

House Bill 1133

By: Representatives Dickey of the 134th, Corbett of the 174th, Camp of the 135th, and Smith of the 70th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 23 of Title 50, Code Section 36-91-100, and Code Section 48-8-200 of
2 the Official Code of Georgia Annotated, relating to the Georgia Environmental Finance
3 Authority, definitions regarding bidding for government works projects, and definitions
4 regarding water and sewer projects and costs tax, respectively, so as to authorize the
5 authority to finance and perform certain duties in connection with projects related to
6 facilitating solar installations on closed landfills; to provide for limited liability; to provide
7 for definitions; to make conforming changes; to provide for related matters; to provide for
8 contingent effectiveness upon appropriation of funds; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 23 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia
13 Environmental Finance Authority, is amended by revising Code Section 50-23-4, relating to
14 definitions, as follows:

15 "50-23-4.

16 As used in this chapter, the term:

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- 17 (1) 'Authority' means the Georgia Environmental Finance Authority.
- 18 (2) 'Bond' includes revenue bond, bond, note, or other obligation.
- 19 (3) 'Closed landfill' means a landfill that has been closed pursuant to a procedure
20 approved by the Environmental Protection Division of the Department of Natural
21 Resources which provided for the cessation of waste receipt at a solid waste disposal site
22 and for the securing of the site in preparation for postclosure.
- 23 ~~(3)~~(4) 'Cost of project' or 'cost of any project' means:
- 24 (A) All costs of acquisition, by purchase or otherwise, construction, assembly,
25 installation, modification, renovation, extension, or rehabilitation incurred in
26 connection with any project or any part of any project;
- 27 (B) All costs of real property, fixtures, or personal property used in or in connection
28 with or necessary for any project or for any facilities related thereto, including but not
29 limited to, the cost of all land, interests in land, estates for years, easements, rights,
30 improvements, water rights, and connections for utility services; the cost of fees,
31 franchises, permits, approvals, licenses, and certificates; the cost of securing any such
32 franchises, permits, approvals, licenses, or certificates; the cost of preparation of any
33 application therefor; and the cost of all fixtures, machinery, equipment, furniture, and
34 other property used in or in connection with or necessary for any project;
- 35 (C) All financing charges, bond insurance, and loan or loan guarantee fees and all
36 interest on revenue bonds, notes, or other obligations of the authority which accrue or
37 are paid prior to and during the period of construction of a project and during such
38 additional period as the authority may reasonably determine to be necessary to place
39 such project in operation;
- 40 (D) All costs of engineering, surveying, planning, environmental assessments, financial
41 analyses, and architectural, legal, and accounting services and all expenses incurred by
42 engineers, surveyors, planners, environmental scientists, fiscal analysts, architects,

43 attorneys, accountants, and any other necessary technical personnel in connection with
44 any project;

45 (E) All expenses for inspection of any project;

46 (F) All fees of fiscal agents, paying agents, and trustees for bondholders under any
47 bond resolution, trust agreement, indenture of trust, or similar instrument or agreement;
48 all expenses incurred by any such fiscal agents, paying agents, and trustees; and all
49 other costs and expenses incurred relative to the issuance of any bonds, revenue bonds,
50 notes, or other obligations for any project, including bond insurance;

51 (G) All fees of any type charged by the authority in connection with any project;

52 (H) All expenses of or incidental to determining the feasibility or practicability of any
53 project;

54 (I) All costs of plans and specifications for any project;

55 (J) All costs of title insurance and examinations of title with respect to any project;

56 (K) Repayment of any loans for the advance payment of any part of any of the
57 foregoing costs, including interest thereon and any other expenses of such loans;

58 (L) Administrative expenses of the authority and such other expenses as may be
59 necessary or incidental to any project or the financing thereof or the placing of any
60 project in operation; and

61 (M) The establishment of a fund or funds for the creation of a debt service reserve, a
62 renewal and replacement reserve, or such other funds or reserves as the authority may
63 approve with respect to the financing and operation of any project and as may be
64 authorized by any bond resolution, trust agreement, indenture, or trust or similar
65 instrument or agreement pursuant to the provisions of which the issuance of any
66 revenue bonds, notes, or other obligations of the authority may be authorized.

67 Any cost, obligation, or expense incurred for any of the purposes specified in this
68 paragraph shall be a part of the cost of the project and may be paid or reimbursed as such
69 out of the proceeds of revenue bonds, notes, or other obligations issued by the authority.

70 ~~(4)~~(5) 'County' means any county created under the Constitution or laws of this state.

