

House Bill 379

By: Representatives Tanner of the 9th, Coomer of the 14th, Williams of the 168th, Watson of the 172nd, and Epps of the 144th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 50 of the Official Code of Georgia Annotated, relating to state government,
2 so as to create the Georgia Public Road Authority; to provide for a short title and legislative
3 findings; to confer powers and impose duties on the authority; to provide for the membership
4 and the appointment of members of the authority and their terms of office, qualifications,
5 duties, powers, and compensation; to provide for vacancies, organization, meetings, and
6 expenses; to provide for definitions; to provide for the issuance and sale of revenue bonds,
7 notes, and other obligations and their negotiability, sale, and use of proceeds from such sales;
8 to provide for conditions for issuance of such obligations; to prohibit the pledge of credit for
9 the payment of revenue bonds; to provide for trust indentures; to provide for payment of
10 bond proceeds; to provide for bondholder remedies and protection; to provide for refunding
11 bonds; to provide for bond validation; to provide for venue and jurisdiction; to provide for
12 trust funds; to provide for the authority's purpose; to provide for charges; to provide for rules
13 and regulations; to provide for tort immunity; to provide for tax exemptions and exemptions
14 from levy and sale; to provide for supplemental powers; to provide for effect on other laws
15 and regulations; to provide for liberal construction; to provide for related matters; to provide
16 an effective date; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

19 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
20 by adding a new chapter to read as follows:

21 "CHAPTER 39

22 50-39-1.

23 This chapter shall be known and may be cited as the 'Georgia Public Road Authority Act.'

24 50-39-2.

25 The General Assembly finds that there is a need to provide a financing alternative to
 26 political subdivisions and private entities for the construction of local public roads
 27 throughout this state.

28 50-39-3.

29 There is created a public body corporate and politic to be known as the 'Georgia Public
 30 Road Authority,' which shall be deemed to be a public corporation of the State of Georgia
 31 and shall have a perpetual existence. The authority shall be separate and distinct from any
 32 public corporation or other entity heretofore created by the General Assembly. This
 33 authority shall not be a state institution nor a department or agency of this state but shall
 34 be an instrumentality of the State of Georgia, having distinct corporate identity and being
 35 exempt from Article 2 of Chapter 17 of Title 50. In said name it may contract and be
 36 contracted with, sue and be sued, implead and be impleaded, and complain and defend in
 37 all courts of this state, subject to the provisions of Code Section 50-39-14.

38 50-39-4.

39 As used in this chapter, the term:

40 (1) 'Authority' means the Georgia Public Road Authority.

41 (2) 'Construction' means the planning, location, surveying, designing, supervising,
 42 inspecting, and actual building of a new project or the paving, striping, restriping,
 43 modifying for safety purposes, grading, widening, relocation, reconstruction, or other
 44 major improvement of a substantial portion of an existing project together with all
 45 activities incident to any of the foregoing.

46 (3) 'Cost of the project' shall include the:

47 (A) Cost of construction;

48 (B) Cost of all land or interests therein, properties, rights, easements, and franchises
 49 acquired;

50 (C) Cost of all machinery and equipment;

51 (D) Financing charges, including interest prior to and during construction or
 52 acquisition of any project and for six months after such project is placed in service and
 53 operational at the level intended;

54 (E) Cost of engineering, architectural, fiscal, accounting, inspection, and legal
 55 expenses, relating to a project or to the financing or refinancing of any project and other
 56 expenses necessary or incident to determining the feasibility or practicability of any
 57 project; and

58 (F) Administrative expenses relating to any project or to the financing or refinancing
 59 thereof and such other expenses as may be necessary or incident to the financing of a
 60 project authorized by this chapter; the acquisition, construction, renovation,
 61 reconstruction, or remodeling of a project; and the placing of the same in operation.
 62 Any such obligation or expense shall be regarded as a part of the cost of the project and
 63 may be paid or reimbursed as such out of any funds of the authority, including proceeds
 64 of any revenue bonds issued under the provisions of this chapter for any such project
 65 or projects and the proceeds of the sale of any contracts, lease agreements, or
 66 installment sale agreements or the amounts payable thereunder, either directly or by the
 67 creation of interests therein.

68 (4) 'Person' means any individual, partnership, corporation, association, or private
 69 organization of any character.

70 (5) 'Political subdivision' means any county, municipality, or consolidated government
 71 of this state.

72 (6) 'Project' means any public road, as such term is defined in Code Section 32-1-3:

73 (A) For the use and benefit of a political subdivision and its citizens, pursuant to its
 74 governmental, proprietary, and administrative function; or

75 (B) For the use and benefit of a political subdivision or political subdivisions, which
 76 is constructed by a person pursuant to a public-private initiative.

77 (7) 'Revenue bonds' means revenue bonds issued by the authority pursuant to the terms
 78 of this chapter under Article 3 of Chapter 82 of Title 36, the 'Revenue Bond Law.'

79 (8) 'Self-liquidating' means that a project or group of projects whose revenues will be
 80 sufficient to pay, in the judgment of the authority, the principal of and interest on bonds
 81 which may be issued for the cost of such project or group of projects.

82 50-39-5.

83 The authority shall have the power to:

84 (1) Hold, own, lease, transfer, and convey real and personal property or interests;

85 (2) Sue and be sued;

86 (3) Have and to use a seal and to alter the same at its pleasure;

87 (4) Acquire, construct, purchase, own, equip, operate, extend, improve, lease, and sell
 88 any project;

89 (5) Exercise the powers conferred upon a public corporation or a public authority by
 90 Article IX, Section III, Paragraph I of the Constitution of Georgia, such authority being
 91 expressly declared to be a public corporation or a public authority within the meaning of
 92 such provision of the Constitution of Georgia;

93 (6) Acquire property and projects in its own name by gift or by purchase on such terms
94 and conditions and in such manner as it may deem proper. If the authority shall deem it
95 expedient to construct any project or projects on real property or any interest therein or
96 usufruct which is subject to the control of a political subdivision, such political
97 subdivision is authorized to convey such real property or interest therein to the authority
98 for such consideration as may be agreed upon by the authority and such political
99 subdivision, taking into consideration the public benefit to be derived from such
100 conveyance.

101 (7) Accept gifts and bequests for its corporate purposes;

102 (8) Appoint, select, and employ, as the authority may choose, officers, agents,
103 employees, and attorneys, including engineering, architectural, and construction experts,
104 fiscal agents, underwriters, or other advisors, and to fix their compensation;

105 (9) Make and execute with any political subdivision or any person, contracts, lease
106 agreements, rental agreements, installment sale agreements, and other instruments,
107 relating to its projects and incident to the exercise of the powers of the authority;
108 provided, without limiting the generality of this paragraph, that the authority is
109 specifically granted the power to enter into contracts, lease agreements, rental
110 agreements, installment sale agreements, and related agreements for a term not to exceed
111 50 years as provided in Article IX, Section III of the Constitution of Georgia;

112 (10) Lease, sell, transfer, or otherwise dispose of any property, real or personal, or assets
113 of the authority, or to assign its rights under its contracts, lease agreements, or installment
114 sale agreements or its right to receive payments thereunder, either directly or through
115 trusts or custodial arrangements whereby interests are created in such contracts, lease
116 agreements, or installment sale agreements or the payments to be received thereunder
117 through the issuance of trust certificates, certificates of participation, custodial receipts,
118 or other similar instruments;

119 (11) Accept loans and grants of money or property of any kind from the United States,
120 this state, or any political subdivision thereof;

121 (12) Issue its revenue bonds, notes, or other obligations to finance or refinance the cost
122 of a project or projects payable solely from funds or revenues of the authority pledged for
123 that purpose and to pledge and assign any of its revenues, income, rent, charges, and fees
124 to provide for the payment of the same and to provide for the rights of the holders of such
125 revenue bonds;

126 (13) Enter into credit enhancement or liquidity agreements relating to any obligations of
127 the authority, provided that the obligation of the authority under any such agreements
128 shall not be a general obligation of the authority but shall be a limited obligation of the
129 authority payable from a specific source of funds identified for such purpose;

130 (14) Make such rules and regulations governing its employees and property as it may in
131 its discretion deem proper;

132 (15) Be sued the same as any private corporation on any contractual obligation of the
133 authority. The authority shall have the same rights to sue any other person or entity as
134 any private corporation; and

135 (16) Charge political subdivisions and persons administrative fees in connection with the
136 review of requests pursuant to Code Section 50-39-20 and the issuance of revenue bonds,
137 which fees may be paid from the proceeds of such revenue bonds; provided, however,
138 that such fees shall not exceed \$7,500.00 for political subdivisions and \$100,000.00 for
139 persons.

140 50-39-6.

141 (a) The authority shall consist of nine members as follows:

142 (1) Six members shall be appointed by the Governor;

143 (2) The commissioner of the Department of Transportation; and

144 (3) The chairpersons of the House Committee on Transportation and the Senate
145 Transportation Committee.

146 (b) The terms of office of the appointed members of the authority shall be four years and
147 until his or her successor is appointed and qualified; provided, however, that three of the
148 initial members appointed by the Governor shall serve two-year terms, as determined by
149 the Governor. Successors shall serve four-year terms and be appointed as the original
150 members were appointed. Vacancies shall be filled by the appointing authority for the
151 unexpired term. Any member of the authority shall be eligible for reappointment.

152 (c) The authority shall elect one of its members as chairperson and another member as vice
153 chairperson and shall also elect a secretary-treasurer who shall not necessarily be a member
154 of the authority.

155 (d) A majority of the members of the authority shall constitute a quorum, and no vacancy
156 on the authority shall impair the right of the quorum to exercise all the rights and perform
157 all the duties of the authority, and in every instance, a majority vote of a quorum shall
158 authorize any legal act of the authority, including all things necessary to authorize and issue
159 revenue bonds.

160 (e) The members of the authority shall not be entitled to compensation for their services
161 but shall be entitled to and shall be reimbursed for the actual expenses necessarily incurred
162 in the performance of their duties. The authority shall make rules and regulations for its
163 own governance.

164 (f) Any change in name or composition of the authority shall in no way affect the vested
165 rights of any person under the provisions of this chapter or impair the obligations of any
166 contracts existing under this chapter.

167 50-39-7.

168 The authority shall have power and is authorized from time to time to provide for the
169 issuance and sale of negotiable revenue bonds in the manner provided by Article 3 of
170 Chapter 82 of Title 36, the 'Revenue Bond Law,' for the purpose of paying all or any part
171 of the cost of a project or projects, including the cost of constructing, reconstructing,
172 equipping, extending, adding to, or improving any such project or projects, or for the
173 purpose of refunding, as herein provided, any such revenue bonds of the authority or any
174 other authority or public body previously issued to finance or refinance the cost of a project
175 or projects. The principal of and interest on such revenue bonds shall be a limited
176 obligation of the authority payable solely from the source or sources of funds specified in
177 the trust indenture or resolution of the authority authorizing the issuance of such revenue
178 bonds. The revenue bonds of each issue shall be issued and validated under and in
179 accordance with the provisions of Article 3 of Chapter 82 of Title 36, the 'Revenue Bond
180 Law.' Such revenue bonds shall mature on such dates, bear interest at such rate or rates,
181 whether fixed or variable, be subject to redemption, and have such other terms as the
182 authority may provide in the trust indenture or resolution relating thereto. Such revenue
183 bonds may be sold in a negotiated sale or in a public sale as the authority may determine.

184 50-39-8.

185 The authority shall also have the power to incur indebtedness from time to time for the
186 purpose of financing or refinancing the cost of a project or projects or refunding any
187 obligations previously issued for such purpose, or for any other purpose, whether in the
188 form of a loan or through the issuance of notes, and the principal of and interest on such
189 notes or loans shall be a limited obligation of the authority payable solely from the source
190 or sources of funds specified in the resolution or trust indenture of the authority authorizing
191 such loan or the issuance of such notes. Any such loan or notes shall not be required to be
192 validated as a condition to the issuance thereof and shall have such terms as may be
193 specified by the authority in the resolution or trust indenture authorizing the same.

194 50-39-9.

195 All revenue bonds issued under the provisions of this chapter shall have all the qualities
196 and incidents of negotiable instruments under the negotiable instruments law of this state.
197 All such revenue bonds, and any loan incurred or note issued as provided in this chapter,

198 are declared to be issued or incurred for an essential public and governmental purpose and
199 such obligations and the interest thereon shall be exempt from all taxation within this state.

200 50-39-10.

201 Revenue bonds or notes issued under the provisions of this chapter or any loan incurred as
202 authorized herein shall not constitute a debt or a pledge of the faith and credit of the State
203 of Georgia or of any political subdivision thereof but shall be payable solely from the
204 sources as may be designated in the resolution or trust indenture of the authority
205 authorizing the issuance of the same. The issuance of such obligations shall not directly,
206 indirectly, or contingently obligate the State of Georgia or any political subdivision thereof
207 to levy or to pledge any form of taxation for the payment thereof. No holder of any
208 revenue bond or note or receiver or trustee in connection therewith shall have the right to
209 enforce the payment thereof against any property of the State of Georgia or any political
210 subdivision thereof, nor shall any such revenue bond or note constitute a charge, lien, or
211 encumbrance, legal or equitable, upon any such property. All such obligations shall
212 contain on their face a recital substantially setting forth the foregoing provisions of this
213 Code section. Nothing in this Code section shall be construed to prohibit any political
214 subdivision from obligating itself to pay the amounts required under any contract entered
215 into with the authority pursuant to Article IX of the Constitution of Georgia or any
216 successor provision, including from funds received from taxes to be levied and collected
217 for that purpose to the extent necessary to pay the obligations contractually incurred with
218 the authority and from any other source. No revenue bonds shall be issued by the authority
219 under this chapter unless its members adopt a resolution finding that the project or
220 combination of projects for which such revenue bonds are to be issued will be
221 self-liquidating.

222 50-39-11.

223 In the discretion of the authority, any issue of revenue bonds, notes, or other obligations
224 may be secured by a trust indenture by and between the authority and a trustee, which may
225 be any trust company or bank having the powers of a trust company within or outside the
226 State of Georgia. Such trust indenture may pledge or assign fees, tolls, rents, revenues, and
227 earnings to be received by the authority, including the proceeds derived from the financing,
228 sale, or lease of any project. Either the resolution providing for the issuance of revenue
229 bonds or other obligations or such trust indenture may contain such provisions for
230 protecting and enforcing the rights and remedies of the owners of such bonds or obligations
231 as may be reasonable and proper and not in violation of law, including covenants setting
232 forth the duties of the authority or any lessee or purchaser in relation to the acquisition and

233 construction of any project; the maintenance, operation, repair, and issuance of any project;
234 and the custody, safeguarding, and application of all moneys, including the proceeds
235 derived from the sale or lease of any project or from the sale of any such bonds, notes, or
236 other obligations, and may also contain provisions concerning the conditions, if any, upon
237 which additional bonds, notes, or other obligations may be issued, whether on a parity with
238 or subordinate to any other obligations issued by the authority. Such trust indenture or
239 resolution may set forth the rights and remedies of the owners of such obligations and of
240 the trustee. In addition to the foregoing, such trust indenture or resolution may contain
241 such other provisions as the authority may deem reasonable and proper for the security of
242 the owners of such bonds, notes, or other obligations or otherwise necessary or convenient
243 in connection with the issuance of such obligations. All expenses incurred in carrying out
244 such trust indenture or resolution may be treated as a part of the cost of maintenance,
245 operation, and repair of the project affected by such trust indenture or resolution.

246 50-39-12.

247 The authority may assign or pledge any property or revenues to the payment of the
248 principal and interest on revenue bonds of the authority as the resolution authorizing the
249 issuance of the bonds or the trust indenture may provide. The use and disposition of such
250 property or revenues assigned to the payment of revenue bonds or other obligations shall
251 be subject to the trust indenture or resolution authorizing the issuance of such revenue
252 bonds or obligations. Any lien created by the authority for the payment of such revenue
253 bonds or obligations may be a first lien or a subordinate lien as the authority may provide
254 and any such trust indenture or resolution may provide at the option of the authority, for
255 the issuance of additional bonds or other obligations sharing any lien on a parity or
256 subordinate lien basis.

257 50-39-13.

258 The authority is authorized to provide by resolution for the issuance of obligations, whether
259 revenue bonds, notes, or other obligations, for the purpose of refunding any revenue bonds,
260 notes, or other obligations issued under the provisions of this chapter or under any other
261 provision of Georgia law so long as such revenue bonds, notes, or other obligations were
262 issued for a purpose or project for which the authority could issue revenue bonds. The
263 issuance of such refunding bonds, notes, or other obligations and all the details thereof, the
264 rights of the holders thereof, and the duties of the authority with respect to the same shall
265 be governed by the foregoing provisions of this chapter insofar as the same may be
266 applicable.

267 50-39-14.

268 The principal office of the authority shall be in Fulton County, Georgia. Any action to
269 protect or enforce any rights under this chapter and any action pertaining to validation of
270 any revenue bonds issued under the provisions of this chapter and for the validation of any
271 contract entered into by the authority shall be brought in the Superior Court of Fulton
272 County, and such court shall have exclusive original jurisdiction of such actions. Service
273 upon the authority of any process, subpoena, or summons shall be effected by serving the
274 same personally upon any member of the authority.

275 50-39-15.

276 Revenue bonds of the authority shall be confirmed and validated in accordance with the
277 procedures now or hereafter set forth in Article 3 of Chapter 82 of Title 36, the 'Revenue
278 Bond Law,' as the same now exists or may hereafter be amended. The petition for
279 validation shall also make any political subdivision or person a party defendant to such
280 action, if such political subdivision or person has or will contract with the authority with
281 respect to the project for which revenue bonds are to be issued and are sought to be
282 validated. The revenue bonds, when validated, and the judgment of validation shall be
283 final and conclusive with respect to the validity of such revenue bonds against the authority
284 and against all other persons or entities, regardless of whether such persons or entities were
285 parties to such validation proceedings.

286 50-39-16.

287 While any of the revenue bonds, notes, or other obligations issued by the authority or any
288 interests in contracts of the authority remain outstanding, the powers, duties, or existence
289 of the authority or of its officers, employees, or agents shall not be diminished or impaired
290 in any manner that will adversely affect the interest and rights of the holders of such
291 revenue bonds, notes, or other obligations or such interests in contracts of the authority.
292 The provisions of this Code section shall be for the benefit of the authority and of the
293 holders of any such bonds or obligations and interests in contracts of the authority and,
294 upon the issuance of revenue bonds, notes, or other obligations or the creation of interests
295 in contracts of the authority under the provisions of this chapter, shall constitute a contract
296 with the holders of such revenue bonds, notes, or other obligations or such interests in
297 contracts of the authority.

298 50-39-17.

299 All moneys received by the authority pursuant to this chapter, whether as proceeds from
300 the sale of revenue bonds or obligations of the authority, as grants or other contributions,

301 or as revenues, income, fees, and earnings, shall be deemed to be the trust funds to be held
 302 and applied solely as provided in this chapter and in such resolutions and trust indentures
 303 as may be adopted and entered into by the authority pursuant to this chapter. The
 304 bondholders paying or entitled to receive the benefits of such revenue bonds shall have a
 305 lien on all such funds until applied as provided for in any resolution or trust indenture of
 306 the authority.

307 50-39-18.

308 Subject to the provisions of any contract between the authority and a political subdivision
 309 or person with respect to a project or projects for which revenue bonds, notes, or other
 310 obligations are to be issued, the authority shall be authorized to prescribe, fix, and collect
 311 rates, fees, tolls, rents, and charges and to revise, from time to time, and collect such
 312 revised rates, fees, tolls, rents, and charges for the services, facilities, or commodities
 313 furnished, including leases, concessions, or subleases of its projects, and to determine the
 314 price and terms at and under which its projects may be sold, leased, or otherwise disposed
 315 of. Such rates, fees, tolls, rents, and charges shall be so fixed and adjusted as to carry out
 316 and perform the terms and provisions of any resolution, trust indenture, or contract with or
 317 for the benefit of bondholders, and such rates, fees, tolls, rents, and charges shall not be
 318 subject to supervision or regulation by any other commission, board, bureau, or agency of
 319 the state, except the political subdivisions participating in the project. The use and
 320 disposition of rates, fees, tolls, rents, and charges and revenues shall be subject to the
 321 provisions of the resolution authorizing the issuance of such bonds or the trust indenture
 322 securing the same, if there are any.

323 50-39-19.

324 The authority may not issue revenue bonds to finance a project pursuant to a public-private
 325 initiative unless all of the political subdivisions within whose boundaries the project is to
 326 be located have approved the financing of the project. An approval under this Code section
 327 may be made by a resolution issued by the governing authority of the political subdivision.

328 50-39-20.

329 Action by the authority regarding any project or combination of projects shall be initiated
 330 by a political subdivision or a person recommending to the authority the undertaking with
 331 respect to a specific project or a group of projects of any action permitted by this chapter
 332 deemed by such political subdivision or person to be desirable in the public interest and
 333 consistent with the purposes of this chapter. The authority shall consider such request and
 334 may by resolution provide for the undertaking and financing of all or any part of such

335 recommended actions but shall be under no duty to undertake or finance any of them. The
336 authority shall not consider any request made by a person, unless such person has
337 contracted or will contract with a political subdivision to construct the proposed project for
338 such political subdivision's benefit.

339 50-39-21.

340 Any project initiated under this chapter shall be for the benefit and use of a political
341 subdivision or political subdivisions and shall upon completion be a part of the system of
342 roads of such political subdivision or political subdivisions. All projects shall be
343 maintained and kept in good repair by the political subdivision or political subdivisions
344 with jurisdiction over the project, unless otherwise specified by an agreement between all
345 political subdivisions containing any portion of the project.

346 50-39-22.

347 The Attorney General shall provide legal services for the authority, and the provisions of
348 Chapter 15 of Title 45 relating to the Attorney General shall apply.

349 50-39-23.

350 All property or interests in property owned by the authority shall be public property held
351 and owned for governmental purposes and shall be exempt from ad valorem taxation. The
352 exercise of the powers conferred upon the authority hereunder shall constitute an essential
353 governmental function for a public purpose, and the authority shall be required to pay no
354 taxes or assessments upon any of the property acquired by it or under its jurisdiction,
355 control, possession, or supervision or upon its activities in the operation and maintenance
356 of property acquired by it or any fees, rentals, or other charges for the use of such property
357 or other income received by the authority. The tax exemption herein provided shall not
358 include an exemption from sales and use tax on property purchased by or for the use of the
359 authority.

360 50-39-24.

361 The authority shall have the same immunity and exemption from liability for torts and
362 negligence as this state, and the officers, agents, and employees of the authority, when in
363 performance of the work of the authority, shall have the same immunity and exemption
364 from liability for torts and negligence as officers, agents, and employees of this state.

365 50-39-25.

366 The property of the authority shall not be subject to levy and sale under legal process.

367 50-39-26.

368 The authority shall not have the right to impose any tax on any person or property.

369 50-39-27.

370 This chapter, being for the benefit of the state and its inhabitants, shall be liberally
371 construed to effect the purposes hereof.

372 50-39-28.

373 This chapter provides an additional and alternative method for financing local public road
374 projects for political subdivisions and persons pursuant to public-private initiatives. It is
375 not intended to supersede any other programs in place to aid or assist in the planning,
376 financing, or constructing of local public roads."

377 **SECTION 2.**

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

380 **SECTION 3.**

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