

2010 Georgia Code
TITLE 50 - STATE GOVERNMENT
CHAPTER 23 - ENVIRONMENTAL
FINANCE AUTHORITY
ARTICLE 1 - ENVIRONMENTAL FINANCE
AUTHORITY
PART 1 - GENERAL PROVISIONS
§ 50-23-5 - Purpose, powers, and duties

O.C.G.A. 50-23-5 (2010)

50-23-5. Purpose, powers, and duties

(a) The corporate purpose and the general nature of the business of the Georgia Environmental Finance Authority shall be assistance in constructing, extending, rehabilitating, repairing, replacing, and renewing environmental facilities necessary for public purposes and commercial, residential, and industrial development purposes or necessary or incidental to such purposes by providing grants, loans, bonds, and other forms of financial and technical assistance to local governments and instrumentalities of the state to finance any project or pay the cost of any project.

(b) The authority shall have power:

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

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

(3) To make and execute contracts, lease agreements, and all other instruments necessary or convenient to exercise the powers of the authority or to further the public purpose for which the authority is created, such contracts, leases, or instruments to include contracts for construction, operation, management, or maintenance of projects and facilities owned by local government, the authority, or by the state or any state authority; and any and all local governments, departments, institutions, authorities, or agencies of the state are authorized to enter into contracts, leases, agreements, or other instruments with the authority upon such terms and to transfer real and personal property to the authority for such consideration and for such purposes as they deem advisable;

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

(5) To appoint an executive director who shall be executive officer and administrative head of the authority. The executive director shall be appointed and serve at the pleasure of the authority. The executive director shall hire officers, agents, and employees, prescribe their duties and qualifications and fix their compensation, and perform such other duties as may be prescribed by the authority. Such officers, agents, and employees shall serve at the pleasure of the executive director;

(6) To finance projects by loan, loan guarantee, grant, lease, or otherwise, and to pay the cost of any project from the proceeds of bonds, revenue bonds, notes, or other obligations of the authority or any other funds of the authority or from any contributions or loans by persons, corporations, partnerships, whether limited or general, or

other entities, all of which the authority is authorized to receive, accept, and use;

(7) To make loans, through the acquisition of bonds, revenue bonds, notes, or other obligations, and to make grants to local governments to finance projects and to pay the cost of any project by local government and to adopt rules, regulations, and procedures for making such loans and grants;

(8) To borrow money to further or carry out its public purpose and to issue revenue bonds, notes, or other obligations to evidence such loans and to execute leases, trust indentures, trust agreements for the sale of its revenue bonds, notes, or other obligations, loan agreements, mortgages, deeds to secure debt, trust deeds, security agreements, assignments, and such other agreements or instruments as may be necessary or desirable in the judgment of the authority, and to evidence and to provide security for such loans;

(9) To issue revenue bonds, bonds, notes, or other obligations of the authority, to receive payments from the Department of Community Affairs, and to use the proceeds thereof for the purpose of:

(A) Paying or loaning the proceeds thereof to pay, all or any part of, the cost of any project or the principal of and premium, if any, and interest on the revenue bonds, bonds, notes, or other obligations of any local government issued for the purpose of paying in whole or in part, the cost of any project and having a final maturity not exceeding three years from the date of original issuance thereof;

(B) Paying all costs of the authority incidental to, or necessary and appropriate to, furthering or carrying out the purposes of the authority; and

(C) Paying all costs of the authority incurred in connection with the

issuance of the revenue bonds, bonds, notes, or other obligations;

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

(11) Subject to any agreement with bondholders, to invest moneys of the authority not required for immediate use to carry out the purposes of this chapter, including the proceeds from the sale of any bonds and any moneys held in reserve funds, in obligations which shall be limited to the following:

(A) Bonds or other obligations of the state or bonds or other obligations, the principal and interest of which are guaranteed by the state;

(B) Bonds or other obligations of the United States or of subsidiary corporations of the United States government fully guaranteed by such government;

(C) Obligations of agencies of the United States government and its subsidiary corporations and instrumentalities or entities sanctioned or authorized by the United States government including, but not limited to, the Federal Land Bank, the Federal Home Loan Bank, the Federal Intermediate Credit Bank, Farm Credit Banks regulated by the Farm Credit Administration, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Bank for Cooperatives;

(D) Bonds or other obligations issued by any public housing agency or municipality in the United States, which bonds or obligations are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or

contracts with the United States government, or project notes issued by any public housing agency, urban renewal agency, or municipality in the United States and fully secured as to payment of both principal and interest by a requisition, loan, or payment agreement with the United States government;

(E) Certificates of deposit of national or state banks or federal savings and loan associations located within the state which have deposits insured by the Federal Deposit Insurance Corporation or any Georgia deposit insurance corporation and certificates of deposit of state building and loan associations located within the state which have deposits insured by any Georgia deposit insurance corporation, including the certificates of deposit of any bank, savings and loan association, or building and loan association acting as depository, custodian, or trustee for any such bond proceeds; provided, however, that the portion of such certificates of deposit in excess of the amount insured by the Federal Deposit Insurance Corporation or any Georgia deposit insurance corporation, if any such excess exists, shall be secured by deposit with the Federal Reserve Bank of Atlanta, Georgia, or with any national or state bank located within the state, of one or more of the following securities in an aggregate principal amount equal at least to the amount of such excess:

(i) Direct and general obligations of the state or of any county or municipality in the state;

(ii) Obligations of the United States or subsidiary corporations included in subparagraph (B) of this paragraph;

(iii) Obligations of agencies of the United States government included in subparagraph (C) of this paragraph; or

(iv) Bonds, obligations, or project notes of public housing agencies, urban renewal agencies, or municipalities included in subparagraph

(D) of this paragraph;

(F) Interest-bearing time deposits, repurchase agreements, reverse repurchase agreements, rate guarantee agreements, or other similar banking arrangements with a bank or trust company having capital and surplus aggregating at least \$50 million or with any government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York having capital aggregating at least \$50 million or with any corporation which is subject to registration with the Board of Governors of the Federal Reserve System pursuant to the requirements of the Bank Holding Company Act of 1956, provided that each such interest-bearing time deposit, repurchase agreement, reverse repurchase agreement, rate guarantee agreement, or other similar banking arrangement shall permit the moneys so placed to be available for use at the time provided with respect to the investment or reinvestment of such moneys;

(G) Prime bankers' acceptances; and

(H) State operated investment pools;

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

(13) To invest any moneys held in debt service funds or sinking funds not restricted as to investment by the Constitution or laws of this state or the federal government or by contract not required for immediate

use or disbursement in obligations of the types specified in paragraph (11) of this subsection, provided that, for the purposes of this paragraph, the amounts and maturities of such obligations shall be based upon and correlated to the debt service, which debt service shall be the principal installments and interest payments, schedule for which such moneys are to be applied;

(14) To provide advisory, technical, consultative, training, educational, and project assistance services to the state and local government and to enter into contracts with the state and local government to provide such services. The state and local governments are authorized to enter into contracts with the authority for such services and to pay for such services as may be provided them;

(15) To make loan commitments and loans to local government and to enter into option arrangements with local government for the purchase of said bonds, revenue bonds, notes, or other obligations;

(16) To sell or pledge any bonds, revenue bonds, notes, or other obligations acquired by it whenever it is determined by the authority that the sale thereof is desirable;

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

(18) To lease to local governments any authority owned facilities or property or any state owned facilities or property which the authority is managing under contract with the state;

(19) To contract with state agencies or any local government for the use by the authority of any property or facilities or services of the state or any such state agency or local government or for the use by any state agency or local government of any facilities or services of the authority and such state agencies and local governments are authorized to enter into such contracts;

(20) To extend credit or make loans, including the acquisition of bonds, revenue bonds, notes, or other obligations to the state, any local government, or other entity, including the federal government, for the cost or expense of any project or any part of the cost or expense of any project, which credit or loans may be evidenced or secured by trust indentures, loan agreements, notes, mortgages, deeds to secure debt, trust deeds, security agreements, or assignments, on such terms and conditions as the authority shall determine to be reasonable in connection with such extension of credit or loans, including provision for the establishment and maintenance of reserve funds; and, in the exercise of powers granted by this chapter in connection with any project, the authority shall have the right and power to require the inclusion in any such trust indentures, loan agreement, note, mortgage, deed to secure debt, trust deed, security agreement, assignment, or other instrument such provisions or requirements for guaranty of any obligations, insurance, construction, use, operation, maintenance, and financing of a project and such other terms and conditions as the authority may deem necessary or desirable;

(21) As security for repayment of any bonds, revenue bonds, notes, or other obligations of the authority, to pledge, lease, mortgage, convey, assign, hypothecate, or otherwise encumber any property of the authority including, but not limited to, real property, fixtures, personal property, and revenues or other funds and to execute any lease, trust indenture, trust agreement, agreement for the sale of the authority's revenue bonds, notes or other obligations, loan agreement, mortgage, deed to secure debt, trust deed, security agreement, assignment, or

other agreement or instrument as may be necessary or desirable, in the judgment of the authority, to secure any such revenue bonds, notes, or other obligations, which instruments or agreements may provide for foreclosure or forced sale of any property of the authority upon default in any obligation of the authority, either in payment of principal, premium, if any, or interest or in the performance of any term or condition contained in any such agreement or instrument;

(22) To receive and use the proceeds of any tax levied by a local government to pay all or any part of the cost of any project or for any other purpose for which the authority may use its own funds pursuant to this chapter;

(23) To use income earned on any investment for such corporate purposes of the authority as the authority in its discretion shall determine, including, but not limited to, the use of repaid principal and earnings on funds, the ultimate source of which was an appropriation to a budget unit of the state to make loans for solid waste projects;

(23.1) To exercise such powers and perform such functions as provided for the authority under Chapter 6A of Title 12, including but not limited to the making of grants and loans as provided therein, for purposes of land conservation projects as defined in said chapter; and to provide advisory, technical, consultative, training, educational, and assistance services and enter into agreements for the same for purposes of such land conservation projects;

(23.2) To incorporate one or more nonprofit corporations as subsidiary corporations of the authority for the purpose of carrying out any of the powers of the authority and to accomplish any of the purposes of the authority including but not limited to accepting donations to be used to advance state-wide energy education and energy efficiency and conservation initiatives. Any such subsidiary corporation shall be a nonprofit corporation, a public body corporate and politic, a political

subdivision of the state, and an instrumentality of the state and shall exercise essential governmental functions. Any subsidiary corporations created pursuant to this power shall be created pursuant to Chapter 3 of Title 14, the "Georgia Nonprofit Corporation Code," and the Secretary of State shall be authorized to accept such filings. Upon dissolution of any subsidiary corporation of the authority, any assets shall revert to the authority or to any successor to the authority or, failing such succession, to the State of Georgia. The authority shall not be liable for the debts or obligations or bonds of any subsidiary corporation or for the actions or omissions to act of any subsidiary corporation unless the authority expressly so consents;

(24) To cooperate and act in conjunction with industrial, commercial, medical, scientific, public interest, or educational organizations; with agencies of the federal government and this state and local government; with other states and their political subdivisions; and with joint agencies thereof and such state agencies, local government, and joint agencies are authorized and empowered to cooperate and act in conjunction, and to enter into contracts or agreements with the authority and local government to achieve or further the policies of the state declared in this chapter;

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

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

(27) To do all things necessary or convenient to carry out the powers conferred by this chapter;

(28) To designate three or more of its number to constitute an

executive committee who, to the extent provided in such resolution or in the bylaws of the authority, shall have and may exercise the powers of the authority in the management of the affairs and property of the authority and the exercise of its powers;

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

(30) To administer funds granted to the state by the administrator of the federal Environmental Protection Agency pursuant to Title VI of the Federal Water Pollution Control Act and Title XIV of the federal Safe Drinking Water Act, as now or hereafter amended, for the purpose of providing assistance to municipalities or counties or any combination thereof or to any public authority or, if authorized by law, any private agency, commission, or institution for construction of treatment works as that term is defined in Section 212 of the federal Clean Water Act of 1977, P.L. 95-217, which are publicly owned. The authority may also administer funds granted to the state by the administrator of the federal Environmental Protection Agency pursuant to Title XIV of the federal Safe Drinking Water Act, as now or hereafter amended, for the purpose of providing assistance to municipalities or counties or any combination thereof or any public or, if authorized by law, any private authority, agency, commission, or institution for the construction of public drinking water works as such term is defined in Section 1401 of the federal Safe Drinking Water Act Amendments of 1986, P.L. 99-339. The authority may also administer funds granted to the state by the administrator of the federal Environmental Protection Agency pursuant to 33 U.S.C.A. Section 1381, et seq., for the purpose of providing financial assistance for any eligible water pollution control project. The authority shall deposit any such funds received from the administrator of the federal Environmental Protection Agency into a separate water pollution control revolving fund or a drinking water revolving fund transferred to the authority from the Environmental

Protection Division of the Department of Natural Resources or hereafter established; provided, however, that where appropriate, the authority may deposit funds received from the administrator of the federal Environmental Protection Agency into the Georgia Reservoir Fund established by Code Section 50-23-28. The forms and administration of such funds shall be established by the authority in accordance with federal requirements;

(30.1) To exercise any powers necessary or convenient to conduct the activities and perform the acts that are contemplated for the authority by Chapter 22 of Title 36;

(30.2) To fund, or partially fund, the Georgia Land Conservation Revolving Loan Fund established by Chapter 22 of Title 36;

(31) To contract with the Environmental Protection Division of the Department of Natural Resources for the implementation and operation, in whole or in part, of any drought protection or reservoir program and for the purposes of Article 6 of Chapter 5 of Title 12;

(31.1) To fund, or partially fund, the Georgia Reservoir Fund established by Code Section 50-23-28. Proceeds of any bonds authorized by the General Assembly for the purposes of said Code section, and any repayment of such proceeds after their expenditure, may be deposited in such fund;

(31.2) For the purpose of supplementing and extending the ability of the authority to expedite and accommodate the construction of projects, to enter into arrangements, consistent with existing bond indenture and other obligations of the authority, whereby the authority agrees to enter into one or more notes with a financial institution or other lender, the proceeds of which shall be payable to the authority and which constitute an obligation of the authority, together with a companion note or notes on substantially the same terms payable

from the authority to a local government, with such companion notes, and the obligation of repayment thereon, pledged as security for the repayment of such notes, on such terms as may be agreeable to the parties thereto;

(32) To lend any of the securities of the type described in this subsection; and

(33) To transfer to the state any funds of the authority determined by the authority to be in excess of those needed for its corporate purposes.

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