

Senate Bill 498

By: Senators Dixon of the 45th, Hickman of the 4th, Kemp of the 38th, Still of the 48th and Halpern of the 39th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 31B of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
2 relating to charter school capital finance, so as to establish the Georgia Charter School
3 Facilities Authority for the purpose of enabling charter schools to obtain revolving loan funds
4 and other public financing assistance for purposes of constructing, renovating, and
5 rehabilitating educational facilities for such schools; to provide for definitions; to provide for
6 the composition, duties, and powers of such authority; to amend Article 2 of Chapter 17 of
7 Title 50 of the Official Code of Georgia Annotated, the "Georgia State Financing and
8 Investment Commission Act," so as to provide for the issuance of general obligation bonds
9 by the Georgia State Financing and Investment Commission to provide for educational
10 facilities for charter schools; to provide for and revise definitions; to provide for related
11 matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Article 31B of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
15 charter school capital finance, is amended by designating Code Sections 20-2-2095
16 through 20-2-2095.5 as Part 1, by replacing the term "article" with the term "part" wherever

S. B. 498

- 1 -

17 the former term appears in any of such Code sections, and by adding a new part to read as
18 follows:

19 "Part 2

20 20-2-2095.20.

21 As used in this part, the term:

22 (1) 'Authority' means the Georgia Charter School Facilities Authority created in this part.

23 (2) 'Charter school' shall have the same meaning as set forth in Code Section
24 20-2-2095.1.

25 (3) 'Cost of project' or 'cost of any project' means:

26 (A) All costs of acquisition, by purchase or otherwise, construction, assembly,
27 installation, modification, renovation, extension, or rehabilitation incurred in
28 connection with any project or any part of any project;

29 (B) All costs of real property, fixtures, or personal property used in or in connection
30 with or necessary for any project or for any facilities related thereto, including but not
31 limited to, the costs of all land, interests in land, estates for years, easements, rights,
32 improvements, water rights, and connections for utility services; the costs of fees,
33 franchises, permits, approvals, licenses, and certificates; the costs of securing any such
34 franchises, permits, approvals, licenses, or certificates; the costs of preparation of any
35 application therefor; and the costs of all fixtures, machinery, equipment, furniture, and
36 other property used in or in connection with or necessary for any project;

37 (C) All financing charges and loan or loan guarantee fees and all interest on notes of
38 the authority which accrue or are paid prior to and during the period of construction of
39 a project and during such additional period as the authority may reasonably determine
40 to be necessary to place such project in operation;

41 (D) All costs of engineering, surveying, planning, environmental assessments, financial
42 analyses, and architectural, legal, and accounting services and all expenses incurred by
43 engineers, surveyors, planners, environmental scientists, fiscal analysts, architects,
44 attorneys, accountants, and any other necessary technical personnel in connection with
45 any project;

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

47 (F) All fees and all other costs and expenses incurred relative to the issuance of any
48 notes for any project;

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

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

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

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

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

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

59 (M) The establishment of a fund or funds as the authority may approve with respect to
60 the financing and operation of any project and as may be authorized by any instrument
61 or agreement pursuant to the provisions of which the issuance of any notes of the
62 authority may be authorized.

63 Any cost, obligation, or expense incurred for any of the purposes specified in this
64 paragraph shall be a part of the cost of the project and may be paid or reimbursed as such
65 out of the proceeds of notes issued by the authority.

66 (4) 'Educational facilities' shall include buildings, fixtures, and equipment necessary for
67 the effective and efficient operation of charter schools, which, without limiting the

68 generality of the foregoing, shall include: classrooms; libraries; rooms and space for
69 physical education; space for fine arts; restrooms; specialized laboratories; cafeterias;
70 media centers; building equipment; building fixtures; furnishings; career, technical, and
71 agricultural education labs and facilities to support industry credentialing; related exterior
72 facilities; landscaping and paving; and similar items which the State Board of Education
73 may determine necessary. The following facilities are specifically excluded: swimming
74 pools, tracks, stadiums, and other facilities or portions of facilities used primarily for
75 athletic competition.

76 (5) 'Project' means the acquisition, construction, installation, modification, renovation,
77 repair, extension, renewal, replacement, or rehabilitation of land, interest in land,
78 buildings, structures, facilities, or other improvements and the acquisition, installation,
79 modification, renovation, repair, extension, renewal, replacement, rehabilitation, or
80 furnishing of fixtures, machinery, equipment, furniture, or other property of any nature
81 whatsoever used on, in, or in connection with any such land, interest in land, building,
82 structure, facility, or other improvement, all for the essential public purpose of providing
83 educational facilities.

