefit through enhanced public safety, enhanced mobility of goods,
 82 congestion mitigation, enhanced trade and economic development, improved air quality or
 83 land use, or reduction of public expenditures due to improved transportation efficiency or
 84 infrastructure preservation as aligned with the state-wide strategic transportation plan as
 85 defined in Code Section 32-2-41.1.

86 ~~(b) Any project identified pursuant to subsection (a) of this Code section that will not be~~
 87 ~~initiated within two years of the reporting date or that does not have specific available and~~
 88 ~~complete funding may be let and constructed utilizing the procedures of this Code section~~
 89 ~~and Code Section 32-2-80. All personnel of the department shall cooperate in all respects~~
 90 ~~in the letting, construction, maintenance, and operation of such projects, including without~~

91 ~~limitation providing such access and control of portions of the state highway system as may~~
92 ~~be requested or required from time to time for such purposes.~~

93 ~~(c) Projects wholly or partly in a metropolitan planning area shall be included in a fiscally~~
94 ~~constrained transportation improvement program."~~

95 32-2-80.

96 (a)(1) The department shall evaluate a potential project to determine, in the judgment of
97 the department, appropriate or desirable levels of state, local, and private participation in
98 financing such project. In making such determination, the department shall be authorized
99 and encouraged to seek the advice and input of the affected local governing authorities,
100 applicable metropolitan planning organizations, and the private financial and construction
101 sectors.

102 ~~(1.1)(2)~~ No constitutional officer or member of the ~~State Transportation Board~~ board
103 shall serve as an agent, lobbyist, or board member for any entity directly or indirectly
104 under contract with or negotiating a contract with the department under this Code section
105 for one year after leaving his or her position as a constitutional officer or member of the
106 ~~State Transportation Board~~ board.

107 ~~(b)(1)(2)~~ For projects that are funded or financed in part or in whole by private sources,
108 the department shall be authorized to issue a written request for proposal indicating in
109 general terms the scope of the project, the proposed financial participations in the project,
110 and the factors that will be used in evaluating the proposal and containing or
111 incorporating by reference other applicable contractual terms and conditions, including
112 any unique capabilities or qualifications that will be required of the contractor. Public
113 notice of such request for proposal shall be made at least 90 days prior to the date set for
114 receipt of proposals by posting the legal notice on a single website that shall be procured
115 and maintained for such purposes by the Department of Administrative Services or in
116 substantially the same manner utilized by the department to solicit requests for proposals.

117 ~~(3)(2)~~ For every project undertaken pursuant to this Code section ~~Upon receipt of a~~
118 ~~proposal or proposals responsive to the request for proposals, the department shall accept~~
119 ~~written public comment, solicited in the same manner as provided for notice of proposals~~
120 ~~in the request for proposal, for a period of 30 days beginning at least ten days after the~~
121 ~~date set for receipt of proposals~~ public notice of the request for proposal is made pursuant
122 to paragraph (1) of this subsection. In addition, the department shall hold at least one
123 ~~public hearing on such proposals, which may be held by teleconference,~~ not later than the
124 conclusion of the period for public comment.

125 ~~(4)(3)~~ The department shall ~~engage in individual discussions with~~ select two or more
126 respondents deemed fully qualified, responsible, and suitable ~~on the basis of initial~~
127 ~~responses and with emphasis to engage for interview and discussion based upon~~
128 responses on professional competence and ability to meet the level of private financial
129 participation called for by the department. ~~Repetitive informal~~ Multiple interviews shall
130 be permissible. In the event that any local governing authority has agreed to consider
131 financial participation in the project, a representative of such local governing authority,
132 appointed by such local governing authority, may participate in such discussions and
133 interviews. ~~At the discussion~~ During this stage, the department may discuss estimates of
134 total project costs, including, but not limited to, life cycle costing and nonbinding
135 estimates of price for services. Proprietary information from competing respondents shall
136 not be disclosed to the public or to competitors.

