

House Bill 1096

By: Representatives Parham of the 122nd and Porter of the 143rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated,
2 relating to public authorities for parks, historic areas, memorials, and recreation, so as to
3 provide for the Oconee River Greenway Authority; to repeal conflicting laws; and for other
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 7 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to
8 public authorities for parks, historic areas, memorials, and recreation, is amended by
9 inserting a new Part 6 to read as follows:

10 **"Part 6**

11 12-3-400.

12 This part shall be known and may be cited as the 'Oconee River Greenway Authority Act.'

13 12-3-401.

14 As used in this part, the term:

15 (1) 'Authority' means the Oconee River Greenway Authority.

16 (2) 'Cost of the project' means the cost of construction; the cost of all lands, properties,
17 rights, easements, and franchises acquired; the cost of all machinery and equipment;
18 financing charges; interest prior to and during construction and for one year after
19 completion of construction; the cost of engineering, architectural, and legal expenses and
20 of plans and specifications and other expenses necessary or incident to determining the
21 feasibility or practicability of the project; administrative expenses; and such other
22 expenses as may be necessary or incident to the financing authorized in this part, the
23 construction of any project, and the placing of the same in operation. Any obligation or

1 expense incurred for any of the foregoing purposes shall be regarded as a part of the cost
2 of the project and may be paid or reimbursed as such out of such bonds or obligations as
3 may be issued by any authority, department, commission, or agency of the State of
4 Georgia.

5 (3) 'Geographic jurisdiction of the authority' means Baldwin County and, subject to
6 approval and upon such terms as agreed to by the authority and the governing authority
7 of any county to be added, any other county bordered by or through which flows the
8 Oconee River or any impounded waters thereof.

9 (4) 'Greenspace' has the meaning provided by paragraph (3) of Code Section 36-22-2.

10 (5) 'Project' means greenspace which borders, or is contiguous to greenspace which
11 borders, the Oconee River or any impounded waters thereof in any county or counties
12 within the geographic jurisdiction of the authority and improvements thereto of every
13 kind and character deemed by the authority necessary or convenient for its corporate
14 purpose.

15 12-3-402.

16 (a) There is created a body corporate and politic to be known as the Oconee River
17 Greenway Authority which shall be deemed to be an instrumentality of the State of Georgia
18 and a public corporation; and by that name, style, and title such body may contract and be
19 contracted with, sue and be sued, implead and be impleaded, and complain and defend in
20 all courts of this state.

21 (b) The authority shall consist of the commissioner of natural resources or the designee
22 thereof, the director of the State Forestry Commission or the designee thereof, the mayor
23 of Milledgeville, the president of Georgia Military College, and the chairperson of the
24 governing authority of each county which is in the geographic jurisdiction of the authority.

25 (c) The authority shall elect its own officers. No vacancy on the authority shall impair the
26 right of the quorum to exercise all rights and perform all duties of the authority.

27 (d) The members of the authority shall receive no compensation for their services on the
28 authority but shall be reimbursed for actual expenses incurred while discharging the duties
29 imposed upon them by this part.

30 (e) The authority shall have perpetual existence. Any change in name or composition of
31 the authority shall in no way affect the vested rights of any person under this part or impair
32 the obligations of any contracts existing under this part.

33 (f) The members of the authority shall be accountable in all respects as trustees. The
34 authority shall keep suitable and proper books and records of all receipts, income, and
35 expenditures of every kind and shall submit for inspection all the books, together with the
36 proper statement of the authority's financial position, to the state auditor.

1 (g) The authority is assigned to the Department of Natural Resources for administrative
2 purposes only in accordance with Code Section 50-4-3.

3 12-3-403.

4 The corporate purpose and the general nature of the business of the authority shall be the
5 acquisition or establishment of projects; their maintenance and protection; and, to the
6 extent consistent with one or more of the goals specified in paragraph (3) of Code Section
7 36-22-2, their development or restoration.

8 12-3-404.