84 (6) 'Qualified charter school organization' shall have the same meaning as set forth in
85 Code Section 20-2-2095.1.

86 (7) 'Renovation' or 'modernization' or both refers to construction projects which consist
87 of the installation or replacement of major building components including lighting,
88 heating, air-conditioning, plumbing, roofing, electrical, electronic, or flooring systems;
89 millwork; cabinet work and fixed equipment; energy retrofit packages; or room-size
90 modifications within an existing facility, but excluding routine maintenance and repair
91 items or operations.

92 20-2-2095.21.

93 (a) There is created a body corporate and politic to be known as the Georgia Charter
94 School Facilities Authority which shall be deemed an instrumentality of the state and a
95 public corporation; and by that name, style, and title such body may contract and be
96 contracted with and bring and defend actions in all courts of this state. The authority shall
97 consist of 15 members: the State School Superintendent, ex officio; the chairperson of the
98 State Board of Education, ex officio; the state property officer, ex officio; the state auditor,
99 ex officio; the executive director of the State Charter Schools Commission, ex officio; the
100 director of the Office of Charter School Compliance, ex officio; three members to be
101 appointed by the Governor; three members to be appointed by the President of the Senate;
102 and three members to be appointed by the Speaker of the House of Representatives. The
103 Governor, the President of the Senate, and the Speaker of the House of Representatives
104 shall each appoint one member to serve until July 1, 2028, and two members to serve until
105 July 1, 2030. Upon the expiration of each such initial terms, the terms of all succeeding
106 members shall be for four years.

107 (b) A majority of the members of the authority shall constitute a quorum. No vacancy on
108 the authority shall impair the right of a majority of the appointed members from exercising
109 all rights and performing all duties of the authority.

110 (c) The members of the authority shall be accountable in all respects as trustees. The
111 authority shall keep suitable books and records of all actions and transactions and shall
112 submit such books together with a statement of the authority's financial position to an
113 independent auditing firm selected by the authority on or about the close of the state's fiscal
114 year for the purpose of obtaining a certified audit of the authority's finances.

115 (d) The authority shall make rules and regulations for its own government. The authority
116 shall have perpetual existence. Any change in the name or composition of the authority
117 shall in no way affect the vested rights of any person under this part or impair the
118 obligations of any contracts existing under this part.

119 (e) The Attorney General shall provide legal services for the authority and in connection
120 therewith Code Sections 45-15-13 through 45-15-16 shall be fully applicable.

121 (f) The members of the commission shall not be compensated for their services on the
122 commission but may be reimbursed for per diem and travel expenses in the same manner
123 as provided for in Code Section 45-7-21.

124 (g) The authority is assigned to the Department of Education for administrative purposes
125 only.

126 20-2-2095.22.

127 (a) The corporate purpose and the general nature of the business of the authority shall be
128 assistance in constructing, extending, rehabilitating, repairing, replacing, and renewing
129 educational facilities necessary for educational purposes or necessary or incidental to such
130 purposes by providing loans and other forms of financial and technical assistance to
131 qualified charter school organizations to finance any project or pay the cost of any project.

132 (b) The authority shall have power:

133 (1) To sue and be sued in all courts of this state, the original jurisdiction and venue of
134 such actions being the Superior Court of Fulton County;

135 (2) To have a seal and alter the same at its pleasure;

136 (3) To adopt bylaws governing the conduct of business by the authority, the election and
137 duties of officers of the authority, and other matters which the authority determines to
138 deal with in its bylaws;

139 (4) To designate three or more of its number to constitute an executive committee who,
140 to the extent provided in such resolution or in the bylaws of the authority, shall have and
141 may exercise the powers of the authority in the management of the affairs and property
142 of the authority and the exercise of its powers;

143 (5) To appoint an executive director who shall be executive officer and administrative
144 head of the authority. The executive director shall be appointed and serve at the pleasure

145 of the authority. The executive director shall hire officers, agents, and employees,
146 prescribe their duties and qualifications and fix their compensation, and perform such
147 other duties as may be prescribed by the authority. Such officers, agents, and employees
148 shall serve at the pleasure of the executive director;