137 (4) Upon conclusion of discussions described in paragraph (3) of this subsection, the
138 department shall rank respondents on the basis of the evaluation criteria set forth in the
139 request for proposal. The department ~~At the conclusion of such discussions, on the basis~~
140 ~~of evaluation factors published in the request for proposal and all information developed~~
141 ~~in the selection process, the department, with the input of any participating local~~
142 ~~governing authority, shall select in the order of preference two or more respondents~~
143 ~~whose qualifications and proposed services are deemed most meritorious.~~ ~~Negotiations~~

144 ~~shall then be conducted with two or more respondents and with the participation of the~~
145 ~~designated representative of any participating local governing authority and shall conduct~~
146 ~~negotiations with those respondents. Negotiations conducted under this paragraph can~~
147 ~~include, but are not limited to, one-on-one meetings or requests for proposals.~~

148 (5) Upon approval by the department, the commissioner shall select the respondent for
149 project implementation based upon contract terms that are the most satisfactory and
150 advantageous to the state and to the department based upon a thorough assessment of
151 value and the ability of the final project's characteristics to meet state strategic goals and
152 investment policies as provided for by Code Section 32-2-41.1. Before making such
153 selection, the commissioner shall consult with any participating local governing authority
154 or authorities.

155 (6) Notwithstanding the foregoing, if the terms and conditions for multiple awards are
156 included in the request for proposal, the department may award contracts to more than
157 one respondent. Should the department determine in writing and in its sole discretion that
158 only one respondent is fully qualified, or that one respondent is clearly more highly
159 qualified and suitable than the others under consideration, a contract may be negotiated
160 and awarded to that respondent after the respondent is determined to be responsible.

161 ~~(5)(c)~~ Nothing in this Code section shall require the department to continue negotiations
162 or discussions arising out of any request for proposal.

163 ~~(6)(d)~~ The department shall be authorized to promulgate reasonable rules or regulations
164 to assist in ~~its evaluation of the proposal~~ evaluations and to implement the purposes of this
165 Code section. The department shall report the content of such rules or regulations to the
166 Transportation Committees of the Senate and House of Representatives for their approval
167 by majority vote prior to the promulgation thereof and shall make quarterly reports to the
168 same chairpersons of all of its activities undertaken pursuant to the provisions of this Code
169 section.

170 ~~(b)~~(e) Any contracts entered into pursuant to this Code section may authorize funding to
171 include tolls, fares, or other user fees and tax increments for use of the project that is the
172 subject of the proposal. Such funding may be distributed by contract among the
173 participants in the project as may be provided for by contract. The department may take
174 any action to obtain federal, state, or local assistance for a qualifying project that serves the
175 public purpose of this Code section and may enter into any contracts required to receive
176 such assistance. The department may determine that it serves the public purpose of this
177 Code section for all or any portion of the costs of a qualifying project to be paid, directly
178 or indirectly, from the proceeds of a grant or loan made by the federal, state, or local
179 government or any instrumentality thereof. The department may agree to make grants or
180 loans to the operator from time to time from amounts received from the federal, state, or
181 local government or any agency or instrumentality thereof.

182 ~~(c)~~(f) The commissioner shall be authorized to delegate such duties and responsibilities
183 under this Code section as he or she deems appropriate from time to time; provided,
184 however, that the final approval of contracts provided for in this Code section shall be by
185 action of the ~~State Transportation Board~~ board.

186 ~~(d)~~(g) The power of eminent domain shall not be delegated to any private entity with
187 respect to any project commenced or proposed pursuant to this Code section.

188 ~~(e)~~(h) Any contract for a ~~public-private partnership~~ entered into pursuant to this Code
189 section shall require the private partner or each of its prime contractors to provide
190 performance and payment security. Notwithstanding any other provision of law, the penal
191 sum or amount of such security may be less than the price of the contract involved, such
192 as the value of the construction elements of the contract, based upon the department's
193 determination on a project-by-project basis of what sum may be required to adequately
194 protect the department, the state, and the contracting and subcontracting parties.

195 32-2-81.

196 (a) As used in this Code section, the term 'design-build procedure' means a method of
197 contracting under which the department contracts with another party for the party to both
198 design and build the structures, facilities, systems, and other items specified in the contract.

