

House Resolution 1312 (AS PASSED HOUSE AND SENATE)

By: Representatives Sims of the 123rd, Blackmon of the 146th, Coomer of the 14th, Clark of the 101st, Dunahoo of the 30th, and others

A RESOLUTION

1 Authorizing the change of use of certain property located in Houston County currently
2 dedicated as a heritage preserve; authorizing the granting of a nonexclusive easement for the
3 construction, operation, and maintenance of facilities and ingress and egress in, on, over,
4 under, upon, across, or through certain state owned real property located in Houston County;
5 to provide an effective date; to repeal conflicting laws; and for other purposes.

6 WHEREAS, the State of Georgia is the owner of a certain parcel of real property located in
7 Houston County; and

8 WHEREAS, the Department of Natural Resources has requested a change of use to the
9 property located in Houston County dedicated as a heritage preserve at the request of the
10 Georgia Department of Transportation, and such request was approved by the Board of
11 Natural Resources on June 25, 2013; and

12 WHEREAS, the Georgia Department of Transportation desires to construct, operate, and
13 maintain facilities and ingress and egress in, on, over, under, upon, across, or through a
14 portion of said property located in Houston County; and

15 WHEREAS, the construction, operation, and maintenance of such facilities and the ingress
16 and egress in, on, over, under, upon, across, or through the above-described state property
17 have been approved by the Board of Natural Resources.

18 NOW, THEREFORE, BE IT RESOLVED AND ENACTED BY THE GENERAL
19 ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

That the State of Georgia is the owner of the hereinafter described real property in Houston County, that the property is in the custody of the Department of Natural Resources, which supports the change to the use of approximately 3.146 acres of the heritage preserve dedicated area, and that in all matters related to the change of use, the State of Georgia is acting by and through the Department of Natural Resources. Said area is located in Houston County and is more particularly described as follows:

"Those approximately 3.146 acres as shown on a right of way map prepared for the Georgia Department of Transportation on May 16, 2011, and last revised January 25, 2013, and being on file in the office of the State Properties Commission."

SECTION 1-2.

That the resolution adopted at the June 25, 2013, meeting of the Board of Natural Resources recommended to change the use of the above-described area to allow the grant of an easement to the Georgia Department of Transportation for the purpose of widening State Route 96.

SECTION 1-3.

That the widening of State Route 96 for improved transportation and safety is in the public interest and that the recommendation of the Board of Natural Resources to change the use of the approximately 3.146 acres of the heritage preserve dedicated area to allow the grant of an easement to the Georgia Department of Transportation for the purpose of widening State Route 96 is approved.

SECTION 1-4.

That the Department of Natural Resources shall file with the Secretary of State and the Office of the Clerk of the Superior Court of Houston County a notice of the removal of the heritage preserve dedication over the above-described area.

SECTION 1-5.

That custody of the above-described property shall remain in the Department of Natural Resources.

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PART II

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SECTION 2-1.

51 That the State of Georgia is the owner of the above-described easement area, that the
52 property is in the custody of its Department of Natural Resources, which does not object to
53 the granting of this nonexclusive easement of approximately 3.146 acres, and that, in all
54 matters relating to the easement, the State of Georgia is acting by and through its State
55 Properties Commission.

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SECTION 2-2.

57 That, in accordance with the change of use of the above-described easement area, the State
58 of Georgia acting by and through its State Properties Commission is authorized to grant to
59 the Georgia Department of Transportation, or its successors and assigns, a nonexclusive
60 easement for the construction, operation, and maintenance of a traffic safety improvement
61 in, on, over, under, upon, across, or through the easement area for the purpose of planning,
62 constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating
63 a traffic safety improvement together with the right of ingress and egress over adjacent land
64 of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purpose.

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SECTION 2-3.

66 That the easement area shall be used by the Georgia Department of Transportation solely for
67 the purpose of planning, constructing, erecting, installing, maintaining, repairing, replacing,
68 inspecting, and operating said traffic safety improvement.

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SECTION 2-4.

70 That the Georgia Department of Transportation shall have the right to remove or cause to be
71 removed from said easement area only such trees and bushes as may be reasonably necessary
72 for the proper construction, installation, operation, and maintenance of said traffic safety
73 improvement.