149 (6) To make and execute contracts, lease agreements, and all other instruments necessary
150 or convenient to exercise the powers of the authority or to further the public purpose for
151 which the authority is created, such contracts, leases, or instruments to include contracts
152 for construction, operation, management, or maintenance of projects and facilities owned
153 by a charter school organization, a local government, the authority, or by the state or any
154 state authority; and any and all local governments, departments, institutions, authorities,
155 or agencies of the state are authorized to enter into contracts, leases, agreements, or other
156 instruments with the authority upon such terms and to transfer real and personal property
157 to the authority for such consideration and for such purposes as the authority deems
158 advisable;

159 (7) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or
160 personal property of every kind and character, or any interest therein, in furtherance of
161 the public purpose of the authority;

162 (8) To make loans to qualified charter school organizations to finance projects and to pay
163 the cost of any project by qualified charter school organizations and to adopt rules,
164 regulations, and procedures for making such loans, including to fund a revolving loan
165 fund;

166 (9) To make loans to any qualified charter school organization for the cost or expense
167 of any project or any part of the cost or expense of any project, which loans may be
168 evidenced or secured by trust indentures, loan agreements, notes, mortgages, deeds to
169 secure debt, trust deeds, security agreements, or assignments, on such terms and
170 conditions as the authority shall determine to be reasonable in connection with such
171 loans, including provision for the establishment and maintenance of reserve funds; and,

172 in the exercise of powers granted by this part in connection with any project, the authority
173 shall have the right and power to require the inclusion in any such trust indentures, loan
174 agreement, note, mortgage, deed to secure debt, trust deed, security agreement,
175 assignment, or other instrument such provisions or requirements for guaranty of any
176 obligations, insurance, construction, use, operation, maintenance, and financing of a
177 project and such other terms and conditions as the authority may deem necessary or
178 desirable;

179 (10) To finance projects by loan, loan guarantee, lease, or otherwise, and to pay the cost
180 of any project from any funds of the authority or from any contributions or loans by
181 persons, corporations, partnerships, whether limited or general, or other entities, all of
182 which the authority is authorized to receive, accept, and use;

183 (11) To collect fees and charges in connection with its loans, loan guarantees,
184 commitments, management services, and servicing including, but not limited to,
185 reimbursements of costs of financing, as the authority shall determine to be reasonable
186 and as shall be approved by the authority;

187 (12) To lease to qualified charter school organizations any authority owned facilities or
188 property or any state owned facilities or property which the authority is managing under
189 contract with the state;

190 (13) To provide advisory, technical, consultative, training, educational, and project
191 assistance services to qualified charter school organizations and to enter into contracts
192 with qualified charter school organizations to provide such services. Qualified charter
193 school organizations are authorized to enter into contracts with the authority for such
194 services and to pay for such services as may be provided them;

195 (14) To acquire or contract to acquire from any person, firm, corporation, local
196 government, federal or state agency, or corporation by grant, purchase, or otherwise,
197 leaseholds, real or personal property, or any interest therein; and to sell, assign, exchange,
198 transfer, convey, lease, mortgage, or otherwise dispose of or encumber the same; and

199 qualified charter school organization is authorized to grant, sell, or otherwise alienate
200 leaseholds, real and personal property, or any interest therein to the authority;

201 (15) To apply for and to accept any gifts or grants or loan guarantees or loans of funds
202 or property or financial or other aid in any form from the federal government or any
203 agency or instrumentality thereof, or from the state or any agency or instrumentality
204 thereof, or from any other source for any or all of the purposes specified in this part and
205 to comply, subject to the provisions of this part, with the terms and conditions thereof;

206 (16) To contract with state agencies or any qualified charter school organization for the
207 use by the authority of any property or facilities or services of the state or any such state
208 qualified charter school organization or for the use by any state agency or qualified
209 charter school organization of any facilities or services of the authority and such state
210 agencies and qualified charter school organizations are authorized to enter into such
211 contracts;

212 (17) As security for repayment of any obligations of the authority, to pledge, lease,
213 mortgage, convey, assign, hypothecate, or otherwise encumber any property of the
214 authority including, but not limited to, real property, fixtures, personal property, and other
215 funds and to execute any lease, trust indenture, trust agreement, agreement for the sale
216 of the authority's obligations, loan agreement, mortgage, deed to secure debt, trust deed,
217 security agreement, assignment, or other agreement or instrument as may be necessary
218 or desirable, in the judgment of the authority, to secure any such obligations, which
219 instruments or agreements may provide for foreclosure or forced sale of any property of
220 the authority upon default in any obligation of the authority, either in payment of
221 principal, premium, if any, or interest or in the performance of any term or condition
222 contained in any such agreement or instrument;