199 (b) The department may use the design-build procedure for projects that include buildings,
200 bridges and approaches, rail corridors, technology deployments, and limited or controlled
201 access projects or projects that may be constructed within existing rights of way where the
202 scope of work can be clearly defined or when a significant savings in project delivery time
203 can be attained.

204 (c) When the department determines that it is in the best interests of the public, the
205 department may combine any or all of the environmental services, utility relocation
206 services, right of way services, design services, and construction phases of a public road
207 or other transportation purpose project into a single contract using a design-build
208 procedure. Design-build contracts may be advertised and awarded notwithstanding the
209 requirements of paragraph (1) of subsection (d) of Code Section 32-2-61. ~~However,;~~
210 provided, however, that construction activities shall not begin on any portion of such
211 projects until title to the necessary rights of way and easements for the construction of that
212 portion of the project has vested in the state or a local governmental entity and all railroad
213 crossing and utility agreements have been executed.

214 (d) The department shall adopt by rule procedures for administering design-build
215 contracts. Such procedures shall include, but not be limited to:

- 216 (1) Prequalification requirements;
- 217 (2) Public advertisement procedures;
- 218 (3) Request for qualification requirements;
- 219 (4) Request for proposal requirements;
- 220 (5) Criteria for evaluating technical information and project costs;

221 (6) Criteria for selection and award process, provided that the rules shall specify that the
222 criteria for selection shall consist of the following minimum two components for any
223 two-step procurement process:

224 (A) A statement of qualifications from which the department will determine a list of
225 qualified firms for the project, provided that, if the department determines it is in the
226 state's best interest, it may omit this requirement and move directly to a one-step
227 procurement process through the issuance of a request for proposal from which the
228 department may select the lowest qualified bidder; and

229 (B) From the list of qualified firms as provided in subparagraph (A) of this paragraph,
230 a technical proposal and a price proposal from each firm from which the department
231 shall select the lowest qualified bidder or, in the event the department uses the best
232 value procurement process, the request for proposal shall specify the requirements
233 necessary for the selection of the best value proposer which shall include, at a
234 minimum, a weighted cost component and a technical component. A proposal shall
235 only be considered nonresponsive if it does not contain all the information and level of
236 detail requested in the request for proposal. A proposal shall not be deemed to be
237 nonresponsive solely on the basis of minor irregularities in the proposal that do not
238 directly affect the ability to fairly evaluate the merits of the proposal. Notwithstanding
239 the requirements of Code Section 36-91-21, under no circumstances shall the
240 department use a 'best and final offer' standard in awarding a contract in order to induce
241 one proposer to bid against an offer of another proposer. The department may provide
242 for a stipulated fee to be awarded to the short list of qualified proposers who provide
243 a responsive, successful proposal. In consideration for paying the stipulated fee, the
244 department may use any ideas or information contained in the proposals in connection
245 with the contract awarded for the project, or in connection with a subsequent
246 procurement, without obligation to pay any additional compensation to the unsuccessful
247 proposers;

248 (7) Identification of those projects that the department believes are candidates for
249 design-build contracting; and

250 (8) Criteria for resolution of contract issues. The department may adopt a method for
251 resolving issues and disputes through negotiations at the project level by the program
252 manager up to and including a dispute review board procedure with final review by the
253 commissioner or his or her designee. Regardless of the status or disposition of the issue
254 or dispute, the design-builder and the department shall continue to perform their
255 contractual responsibilities. The department shall have the authority to suspend or
256 provide for the suspension of Section 108 of the department's standard specifications
257 pending final resolution of such contract issues and disputes. This paragraph shall not
258 prevent an aggrieved party from seeking judicial review.

259 (e) In contracting for design-build projects, the department shall be limited to contracting
260 for no more than 50 percent of the total amount of construction projects awarded in the
261 previous fiscal year.