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SECTION 2-5.

75 That, after the Department of Transportation has put into use the traffic safety improvement
76 for which this easement is granted, a subsequent abandonment of the use thereof shall cause
77 a reversion to the State of Georgia, or its successors and assigns, of all the rights, title,
78 privileges, powers, and easement granted herein. Upon abandonment, the Department of
79 Transportation, or its successors and assigns, shall have the option of removing its facilities

80 from the easement area or leaving the same in place, in which event the easement area shall
81 become the property of the State of Georgia, or its successors and assigns.

82 **SECTION 2-6.**

83 That no title shall be conveyed to the Department of Transportation and, except as herein
84 specifically granted to the Department of Transportation, all rights, title, and interest in and
85 to said easement area are reserved in the State of Georgia, which may make any use of said
86 easement area not inconsistent with or detrimental to the rights, privileges, and interest
87 granted to the Department of Transportation.

88 **SECTION 2-7.**

89 That if the State of Georgia, acting by and through its State Properties Commission,
90 determines that any or all of the facilities placed on the easement area should be removed or
91 relocated to an alternate site on state owned land in order to avoid interference with the state's
92 use or intended use of the easement area, it may grant a substantially equivalent nonexclusive
93 easement to allow placement of the removed or relocated facilities across the alternate site
94 under such terms and conditions as the State Properties Commission shall in its discretion
95 determine to be in the best interest of the State of Georgia, and the Department of
96 Transportation shall remove or relocate its facilities to the alternate easement area at its sole
97 cost and expense without reimbursement from the State of Georgia unless, in advance of any
98 construction being commenced, the Department of Transportation provides a written estimate
99 for the cost of such removal and relocation and the State Properties Commission determines,
100 in its sole discretion, that the requested removal or relocation is to be for the sole benefit of
101 the State of Georgia and approves payment by the State of Georgia of all or a portion of such
102 actual cost and expense, not to exceed 20 percent of the amount of such written estimate.
103 Upon written request from the grantee or any third party, the State Properties Commission,
104 in its sole discretion, may grant a substantially equivalent nonexclusive easement within the
105 property for the relocation of the facilities without cost, expense, or reimbursement from the
106 State of Georgia. If an easement is relocated for any reason, the State Properties
107 Commission is authorized to convey by quitclaim deed the state's interest in the former
108 easement area without further approval by the General Assembly.

109 **SECTION 2-8.**

110 That the easement granted to the Department of Transportation shall contain such other
111 reasonable terms, conditions, and covenants as the State Properties Commission shall deem
112 to be in the best interest of the State of Georgia and that the State Properties Commission is

113 authorized to use a more accurate description of the easement area, so long as the description
114 utilized by the State Properties Commission describes the same easement area herein granted.

115 **SECTION 2-9.**

116 That this resolution does not affect and is not intended to affect any rights, powers, interest,
117 or liability of the Georgia Department of Transportation with respect to the state highway
118 system, of a county with respect to the county road system, or of a municipality with respect
119 to the city street system. The grantee shall obtain any and all other required permits from the
120 appropriate governmental agencies as are necessary for its lawful use of the easement area
121 or public highway right of way and comply with all applicable state and federal
122 environmental statutes in its use of the easement area.

123 **SECTION 2-10.**

124 That, given the public purpose of the project, the consideration for such easement shall be
125 \$10.00 and such further consideration and provisions as the State Properties Commission
126 may determine to be in the best interests of the State of Georgia.

127 **SECTION 2-11.**

128 That this grant of easement shall be recorded by the grantee in the Superior Court of Houston
129 County, and a recorded copy shall promptly be forwarded to the State Properties
130 Commission.

131 **SECTION 2-12.**

132 That the authorization in this resolution to grant the above-described easement to the
133 Department of Transportation shall expire three years after the date that this resolution
134 becomes effective.

135 **SECTION 2-13.**

136 That the State Properties Commission is authorized and empowered to do all acts and things
137 necessary and proper to effect the grant of the easement area.

138 **PART III**

139 **SECTION 3-1.**

140 That this resolution shall become effective upon its approval by the Governor or upon its
141 becoming law without such approval.

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SECTION 3-2.

143 That all laws and parts of laws in conflict with this resolution are repealed.