223 (18) To use income earned on any investment for such corporate purposes of the
224 authority as the authority in its discretion shall determine;

225 (19) To incorporate one or more nonprofit corporations as subsidiary corporations of the
226 authority for the purpose of carrying out any of the powers of the authority and to
227 accomplish any of the purposes of the authority. Any such subsidiary corporation shall
228 be a nonprofit corporation, a public body corporate and politic, a political subdivision of
229 the state, and an instrumentality of the state and shall exercise essential governmental
230 functions. Any subsidiary corporations created pursuant to this power shall be created
231 pursuant to Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' and the
232 Secretary of State shall be authorized to accept such filings. Upon dissolution of any
233 subsidiary corporation of the authority, any assets shall revert to the authority or to any
234 successor to the authority or, failing such succession, to the State of Georgia. The
235 authority shall not be liable for the debts or obligations of any subsidiary corporation or
236 for the actions or omissions to act of any subsidiary corporation unless the authority
237 expressly so consents;

238 (20) To cooperate and act in conjunction with educational organizations; with agencies
239 of the federal government and this state and local government; with other states and their
240 political subdivisions; and with joint agencies thereof, and such state agencies, local
241 government, and joint agencies are authorized and empowered to cooperate and act in
242 conjunction and to enter into contracts or agreements with the authority and qualified
243 charter school organizations to achieve or further the policies of the state declared in this
244 part;

245 (21) To procure insurance against any loss in connection with its property and other
246 assets or obligations or to establish cash reserves to enable it to act as self-insurer against
247 any and all such losses;

248 (22) To lend any of the securities of the type described in this subsection;

249 (23) To transfer to the state any funds of the authority determined by the authority to be
250 in excess of those needed for its corporate purposes;

251 (24) To make loan commitments and loans to qualified charter school organizations for
252 educational facilities projects;

253 (25) To exercise any power granted by the laws of this state to public or private
254 corporations which is not in conflict with the public purpose of the authority;

255 (26) To do all things necessary or convenient to carry out the powers conferred by this
256 part; and

257 (27) To promulgate and adopt rules and regulations to carry out the purposes of this part.

258 (c) The authority shall not have the power of eminent domain.

259 20-2-2095.23.

260 (a) The authority may make loans to a qualified charter school organization to pay all or
261 any part of the cost of:

262 (1) A project, up to a maximum of the lesser of 20 percent of the project total or \$2
263 million, except as provided for in paragraph (2) of this subsection; and

264 (2) A renovation or modernization project, up to a maximum of \$200,000.00.

265 (b) The authority shall not enter into any loan or loan commitment with a qualified charter
266 school organization for a term that exceeds the earlier of the expiration date of such
267 qualified charter school organization's current charter agreement with the State Board of
268 Education or five years.

269 (c) The authority and a qualified charter school organization may enter into such loan or
270 other loan commitments as may be determined appropriate by the authority.

271 (d) The authority may require as a condition of any loan to a qualified charter school
272 organization that such qualified charter school organization shall perform any or all of the
273 following:

274 (1) Create and maintain a special fund or funds as additional security for the payment of
275 any amounts becoming due under any agreement as shall be sufficient to make such
276 payment as the same shall become due and payable;

277 (2) Create and maintain such other special funds as may be required by the authority; and
278 (3) Such other acts, including the conveyance of real and personal property together with
279 all right, title, or interest therein to the authority, as may be deemed necessary or desirable
280 by the authority to secure the payment of the principal of and interest on notes or
281 obligations and to provide for the remedies of the authority in the event of any default by
282 such qualified charter school organization in such payment.

283 (e) All qualified charter school organizations are authorized to perform such acts, take
284 such action, adopt such proceedings, and make and carry out such contracts with the
285 authority as may be contemplated by this part.

286 (f) In connection with the making of any loan authorized by this part, the authority may
287 fix and collect such fees and charges, including but not limited to, the reimbursement of
288 all costs of financing by the authority, as the authority shall determine to be reasonable.

289 20-2-2095.24.

290 (a) For the purposes of this Code section, the term 'lease agreement' means and includes
291 a lease, operating lease rental agreement, usufruct, sale and lease back, or any other lease
292 agreement having a term of not more than 50 years and concerning real, personal, or mixed
293 property, any right, title, or interest therein by and between the state, the authority, a
294 qualified charter school organization, or any combination thereof.

295 (b) A qualified charter school organization may enter into a lease agreement for the
296 provision of educational facilities owned by the authority upon such terms and conditions
297 as the authority shall determine to be reasonable including, but not limited to, the
298 reimbursement of all costs of construction and financing and claims arising therefrom.

299 (c) No lease agreement shall be deemed to be a contract subject to any law requiring that
300 a contract shall be let only after receipt of competitive bids.

301 (d) Any lease agreement may provide for the construction of an educational facility by the
302 qualified charter school organization as agent for the authority. In such event, all contracts

303 for such construction shall be let by such qualified charter school organization in
304 accordance with the provisions of law otherwise applicable to the letting of such contracts
305 by such qualified charter school organization and with the provisions of state law
306 pertaining to prevailing wages, labor standards, and working hours. Any such lease
307 agreement may contain provisions by which such qualified charter school organization
308 shall indemnify the authority against any and all damages resulting from acts or omissions
309 to act on the part of such qualified charter school organization or its officers, agents, or
310 employees in constructing such facility or facilities, in letting any contracts in connection
311 therewith, or in operating and maintaining the same.

312 (e) Any lease agreement directly between the state or authority and a qualified charter
313 school organization may contain provisions requiring the qualified charter school
314 organization to perform any or all of the following:

315 (1) Create and maintain a special fund or funds as additional security for the payment of
316 any amounts becoming due under any agreement as shall be sufficient to make such
317 payment as the same shall become due and payable;

318 (2) Create and maintain such other special funds as may be required by the authority; and

319 (3) Such other acts and take such other action as may be deemed necessary and desirable
320 by the authority to secure the complete and punctual performance by such qualified
321 charter school organization of such lease agreements and to provide for the remedies of
322 the authority in the event of a default by such qualified charter school organization in
323 such payment.

324 20-2-2095.25.

325 Neither the members of the authority nor any officer or employee of the authority acting
326 on behalf thereof, while acting within the scope of his or her authority, shall be subject to
327 any liability resulting from:

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

330 (2) Carrying out any of the powers expressly given in this part.

331 20-2-2095.26.

332 No notice, proceeding, or publication except those required in this part shall be necessary
333 to the performance of any act authorized in this part; nor shall any such act be subject to
334 referendum.

335 20-2-2095.27.

336 No obligations of and no indebtedness incurred by the authority shall constitute an
337 indebtedness or obligation or a pledge of the faith and credit of the State of Georgia or of
338 its agencies; nor shall any act of the authority in any manner constitute or result in the
339 creation of an indebtedness of the state or its agencies or a cause of action against the state
340 or its agencies.

341 20-2-2095.28.

342 It is found, determined, and declared that the creation of this authority and the carrying out
343 of its corporate purposes is in all respects for the benefit of the people of the state and that
344 the authority is an institution of purely public charity and will be performing an essential
345 governmental function in the exercise of the power conferred upon it by this part. For such
346 reasons, the state covenants with the holders from time to time of obligations issued under
347 this part that the authority shall not be required to pay any taxes or assessments imposed
348 by the state or any of its counties, municipal corporations, political subdivisions, or taxing
349 districts upon any property acquired by the authority or under its jurisdiction, control,
350 possession, or supervision or leased by it to others, or upon its activities in the operation
351 or maintenance of any such property or on any income derived by the authority in the form

352 of fees, recording fees, rentals, charges, purchase price, installments, or otherwise, and that
353 the notes of the authority, their transfer, and the income therefrom shall at all times be
354 exempt from taxation within the state. The tax exemption provided in this part shall not
355 include any exemption from sales and use tax on property purchased by the authority or for
356 use by the authority.

357 20-2-2095.29.

358 The authority shall have all rights afforded the state by virtue of the Constitution of the
359 United States, and nothing in this part shall be construed to remove any such rights.

360 20-2-2095.30.

361 This part, being for the welfare of this state and its inhabitants, shall be liberally construed
362 to effect the purposes specified in this part.

363 20-2-2095.31.