71 ~~(5)~~(6) 'Environmental facilities' means any projects, structures, and other real or personal
72 property acquired, rehabilitated, constructed, or planned:

73 (A) For the purposes of supplying, distributing, and treating water and diverting,
74 channeling, or controlling water flow and head, including, but not limited to, surface
75 or ground water, canals, reservoirs, channels, basins, dams, aqueducts, standpipes,
76 penstocks, conduits, pipelines, mains, pumping stations, water distribution systems,
77 compensating reservoirs, intake stations, waterworks or sources of water supply, wells,
78 purification or filtration plants or other treatment plants and works, connections, water
79 meters, mechanical equipment, electric generating equipment, rights of flowage or
80 division and other plant structures, equipment, conveyances, real or personal property
81 or rights therein and appurtenances, furnishings, accessories, and devices thereto
82 necessary or useful and convenient for the collection, conveyance, distribution,
83 pumping, treatment, storing, or disposing of water;

84 (B) For the purposes of collecting, treating, or disposing of sewage, including, but not
85 limited to, main, trunk, intercepting, connecting, lateral, outlet, or other sewers, outfall,
86 pumping stations, treatment and disposal plants, ground water recharge basins,
87 backflow prevention devices, sludge dewatering or disposal equipment and facilities,
88 clarifiers, filters, phosphorus removal equipment and other plants, soil absorption
89 systems, innovative systems or equipment, structures, equipment, vehicles,
90 conveyances, real or personal property or rights therein, and appurtenances thereto
91 necessary or useful and convenient for the collection, conveyance, pumping, treatment,
92 neutralization, storing, and disposing of sewage;

93 (C) For the purposes of collecting, treating, recycling, composting, or disposing of
94 solid waste, including, but not limited to, trucks, dumpsters, intermediate reception
95 stations or facilities, transfer stations, incinerators, shredders, treatment plants, landfills,
96 landfill equipment, barrels, binders, barges, alternative technologies and other plant

97 structures, equipment, conveyances, improvements, real or personal property or rights
98 therein, and appurtenances, furnishings, accessories, and devices thereto necessary or
99 useful and convenient for the collection, treatment, or disposal of solid waste;

100 (D) For the purposes of carrying out a community land conservation project or a state
101 land conservation project pursuant to Chapter 22 of Title 36;

102 (E) For the purposes of conversion of electrical lines from aboveground lines to
103 underground lines; ~~or~~

104 (F) For the purposes of storing, supplying, and distributing natural gas outside any
105 certified area of a nonmunicipal gas company, as such term is defined in Code
106 Section 46-1-1, including, but not limited to, pipelines, storage tanks and facilities,
107 natural gas distribution systems, equipment, vehicles, conveyances, real or personal
108 property or rights therein and appurtenances, furnishings, accessories, and devices
109 thereto necessary or useful and convenient for the storage, supply, and distribution of
110 natural gas; or

111 (G) For the purpose of facilitating solar installations on closed landfills, including, but
112 not limited to, solar modules and panels, inverters, support structures and racking,
113 electrical wiring and cables, transformers, telecommunications and monitoring
114 equipment, access roads, meteorological stations, security fencing, and energy storage
115 facilities.

116 ~~(6)~~(7) 'Environmental services' means the provision, collectively or individually, of water
117 facilities, sewerage facilities, solid waste facilities, facilitation of solar installations on
118 closed landfills, natural gas facilities, conversion of electrical lines from aboveground
119 lines to underground lines, community land conservation projects or state land
120 conservation projects pursuant to Chapter 22 Title 36, or management services.

121 (8) 'Landfill' means an area of land on which or an excavation in which solid waste is
122 placed for permanent disposal and which is not a land application unit, surface
123 impoundment, injection well, or compost pile.

124 ~~(7)~~(9) 'Local government' or 'local governing authority' means any municipal corporation
125 or county or any local water or sewer or sanitary district and any state or local authority,
126 board, or political subdivision created by the General Assembly or pursuant to the
127 Constitution and laws of the state.

128 ~~(8)~~(10) 'Management services' means technical, administrative, instructional, or
129 informational services provided to any current or potential loan recipient in, but not
130 limited to, the areas of service charge structure; accounting, capital improvements
131 budgeting or financing; financial reporting, treasury management, debt structure or
132 administration or related fields of financial management; contract or grant administration;
133 management of water, sewer, or solid waste systems; and economic development
134 administration or strategies. Management services may be furnished either directly,
135 on-site, or through other written or oral means of communication and may consist of
136 reports, studies, presentations, or other analyses of a written or oral nature.

137 ~~(9)~~(11) 'May' means permission and not command.

138 ~~(10)~~(12) 'Municipal corporation' or 'municipality' means any city or town in this state.

139 ~~(10.1)~~(13) 'Natural gas facility' means any environmental facility described in
140 subparagraph (F) of paragraph ~~(5)~~ (6) of this Code section.

141 ~~(10.2)~~(14) 'Nongovernmental entity' means a nonprofit organization the primary
142 purposes of which are the permanent protection and conservation of land and natural
143 resources.

144 ~~(10.3)~~(15) 'Nonprofit corporation' means any corporation qualified as a not for profit
145 corporation by the Internal Revenue Service under Section 501(c)(3) or Section 501(c)(4)
146 of the Internal Revenue Code.

147 ~~(11)~~(16) 'Obligation' means any bond, revenue bond, note, lease, contract, evidence of
148 indebtedness, debt, or other obligation of the authority, the state, or local governments
149 which are authorized to be issued under this chapter or under the Constitution or other
150 laws of this state, including refunding bonds.