9 The authority is authorized:

10 (1) To have a seal and alter it at pleasure;

11 (2) To acquire, hold, and dispose of real and personal property for its corporate purposes;

12 (3) To appoint, select, and employ officers, agents, and employees, including but not
13 limited to conservation, management, engineering, architectural, and construction experts
14 and fiscal agents; to contract for the services of individuals or organizations not employed
15 full time by the authority who or which are engaged primarily in the rendition of personal
16 services rather than the sale of goods or merchandise, such as, but not limited to, the
17 services of conservationists, managers, accountants, engineers, architects, consultants,
18 and advisors, and to allow suitable compensation for such services; and to make
19 provisions for group insurance, retirement, or other employee benefit arrangements,
20 provided that no part-time or contract employees shall participate in group insurance or
21 retirement benefits;

22 (4) To make contracts and to execute all instruments necessary or convenient, including
23 contracts for construction of projects or contracts with respect to the leasing or use of
24 projects which the authority causes to be subdivided, erected, or acquired;

25 (5) To plan, survey, subdivide, administer, construct, erect, acquire, own, repair,
26 remodel, maintain, add to, extend, improve, equip, operate, and manage projects as
27 defined in this part, such projects to be located on property owned or leased by the
28 authority or the State of Georgia or under the control and management of the authority.

29 The cost of any such project shall be paid from its income, from the proceeds of revenue
30 anticipation certificates of the authority, or from such proceeds and any loan, gift, or
31 grant from the United States of America or any agency or instrumentality thereof, or the
32 State of Georgia, or any county, municipal corporation, authority, or local government
33 or governing body;

34 (6) To accept loans or grants, or both, of money, materials, or property of any kind from
35 the United States of America or any agency or instrumentality thereof upon such terms

1 and conditions as the United States of America or such agency or instrumentality may
2 impose;

3 (7) To borrow money for any of its corporate purposes, to issue negotiable revenue
4 anticipation certificates from earnings of such projects, and to provide for the payment
5 of the same and for the rights of the holders thereof;

6 (8) To exercise any power which is usually possessed by private corporations performing
7 similar functions and which is not in conflict with the Constitution and laws of this state;

8 (9) To act as agent for the United States of America or any agency, department,
9 corporation, or instrumentality thereof, in any manner within the purposes or powers of
10 the authority;

11 (10) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the
12 manner in which its business may be transacted and in which the power granted to it may
13 be enjoyed as the authority may deem necessary or expedient in facilitating its business;

14 (11) To receive and accept loans, gifts, grants, donations, or contributions of property,
15 facilities, or services, with or without consideration, from any person, firm, or corporation
16 or from the State of Georgia, or any agency or instrumentality thereof, or from any
17 county, municipal corporation, or local government or governing body;

18 (12) To hold, use, administer, and expend such sum or sums as may hereafter be received
19 as income or gifts for any of the purposes of this authority;

20 (13) To do all things necessary or convenient to carry out the powers and purposes of the
21 authority;

22 (14) To acquire, lease (as lessee), purchase, hold, own, and use any franchise or any
23 property, real or personal, tangible or intangible, or any interest therein; and to sell, lease
24 (as lessor), transfer, or dispose thereof whenever the same is no longer required for
25 purposes of the authority or exchange the same for other property or rights which are
26 useful for the purposes of the authority;

27 (15) To fix, alter, charge, and collect fares, rates, rentals, and other charges for its
28 facilities and for admission to its grounds at reasonable rates to be determined by the
29 authority;

30 (16) To contract with other authorities, departments, or agencies of the State of Georgia
31 for the corporate purpose of the authority;

32 (17) To invest and reinvest any or all idle funds or moneys, including, but not limited to,
33 funds held in reserve or debt retirement or received through the issuance of revenue
34 certificates or from contributions, gifts, or grants, which cannot be immediately used for
35 the purpose for which received, such investment to be made in any security or securities
36 which are legal investments for executors or trustees; provided, however, that

1 investments in such securities will at all times be held for and, when sold, used for the
2 purposes for which the money was originally received;

3 (18) To grant, on an exclusive or nonexclusive basis, the right to use and occupy streets,
4 roads, sidewalks, and other public places for the purpose of rendering utility services,
5 upon such conditions and for such time as the authority may deem wise; and

6 (19) To appoint special advisory committees and panels of citizens to advise the
7 authority of certain issues and to reimburse the individuals appointed for actual expenses
8 incurred in performing their tasks.

