

Senate Bill 85

By: Senators Beach of the 21st, Ginn of the 47th, Gooch of the 51st, Mullis of the 53rd and Albers of the 56th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 62 of Title 36 of the Official Code of Georgia Annotated, relating to development authorities, so as to revise the definition of project as applicable to said chapter; to modify the tax exemption of development authorities; to correct cross-references; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 62 of Title 36 of the Official Code of Georgia Annotated, relating to development authorities, is amended in Code Section 36-62-2, relating to definitions, by repealing in its entirety paragraph (6) and by enacting a new paragraph (6) to read as follows:

"(6) 'Project' means the acquisition, construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other improvements and the acquisition, installation, modification, renovation, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvement for the essential public purpose of the development of trade, commerce, industry, and employment opportunities. A project may be for any industrial, commercial, business, office, parking, public, or other use, provided that a majority of the members of the authority determines, by a duly adopted resolution, that such project and such use thereof would further the public purpose of this chapter."

SECTION 2.

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

26 "36-62-3.

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

48 SECTION 3.

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

52 "36-62-7.

53 No project acquired under this chapter shall be operated by an authority or any municipal
54 corporation, county, or other governmental subdivision. Such a project shall be leased or
55 sold to, or managed by, one or more persons, firms, or private corporations. Any
56 disposition of real property by an authority pursuant to paragraph (7) of Code Section
57 36-62-6 shall be made to one or more persons, firms, corporations, or governmental or
58 public entities. If revenue bonds or other obligations are to be issued to pay all or part of
59 the cost of the project, the project must be so leased or the contract for its sale or
60 management must be entered into prior to or simultaneously with the issuance of the bonds
61 or obligations; provided, however, that the acquisition and development of land by an

62 authority as the site for an industrial park ~~as provided in this chapter~~ or the acquisition and
63 development of land by an authority as the site for a sports facility or amphitheater ~~in~~
64 ~~accordance with Code Section 36-62-2~~ and the operation of such a sports facility or
65 amphitheater shall not be deemed to be the operation of a project and, notwithstanding
66 anything in this chapter to the contrary, an authority shall not be required to enter into a
67 lease of such a project or a contract for its sale or management as a condition to the
68 issuance of bonds or other obligations of the authority to provide financing therefor. If
69 sold, the purchase price may be paid at one time or in installments falling due over not
70 more than 40 years from the date of transfer of possession. The lessee or purchaser shall
71 be required to pay all costs of operating and maintaining the leased or purchased property
72 and to pay rentals or installments in amounts sufficient to pay the principal of and the
73 interest and premium, if any, on all of its bonds and other obligations as such principal and
74 interest become due. If the project is managed, the management contract must contain a
75 term not less than the final maturity date of any bonds or other obligations of the authority
76 to provide financing for the managed project and must provide that all costs of operating
77 and maintaining the managed project, including all management fees payable under the
78 management contract, shall be paid solely from the revenues of the managed project and
79 from the proceeds of any bonds or other obligations of the authority to provide financing
80 for the managed project. Any such management contract may contain provisions allowing
81 the authority to terminate the management contract, but if the authority exercises any right
82 to terminate a management contract, it must immediately enter into another management
83 contract meeting the requirements of this Code section."

84 **SECTION 4.**

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

87 **SECTION 5.**

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