151 ~~(12)~~(17) 'Project' means:

152 (A) The acquisition, construction, installation, modification, renovation, repair,
153 extension, renewal, replacement, or rehabilitation of land, interest in land, buildings,
154 structures, facilities, or other improvements and the acquisition, installation,
155 modification, renovation, repair, extension, renewal, replacement, rehabilitation, or
156 furnishing of fixtures, machinery, equipment, furniture, or other property of any nature
157 whatsoever used on, in, or in connection with any such land, interest in land, building,
158 structure, facility, or other improvement, all for the essential public purpose of
159 providing environmental facilities and services so as to meet public health and
160 environmental standards, protect the state's valuable natural resources, or aid the
161 development of trade, commerce, industry, agriculture, and employment opportunities,
162 including, but not limited to, any project as defined by Code Section 12-5-471;

163 (B) Projects authorized by the Georgia Regional Transportation Authority created by
164 Chapter 32 of this title and as defined in such chapter, where such authority has been
165 directed to issue revenue bonds, bonds, notes, or other obligations to finance such
166 project or the cost of a project in whole or in part, provided that such authority's power
167 with respect to such projects authorized by the Georgia Regional Transportation
168 Authority shall be limited to providing such financing and related matters as authorized
169 by the Georgia Regional Transportation Authority; and

170 (C) Projects authorized by the Atlanta-region Transit Link 'ATL' Authority created
171 pursuant to Chapter 39 of this title and as defined in such chapter, where such authority
172 has been directed to issue revenue bonds, bonds, notes, or other obligations to finance
173 such project or the cost of a project in whole or in part, provided that such authority's
174 power with respect to such projects authorized by the Atlanta-region Transit Link 'ATL'
175 Authority shall be limited to providing such financing and related matters as authorized
176 by the Atlanta-region Transit Link 'ATL' Authority.

177 ~~(13)~~(18) 'Revenue bond' includes bond, note, or other obligation.

178 ~~(14)~~(19) 'Self-liquidating project' means any project or combination of projects if, in the
179 judgment of the authority, the revenues, rents, or earnings to be derived by the authority
180 therefrom will be sufficient to pay the cost of maintaining, repairing, and operating the
181 project and to pay the principal and interest of revenue bonds which may be issued for
182 the cost of such project, projects, or combination of projects.

183 ~~(15)~~(20) 'Sewerage facility' means any environmental facility described in
184 subparagraph (B) of paragraph ~~(5)~~ (6) of this Code section, ~~defining 'environmental~~
185 ~~facilities'.~~

186 (21) 'Solar installation' means a solar energy device that does not meet the definition of
187 solar technology pursuant to Code Section 46-3-62, or the integrated collection of such
188 devices, together with any equipment or other personal property and improvements under
189 common ownership that are used to support the operation of such a solar energy device
190 or solar energy devices, including, but not limited to, underground or aboveground
191 electrical transmission or communications lines, electric transformers, battery storage
192 facilities, telecommunications equipment, roads, meteorological towers, and maintenance
193 yards.

194 (22) 'Solid waste' means any garbage or refuse; sludge from a waste-water treatment
195 plant, water supply treatment plant, or air pollution control facility; and other discarded
196 material including solid, semisolid, or contained gaseous material resulting from
197 industrial, commercial, mining, and agricultural operations and community activities.
198 Such term does not include recovered materials, post-use plastics and nonrecycled
199 feedstock that are subsequently processed using a pyrolysis or gasification to fuels and
200 chemicals process, solid or dissolved materials in domestic sewage, solid or dissolved
201 materials in irrigation return flows or industrial discharges that are point sources subject
202 to permit under 33 U.S.C. Section 1342, or source, special nuclear, or by-product material
203 as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

204 ~~(15.5)(23)~~ 'Solid waste facility' means any environmental facility described in
 205 subparagraph (C) of paragraph ~~(5)~~ (6) of this Code section, ~~defining 'environmental~~
 206 ~~facilities.'~~

207 ~~(16)(24)~~ 'Water facility' means any environmental facility described in subparagraph (A)
 208 of paragraph ~~(5)~~ (6) of this Code section, ~~defining 'environmental facilities.'~~"

209 **SECTION 2.**

210 Said chapter is further amended by revising Code Section 50-23-12, relating to personal
 211 liability of members, officers, and employees of the authority, as follows:

212 "50-23-12.

213 Neither the members of the authority nor any officer or employee of the authority acting
 214 in behalf thereof, while acting within the scope of his or her authority, shall be subject to
 215 any liability resulting from:

216 (1) The construction, ownership, maintenance, or operation of any project financed with
 217 the assistance of the authority;

218 (2) The construction, ownership, maintenance, or operation of any solid waste system,
 219 sewerage system, natural gas system, environmental facility, or water system owned by
 220 a local government; or

221 (3) The facilitation of solar installations on closed landfills; or

222 ~~(3)~~(4) Carrying out any of the powers expressly given in this article."

223 **SECTION 3.**

224 Code Section 36-91-100 of the Official Code of Georgia Annotated, relating to definitions
 225 regarding bidding for government works projects, is amended by revising paragraph (5) as
 226 follows:

