

Senate Bill 379

By: Senators Jones of the 25th, Brass of the 28th, Beach of the 21st, Mullis of the 53rd, Stone of the 23rd and others

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 3 of Title 6 of the Official Code of Georgia Annotated, relating to powers of local governments as to air facilities, so as to create the Georgia Major Airport Operations and Management Board; to provide for its membership, duties, powers, and responsibilities; to transfer certain authority pertaining to major airports from counties, municipalities, and other political subdivisions to such board; to provide a short title; to provide legislative findings and declarations; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 3 of Title 6 of the Official Code of Georgia Annotated, relating to powers of local governments as to air facilities, is amended by adding a new Article 3 to read as follows:

"ARTICLE 3

6-3-30.

This article shall be known and may be cited as the 'Georgia Major Airport Operations and Management Act.'

6-3-31.

The General Assembly finds and declares that the construction, equipment, improvement, maintenance, and operation of major airports or landing fields which are located in this state, owned by political subdivisions, and used for public commercial aviation may significantly affect the public welfare not only of such political subdivisions but also the state as a whole. The General Assembly further finds and declares that, for reasons of safety, security, economy, and efficiency, the public welfare of this state is best served by

having authority over such activities for such major airports or landing fields vested in a board created by the General Assembly for such purpose as provided by this article.

6-3-32.

If any airport or landing field which is located in this state, owned by a county, municipality, or other political subdivision of this state, and used for public commercial aviation has in excess of 400,000 takeoffs and landings in any calendar year, then, as to such airport or landing field, on and after July 1 immediately following such calendar year the authority otherwise provided to such county, municipality, or other political subdivision under Code Section 6-3-25 shall be transferred to, vested in, and exercised exclusively by the Georgia Major Airport Operations and Management Board created by this article; provided, however, that the expense of any construction, equipment, improvement, maintenance, and operation of such airport shall remain a responsibility of the county, municipality, or other political subdivision; and provided, further, that such Georgia Major Airport Operations and Management Board is expressly denied the authority to condemn, issue bonds, or levy taxes for airport or landing fields purposes.

6-3-33.

(a) There is created the Georgia Major Airport Operations and Management Board, which shall be a body corporate and politic and an instrumentality of the State of Georgia.

(b) The board shall consist of 13 members. Nine members shall be appointed by the Governor, two members shall be appointed by the Lieutenant Governor, and two members shall be appointed by the Speaker of the House of Representatives, with each such appointee to be a resident of and representation for each congressional district. No person holding an elected public office shall be eligible for appointment to the board. Members of the board shall have extensive experience in business, aviation, law, or accounting. The initial members shall take office on May 1, 2018. Five members appointed by the Governor, one member appointed by the Lieutenant Governor, and one member appointed by the Speaker of the House of Representatives shall serve initial terms of office beginning May 1, 2018, and extending until June 30, 2021, and until their successors are appointed and qualified. Four members appointed by the Governor, one member appointed by the Lieutenant Governor, and one member appointed by the Speaker of the House of Representatives shall serve initial terms of office beginning May 1, 2018, and extending until June 30, 2024, and until their successors are appointed and qualified. The appointing officer shall specify the terms of each appointee when making such initial appointments. After the initial terms of office, members shall serve six-year terms beginning on July 1 immediately following the expiration of the previous term of office and until their

successors are appointed and qualified. Members shall be eligible for reappointment. Any vacancy shall be filled by the officer who appointed the member whose seat was vacated and the person so appointed shall serve the unexpired term of the member whose vacancy is being filled.

(c) A majority of the total number of members of the board provided by subsection (b) of this Code section shall constitute a quorum for the transaction of business, and a majority vote of those members present at any meeting when there is a quorum shall be sufficient to take any action permitted to the board under this Code section. No vacancy on the board shall prevent the board from carrying out its duties unless such vacancy results in a lack of a quorum.

(d) The members of the board shall select from their membership a chairperson and a vice chairperson at the first meeting held after July 1 in each even-numbered year. The board shall also select a secretary and a treasurer who need not be members of the board.

(e) The members of the board shall not receive a salary, but appointed members shall receive the same expense allowance provided for members of certain boards by subsection (b) of Code Section 45-7-21 while in the performance of their duties on behalf of the board. Employees of the board shall receive such reasonable compensation for their services as determined by the members of the board.

(f) The board shall have perpetual existence. Any change in name or composition of the board shall in no way affect the vested rights of any person under this article or impair the obligations of any contracts existing under this article.

(g) The members of the board shall be accountable in all respects as trustees. The board shall keep suitable and proper books and records of all receipts, income, and expenditures of every kind and shall submit for inspection and audit all the books and records with a proper statement of the board's financial position to the state auditor for an annual audit and for such other audits and inspections as the state auditor may from time to time require.

(h) The board shall have all of the powers necessary, proper, or convenient to carry out and effectuate the purposes and provisions of this article, including without limitation the authority vested in the board by Code Section 6-3-32. Without limiting the generality of the foregoing, the powers of the board shall include the powers:

(1) To bring and defend actions;

(2) To adopt and amend a corporate seal;

(3) To make and execute contracts, agreements, and other instruments necessary, proper, or convenient to exercise the powers of the board and to further the public purpose for which the board is created, including, but not limited to, contracts for construction of airport facilities, leases of airport facilities, operation of airport facilities, agreements for loans to finance projects, and contracts with respect to the use of airport facilities,

95 including negotiated contracts with air carriers and vendors for the use of airport  
96 facilities;

97 (4) To borrow money to further or to carry out its public purpose and to execute notes,  
98 other obligations, leases, trust indentures, trust agreements, agreements for the sale of its  
99 notes, other obligations, loan agreements, mortgages, deeds to secure debt, trust deeds,  
100 security agreements, assignments, and such other agreements or instruments as may be  
101 necessary or desirable, in the judgment of the board, to evidence and to provide security  
102 for such borrowing; provided, however, that such notes or other obligations shall not be  
103 deemed to be a debt of the State of Georgia or a pledge of the faith and credit of the state  
104 and shall be payable solely from funds of the board established for such purpose;

105 (5) To apply for and accept loans and grants, either or both, of money, materials, or  
106 property of any kind from the United States government or the State of Georgia or any  
107 political subdivision, authority, agency, or instrumentality of either of them, upon such  
108 terms and conditions as the United States government or the State of Georgia or such  
109 political subdivision, authority, agency, or instrumentality of either of them shall impose;

110 (6) To hold, use, administer, and expend such sum or sums as may be received as income  
111 or gifts or as may be appropriated by a county, municipality, or other political subdivision  
112 for any of the purposes of the board;

113 (7) To enter into agreements with the federal government or any agency or corporation  
114 thereof to use the facilities of the federal government or agency or corporation thereof in  
115 order to further or carry out the public purposes of the board;

116 (8) To extend credit or make loans to any person, corporation, partnership, limited or  
117 general, or other entity for the costs of any project, which credit or loans may be  
118 evidenced or secured by loan agreements, notes, mortgages, deeds to secure debt, trust  
119 deeds, security agreements, assignments, or other instruments or by rentals, revenues,  
120 fees, or charges, upon such terms and conditions as the board shall determine to be  
121 reasonable in connection with such extension of credit or loans, including provision for  
122 the establishment and maintenance of reserve funds, and, in the exercise of powers  
123 granted in connection with any project, the board shall have the right and power to  
124 require the inclusion in any such loan agreement, note, mortgage, deed to secure debt,  
125 trust deed, security agreement, assignment, or other instrument of such provisions or  
126 requirements for guarantee of any obligations, insurance, construction, use, operation,  
127 maintenance, and financing of a project and such other terms and conditions as the board  
128 may deem necessary or desirable;

129 (9) To receive and use the proceeds of any tax levied by the State of Georgia or any  
130 county or municipality thereof to pay the costs of any project or for any other purpose for  
131 which the board may use its own funds pursuant to this Code section;

132 (10) To receive and administer gifts, grants, and devises of money and property of any  
133 kind and to administer trusts;

134 (11) To use any real property, personal property, or fixtures or any interest therein and  
135 to rent or lease such property to or from others or make contracts with respect to the use  
136 thereof;

137 (12) To acquire, accept, or retain equitable interests, security interests, or other interests  
138 in any real property, personal property, or fixtures by loan agreement, note, mortgage,  
139 deed to secure debt, trust deed, security agreement, assignment, pledge, conveyance,  
140 contract, lien, loan agreement, or other consensual transfer in order to secure the  
141 repayment of any moneys loaned or credit extended by the board;

142 (13) To appoint, select, and employ officers, agents, and employees, including airport  
143 managers, engineers, surveyors, architects, urban or city planners, construction experts,  
144 fiscal agents, attorneys, and others, and to fix their compensation and pay their expenses.  
145 The board shall have exclusive authority to appoint, select, and employ any airport  
146 manager for any airport under the board's jurisdiction;