364 (a) In the event of a failure of any qualified charter school organization to collect and remit
365 in full all amounts due to the authority and all amounts due to others which involve the
366 authority, on the date such amounts are due under the terms of any note of the qualified
367 charter school organization, it shall be the duty of the authority to notify the state treasurer
368 who shall withhold all funds of the state and all funds administered by the state and its
369 agencies, boards, and instrumentalities allotted to such qualified charter school
370 organization until such qualified charter school organization has collected and remitted in
371 full all sums due and cured or remedied all defaults on any such note.

372 (b) Nothing contained in this Code section shall mandate the withholding of funds
373 allocated to a qualified charter school organization which would violate contracts to which
374 the state is a party, the requirements of federal law imposed on the state, or judgments of
375 any court binding the state."

376

SECTION 2.

377 Article 2 of Chapter 17 of Title 50 of the Official Code of Georgia Annotated, the "Georgia
378 State Financing and Investment Commission Act," is amended in Code Section 50-17-21,
379 relating to definitions, by revising paragraph (5) and adding new paragraphs to read as
380 follows:

381 "(0.1) 'Charter school' shall have the same meaning as set forth in Code Section
382 20-2-2095.1."

383 "(5) 'General obligation debt' means obligations of this state issued pursuant to this article
384 to acquire, construct, develop, extend, enlarge, or improve land, waters, property,
385 highways, buildings, structures, equipment, or facilities of the state, its agencies,
386 departments, institutions, and those state authorities which were created and activated
387 prior to the amendment to Article VII, Section VI, Paragraph I(a) of the Constitution
388 of 1945, adopted November 8, 1960, for which the full faith, credit, and taxing power of
389 the state are pledged for the payment thereof. ~~'General obligation debt'~~ Such term also
390 means obligations of this state issued to provide educational facilities for county and
391 independent school systems, to provide educational facilities for charter schools, and to
392 provide public library facilities for county and independent school systems, counties,
393 municipalities, and boards of trustees of public libraries or boards of trustees of public
394 library systems. ~~'General obligation debt'~~ Such term further means debt incurred to make
395 loans to counties, municipal corporations, political subdivisions, local authorities, and
396 other local governmental entities for water or sewerage facilities or systems."

397 "(7.1) 'Qualified charter school organization' shall have the same meaning as set forth in
398 Code Section 20-2-2095.1."

399

SECTION 3.

400 Said article is further amended in Code Section 50-17-22, relating to the State Financing and
401 Investment Commission, by revising subsection (a) as follows:

402 "(a) **Responsibilities.** Subject to the limitations contained in this article, the commission
403 shall be responsible for the issuance of all public debt incurred hereunder, for the proper
404 application of the proceeds of such debt to the purposes for which it is incurred, for the
405 proper application of an appropriation to the commission for capital outlay to the purpose
406 for which it is appropriated, and for the application and administration of this article;
407 provided, however, that the proceeds of guaranteed revenue obligations shall be paid to the
408 issuer thereof, and such proceeds and the application thereof shall be the responsibility of
409 the issuer. The commission shall also be responsible for the proper disbursement of an
410 appropriation to it for public school capital outlay, including charter school capital outlay,
411 and the commission and the State Board of Education will be concurrently responsible for
412 its proper application. The commission shall be responsible for the issuance of guaranteed
413 revenue debt, except that bonds themselves evidencing such debt shall be in the name of
414 the instrumentality of this state issuing the same and shall be issued and executed in
415 accordance with the laws relative to such instrumentality and the applicable provisions of
416 this article."

417

SECTION 4.

418 Said article is further amended in Code Section 50-17-24, relating to authority to incur public
419 debt, purposes, and limitations, by revising paragraph (3) of subsection (b) as follows:

420 "(3) Public debt for public purposes may be either general obligation debt or guaranteed
421 revenue debt. General obligation debt may be incurred by issuing obligations to acquire,
422 construct, develop, extend, enlarge, or improve land, waters, property, highways,
423 buildings, structures, equipment, or facilities of the state, its agencies, departments,
424 institutions, and those state authorities which were created and activated prior to the
425 amendment adopted November 8, 1960, to Article VII, Section VI, Paragraph I(a) of the
426 Constitution of 1945. General obligation debt may also be incurred to provide
427 educational facilities for county and independent school systems and for charter schools