262 (f) Not later than 90 days after the end of the fiscal year, the department shall provide to
263 the Governor, Lieutenant Governor, Speaker of the House of Representatives, and
264 chairpersons of the House and Senate Transportation Committees a summary containing
265 all the projects awarded during the fiscal year using the design-build contracting method.
266 Included in the report shall be an explanation for projects awarded to other than the ~~low-bid~~
267 low-bid proposal. This report shall be made available for public information.

268 32-2-82.

269 (a) The department shall be authorized to utilize an alternative contracting method for
270 project delivery that includes one of the following:

271 (1) An agreement in which a construction manager/general contractor performs two
272 phases of work as follows:

273 (A) The first phase, in which the construction manager/general contractor performs in
274 the capacity of a construction manager, consisting of preconstruction services for a
275 project which may be paid in lump sum, cost-plus fixed fee, cost per unit of work,
276 specific rates of compensation, or other comparable payment method permitted by law;
277 and

278 (B) The second phase, in which the construction manager/general contractor performs
279 in the capacity of a general contractor, consisting of construction services for a project
280 that may be performed under the same contract as that of the first phase, subject to
281 agreement by the department as to the terms for payment for such services and using
282 any method of payment permitted by law; provided that the construction
283 manager/general contractor self-performs at least 30 percent of the total original price
284 for construction work on the project;

285 (2) A predevelopment agreement, pursuant to which one or more contractors collaborate
286 with the department on one or more projects:

287 (A) For the conceptual, preliminary, and final planning for such projects, which may
288 include predevelopment services, financial planning, environmental studies,
289 engineering, and assistance with public outreach; and

290 (B) To perform, at the department's election, the construction work for any such
291 project, subject to agreement as to the basis of payment for construction services; or

292 (3) A comprehensive development agreement that allows for expedited project delivery
293 through the concurrent design and construction of a project under a single multiphase
294 contract, pursuant to which a contractor shall:

295 (A) Collaborate with the department to advance development of the project concept;

296 (B) Perform both the design and construction services; and

297 (C) Perform any operations or maintenance work required for the project.

298 (b) The department shall consider at least the following factors in assessing a project's
299 suitability and feasibility for delivery through an alternative contracting method: public

300 interest, innovation, risk, design complexity, cost control, and construction schedule
301 optimization.

302 (c) When the department determines, in accordance with subsection (b) of this Code
303 section, that the public interest is best served by delivering the project utilizing an
304 alternative contracting method, the department shall submit to the board a written request
305 to proceed in delivering a project using an alternative contracting method. The department
306 shall not proceed with the project using an alternative contracting method without prior
307 approval by the board.

308 (d) Upon approval of a request pursuant to subsection (c) of this Code section, the
309 department shall be authorized to issue a written solicitation identifying the scope of the
310 project, the factors to be used to evaluate responses to the solicitation, and the basis for
311 award of the contract to perform work on the project utilizing an alternative contracting
312 method.

313 (e) For any project for which an alternative contracting method is elected, the department
314 shall utilize the procurement procedures under either Code Section 32-2-80 or 32-2-81 to
315 competitively solicit proposals.

316 (f) The department shall be authorized to utilize the alternative contracting method to
317 deliver no more than two projects during any single fiscal year and no more than seven
318 projects over a single ten-year period. Solely as it relates to a project delivered using an
319 alternative contracting method under this Code section, the department shall not encumber
320 in any one fiscal year an amount greater than 5 percent of the department's capital budget
321 in the previous fiscal year.

322 (g) Not later than 90 days after the end of a fiscal year in which the department has
323 executed a contract to deliver a project using an alternative contracting method, the
324 department shall provide to the Governor, Lieutenant Governor, Speaker of the House of
325 Representatives, and chairpersons of the House and Senate Transportation Committees a

326 summary containing all contracts that utilized an alternative contracting method. This
327 report shall be made available to the public.

328 (h) The department shall adopt rules and regulations to implement the provisions of this
329 Code section.