147 (14) To make, contract for, or otherwise cause to be made long-range plans or proposals  
148 for projects in cooperation with those political subdivisions within which such projects  
149 are located or are proposed to be located;

150 (15) To make reasonable regulations for installation, construction, maintenance, repairs,  
151 renewal, and relocation of pipes, mains, conduits, cables, wires, towers, poles, and other  
152 equipment and appliances of any public utility in, on, along, over, or under any airport  
153 facility or project;

154 (16) To request that the political subdivision for which the board is managing, operating,  
155 and maintaining an airport acquire through the exercise of the power of eminent domain  
156 any real property or rights or interests therein, including easements, as necessary or  
157 convenient for the accomplishment of the purposes of this article;

158 (17) To contract for or to provide for and maintain a security force with respect to the  
159 airport facilities and properties managed, operated, and maintained by the board. Except  
160 as otherwise provided by the federal Aviation and Transportation Security Act, Public  
161 Law 107-71, such security force shall have the duty to protect persons and property  
162 located within the boundaries of the airport facilities and properties and to control  
163 pedestrian and vehicular traffic on such property, and to protect the public peace, health,  
164 and safety. For these purposes, members of the security force shall be peace officers and  
165 shall have authority equivalent to the authority of law enforcement officers of the county  
166 in which such officers are discharging their duties;

167 (18) To exercise any power granted by laws of the State of Georgia to public or private  
168 corporations which is not in conflict with the Constitution and laws of the State of  
169 Georgia; and

170 (19) To do all things necessary, proper, or convenient to carry out the powers conferred  
171 by this article, including the adoption of rules and regulations.

172 (i) It is found, determined, and declared that the creation of the board and the carrying out  
173 of its corporate purposes are in all respects for the benefit of the people of this state and  
174 constitute a public purpose and that the board will be performing an essential governmental  
175 function in the exercise of the powers conferred on it by this article. The State of Georgia  
176 covenants that the board shall not be required to pay any taxes or assessments upon any of  
177 the property acquired by it or under its jurisdiction, control, possession, or supervision or  
178 upon facilities erected, maintained, or acquired by it or any fees, rentals, or other charges  
179 for the use of such facilities or other income received by the board; provided, however, that  
180 in no event shall these exemptions extend to any lessee or other private person or entity.

181 (j) The Attorney General shall provide legal counsel and representation for the board. The  
182 provisions of Code Sections 45-15-13 through 45-15-16 shall be fully applicable to the  
183 board the same as if it were a state authority named therein.

184 (k) Every member of the authority and every employee of the authority who knowingly  
185 has any interest, direct or indirect, in any contract to which the authority is or is about to  
186 become a party, in any other business of the authority, or in any firm or corporation doing  
187 business with the authority shall make full disclosure of such interest to the authority in  
188 writing and such disclosures shall be public records. For the purposes of this Code section,  
189 such interests shall include, but not necessarily be limited to, interests, both direct and  
190 indirect, held by the member or employee personally; by a business, partnership,  
191 corporation, or other entity in which the member or employee has a direct or indirect  
192 ownership interest; by a child, spouse, or parent of the member or employee; and by a  
193 business, partnership, corporation, or other entity in which a child, spouse, or parent of the  
194 member or employee has a direct or indirect ownership interest. Failure to disclose such  
195 an interest shall constitute cause for which a member of the authority may be removed or  
196 an employee discharged or otherwise disciplined at the discretion of the authority. The  
197 provisions of Article 1 of Chapter 10 of Title 16 and Code Sections 16-10-21, 16-10-22,  
198 16-10-92, and 16-10-93 regulating the conduct of officers, employees, and agents of  
199 political subdivisions, municipal and other public corporations, and other public  
200 organizations shall be applicable to the conduct of members, officers, employees, and  
201 agents of the authority. Any contract or transaction of the authority involving a conflict of  
202 interest which is not disclosed prior to the authority entering into such contract or  
203 transaction or which is in violation of Article 1 of Chapter 10 of Title 16 or Code Section

204 16-10-21, 16-10-22, 16-10-92, or 16-10-93 or any other provision of law regulating  
205 conflicts of interest which is applicable to the authority or its members, officers, or  
206 employees shall be voidable by the authority.  
207 (l) Nothing contained in this article shall be construed to impair any rights afforded the  
208 state under the Constitution of the United States nor to waive any immunities of the state.  
209 (m) Members and employees of the board shall be subject to the applicable provisions of  
210 Chapter 10 of Title 45."

211 **SECTION 2.**

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

214 **SECTION 3.**

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