428 and to provide public library facilities for county and independent school systems,
429 counties, municipalities, and boards of trustees of public libraries or boards of trustees
430 of public library systems. General obligation debt may also be incurred in order to make
431 loans to counties, municipal corporations, political subdivisions, local authorities, and
432 other local governmental entities for water or sewerage facilities or systems. It shall not
433 be necessary for the state or a state authority to hold title to or otherwise be the owner of
434 such facilities or systems. General obligation debt for these purposes may be authorized
435 and incurred for administration and disbursement by a state authority created and
436 activated before, on, or after November 8, 1960. Guaranteed revenue debt may be
437 incurred by guaranteeing the payment of revenue obligations issued by an instrumentality
438 of the state if such revenue obligations are issued to finance toll bridges, toll roads, or any
439 other land public transportation facilities or systems, or water or sewage treatment
440 facilities or systems, or to make or purchase, or lend or deposit against the security of,
441 loans to citizens of the state for educational purposes; provided, however, that in no event
442 shall general obligation debt or guaranteed revenue debt be incurred for water or sewage
443 treatment facilities or systems for counties or municipalities unless such facilities are
444 financed in whole or in part through an instrumentality of the state created by the General
445 Assembly for the purpose of assisting the state, counties, or municipalities in the
446 financing of water or sewage treatment facilities or systems for the benefit of the citizens
447 of Georgia. General obligation debt or guaranteed revenue debt may be incurred to fund
448 or refund any such debt or to fund or refund any obligations issued upon the security of
449 contracts to which the second paragraph of Article IX, Section VI, Paragraph I(a) of the
450 Constitution of Georgia of 1976 is applicable."

451

SECTION 5.

452 Said article is further amended in Code Section 50-17-27, relating to application and
453 investment of public debt proceeds by commission and by the Environmental Finance
454 Authority, by revising subsection (b) as follows:

455 "(b) Proceeds received from the sale of bonds evidencing general obligation debt shall be
456 held in trust by the commission and disbursed promptly by the commission in accordance
457 with the original purpose set forth in the authorization of the General Assembly and in
458 accordance with rules and regulations established by the commission. Bond proceeds and
459 other proceeds held by the commission shall be as fully invested as is practical, consistent
460 with the proper application of such proceeds for the purposes intended. Investments shall
461 be limited to general obligations of the United States or of subsidiary corporations of the
462 United States government fully guaranteed by such government, or to obligations issued
463 by the Federal Land Bank, Federal Home Loan Bank, Federal Intermediate Credit Bank,
464 Bank for Cooperatives, Federal Farm Credit Banks regulated by the Farm Credit
465 Administration, Federal Home Loan Mortgage Corporation, Federal National Mortgage
466 Association, or to tax exempt obligations issued by any state, county, municipal
467 corporation, district, or political subdivision, or civil division or public instrumentality of
468 any such government or unit of such government, or to prime bankers' acceptances, or to
469 the units of any unit investment trusts the assets of which are exclusively invested in
470 obligations of the type described in this subsection, or to the shares of any mutual fund the
471 investments of which are limited to securities of the type described in this subsection and
472 distributions from which are treated for federal income tax purposes in the same manner
473 as the interest on said obligations, provided that at the time of investment such obligations
474 or the obligations held by any such unit investment trust or the obligations held or to be
475 acquired by any such mutual fund are limited to obligations which are rated within one of
476 the top two rating categories of any nationally recognized rating service or any rating
477 service recognized by the commissioner of banking and finance, and no others, or to

478 securities lending transactions involving securities of the type described in this subsection.
479 Income earned on any such investments or otherwise earned by the commission shall be
480 retained by the commission and used to purchase and retire any public debt or any bonds
481 or obligations issued by any public agency, public corporation, or authority which are
482 secured by a contract to which the second paragraph of Article IX, Section VI,
483 Paragraph I(a) of the Constitution of Georgia of 1976 is applicable and may be used to pay
484 operating expenses of the commission. However, in order to provide for contingencies,
485 efficiency, and flexibility, the commission may agree by contract or grant agreement with
486 county and independent school systems and with qualified charter school organizations that
487 income earned during grant administration on a direct appropriation of state funds to the
488 commission for public school capital outlay will be applied to the capital outlay purposes
489 of the appropriation. Otherwise, the interest on direct appropriations to the commission
490 shall be deposited into the treasury."

491

SECTION 6.

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