330 (i) Not later than five years after the effective date of this Code section and then once
331 every five years thereafter, the department shall submit a report to the Governor, Lieutenant
332 Governor, Speaker of the House of Representatives, and the members of the House and
333 Senate Transportation Committees detailing all contracts executed to deliver a project using
334 an alternative contracting method and the benefits of using an alternative contracting
335 method compared with other contracting methods for review and consideration as to the
336 effectiveness of this Code section and any necessary amendments."

337 **SECTION 6.**

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

340 "32-9-8.

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

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

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

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

353 (B) Privately owned facilities not open to the general public when such airports do not
354 interfere with the safe and efficient use of air space of an airport for which a license or
355 an airport operating certificate issued under 14 C.F.R. Part 139 of the regulations of the
356 Federal Aviation Administration or any successor regulation has been granted; and

357 (C) Facilities being operated pursuant to ~~a current airport operating certificate issued~~
358 ~~by the Federal Aviation Administration~~ 14 C.F.R. Part 139 relating to certification
359 requirements for airports serving scheduled air carrier operations or any successor
360 agency of the United States government; ~~and~~

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

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

368 (b) It is declared that the operation of airports used by the public for general aviation
369 purposes but which are operated without regulation as to minimum and uniform safety
370 requirements endangers the lives and property of persons operating aircraft at these
371 facilities, the passengers of aircraft operated by such persons, and the occupants of lands
372 in the vicinity of such facilities. For the purpose of establishing and improving a system
373 of safer airports and to foster safer operating conditions at these airports, the department
374 is authorized and directed to provide for the licensing of airports. The department may
375 charge a license fee of \$100.00 per runway, up to a maximum of \$400.00, for each original
376 license and each renewal thereof. All licenses shall be renewed biennially. ~~In~~

377 ~~promulgating the rules and regulations establishing minimum standards, the department~~
378 ~~shall consult with the Georgia Aviation Trades Association.~~

379 (c) The department shall issue a permit license or renewal thereof to any owner of an
380 airport ~~who~~ that applies for a permit license or renewal thereof, if, upon investigation, the
381 department determines that the airport meets minimum standards, prescribed by the
382 department in its rules and regulations, in the areas of geometric layout, navigational aids,
383 lighting, approach surfaces, landing surfaces, runway markings, and separation between
384 airport sites, provided that no permit license shall be denied the owner or operator of an
385 airport in existence on July 1, 1978, because of the failure to meet minimum standards
386 prescribed with regard to geometric layout and separation between airport sites.

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

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

397 (f) All applications for renewal of a license shall be made to the department no later than
398 60 days prior to the expiration of the existing license.

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

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

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

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

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

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

417 (2) Whenever it appears or is made known to the department that any person is operating
418 an airport without a valid license, the department may issue an initial written cease and
419 desist order requiring such person to cease and desist immediately from such
420 unauthorized activity. Such cease and desist order shall become final 20 calendar days
421 from the date of issuance as noted on the order. If the proper license or evidence of
422 exemption from licensure requirements during the time of the alleged unlicensed activity
423 is provided to the department's satisfaction within the 20 day period, the order shall not
424 become final and shall be rescinded in writing by the department. Review of an
425 administrative decision of the department entered pursuant to this paragraph shall be
426 available solely in the superior court of the county of domicile of the department and
427 shall be filed no later than 30 days after the department's cease and desist order becomes
428 final.

429 (3) When a person fails to comply with the terms of a final cease and desist order of the
430 department, the department may, through the Attorney General and upon three days'

431 written notice to such person, petition the superior court in the county where the
432 unlicensed airport is located for an order directing such person to obey the final cease and
433 desist order of the department. Upon the filing of such petition, the court shall allow a
434 motion to show cause as to why a final cease and desist order of the department should
435 be affirmed. After a hearing upon the merits or after failure of such person to appear
436 when ordered, the court may grant the petition of the department.

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

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

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

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

456

SECTION 7.

457 Said title is further amended in Code Section 32-10-60, relating to definitions relative to the
458 State Road and Tollway Authority, by revising paragraph (5) as follows:

459 "(5) 'Project' means ~~land public transportation systems~~ transportation related
460 undertakings which provide a public benefit, including:

461 (A) ~~One one~~ or more roads or bridges or a system of roads, bridges, and tunnels or
462 improvements thereto included on an approved state-wide transportation improvement
463 program on the Developmental Highway System as set forth in Code Section 32-4-22,
464 as now or hereafter amended, or a comprehensive transportation plan pursuant to Code
465 Section 32-2-3 or which are toll access roads, bridges, or tunnels, with access limited
466 or unlimited as determined by the authority, and such buildings, structures, parking
467 areas, appurtenances, and facilities related thereto, including but not limited to
468 approaches, cross streets, roads, bridges, tunnels, and avenues of access for such
469 system;

470 (B) Any any program for mass transportation or mass transportation facilities as
471 approved by the authority and the department and such buildings, structures, parking
472 areas, appurtenances, and facilities related thereto, including, but not limited to,
473 approaches, cross streets, roads, bridges, tunnels, and avenues of access for such
474 facilities; and

475 (C) Any any project undertaken pursuant to a ~~public-private initiative as authorized~~
476 ~~pursuant to Code Section 32-2-78~~ Part 2 of Article 4 of Chapter 2 of this title."

477

SECTION 8.

478 Said title is further amended in Code Section 32-10-63, relating to powers of authority
479 generally, by revising paragraph (5) as follows:

480 "(5) To make such contracts, leases, or conveyances as the legitimate and necessary
481 purposes of this article shall require, including but not limited to contracts for

482 construction or maintenance of projects, provided that the authority shall consider the
483 possible economic, social, and environmental effects of each project, and the authority
484 shall assure that possible adverse economic, social, and environmental effects relating to
485 any proposed project have been fully considered in developing such project and that the
486 final decision on the project is made in the best overall public interest, taking into
487 consideration the need for fast, safe, and efficient transportation, public services, and the
488 cost of eliminating or minimizing adverse economic, social, and environmental effects.
489 Furthermore, in order to assure that adequate consideration is given to economic, social,
490 and environmental effects of any tollway project under consideration, the authority shall:

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

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

502 (C) Not approve and proceed with acquisition of rights of way and construction of a
503 project until: (i) there has been held, or there has been offered an opportunity to hold,
504 a public hearing or public hearings on such project in compliance with requirements of
505 the Federal-aid Highway Act of 1970, as amended, except that neither acquisition of
506 right of way nor construction shall be required to cease on any federal-aid project which
507 has received federal approval pursuant to the National Environmental Policy Act of
508 1969, as amended, and is subsequently determined to be eligible for construction as an

509 authority project utilizing, in whole or in part, a mix of federal funds and authority
510 funds; and (ii) the adequacy of environmental considerations has been approved by the
511 Governor, for which said approval of the environmental considerations may come in
512 the form of the Governor's acceptance of a federally approved environmental document;
513 and
514 (D) Let by public competitive bid upon plans and specifications approved by the chief
515 engineer or his or her successors all contracts for the construction of projects, except
516 as otherwise provided for projects authorized under any provisions of ~~Code Sections~~
517 ~~32-2-78 through 32-2-81~~ Part 2 of Article 4 of Chapter 2 of this title;"

518 **SECTION 9.**

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

521 "32-10-107.

522 Bonds of the authority shall be confirmed and validated in accordance with Article 3 of
523 Chapter 82 of Title 36, the 'Revenue Bond Law.' The petition for validation for conduit
524 bonds issued pursuant to paragraph (8) of Code Section 32-10-63 shall also make any
525 person, firm, corporation, limited liability company, or other type of private entity a party
526 defendant to such action, if such person, firm, corporation, limited liability company, or
527 other type of private entity has contracted or will contract with the authority ~~with respect~~
528 ~~to the project for which to provide funds for the repayment of~~ revenue bonds which are to
529 be issued and are sought to be validated. The bonds, when validated, and the judgment of
530 validation shall be final and conclusive with respect to the validity of such bonds and
531 against the authority and against all other persons or entities, regardless of whether such
532 persons or entities were parties to such validation proceedings."

533

SECTION 10.

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

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

538

SECTION 11.

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