9 12-3-405.

10 It is found, determined, and declared that the creation of the authority and the carrying out
11 of its corporate purposes are in all respects for the benefit of the people of this state and
12 constitute a public purpose and that the authority will be performing an essential
13 governmental function in the exercise of the powers conferred upon it by this part. The
14 State of Georgia covenants that the authority shall be required to pay no taxes or
15 assessments upon any of the property acquired by it or under its jurisdiction, control,
16 possession, or supervision or upon its activities in the operation or maintenance of the
17 facilities erected, maintained, or acquired by it or any fees, rentals, or other charges for the
18 use of such facilities or other income received by the authority; provided, however, that in
19 no event shall the exemptions granted in this Code section extend to any lessee or other
20 private person or entity.

21 12-3-406.

22 The authority is authorized to exercise such of the police powers of the state as may be
23 necessary to maintain peace and order and to enforce any and all zoning, use, and personal
24 conduct restrictions upon the properties, facilities, and persons under its jurisdiction to the
25 extent that such is lawful under the laws of the United States and this state. The authority
26 may delegate all or any part of the performance of these functions temporarily or
27 permanently to the state or to any county within the geographic jurisdiction of the
28 authority.

29 12-3-407.

30 The authority is authorized to contract for or to provide for and maintain a security force
31 with respect to the facilities and property owned, leased, operated, or under the control of
32 the authority and within the territory thereof. The security force shall have the duty to
33 protect persons and property, disperse unlawful or dangerous assemblages, control
34 pedestrian and vehicular traffic, and otherwise preserve and protect the public peace,

1 health, and safety. For these purposes, a member of such force shall be a peace officer and,
2 as such, shall have authority equivalent to the authority of a police officer or law
3 enforcement officer of the county in which he or she is discharging his or her duties.

4 12-3-408.

5 All moneys received pursuant to the authority of this part, whether as grants or other
6 contributions or as revenues, rents, and earnings, shall be deemed to be trust funds to be
7 held and applied solely as provided in this part.

8 12-3-409.

9 The authority is authorized to fix rentals and other charges which any user, exhibitor,
10 concessionaire, franchisee, or vendor shall pay to the authority for the use of the project or
11 part thereof or combination thereof, and to charge and collect the same, and to lease and
12 make contracts with political subdivisions and agencies with respect to use of any part of
13 the project. The rentals and other charges shall be so fixed and adjusted in respect to the
14 aggregate thereof from the project or any part thereof so as to provide a fund sufficient with
15 other revenues of such project, if any, to pay the cost of maintaining, repairing, and
16 operating the project, including the reserves for extraordinary repairs and insurance, unless
17 such cost shall be otherwise provided for, which cost shall be deemed to include the
18 expenses incurred by the authority on account of the project for water, light, sewer, and
19 other services furnished by other facilities at the site of the project.

20 12-3-410.

21 The Attorney General shall provide legal services for the authority, and in connection
22 therewith the provisions of Code Sections 45-15-13 through 45-15-16 shall be fully
23 applicable the same as if the authority were identified therein as a state authority.

24 12-3-411.

25 Any action to protect or enforce any rights under this part or pertaining to validation of any
26 bonds issued under this part shall be brought in the Superior Court of Baldwin County,
27 Georgia; and such court shall have exclusive, original jurisdiction of such actions. Nothing
28 contained in this part shall be construed to impair any rights afforded the state under the
29 Constitution of the United States.

30 12-3-412.

31 Members and employees of the authority shall be subject to the applicable provisions of
32 Chapter 10 of Title 45.

1 12-3-413.

2 (a) The authority or any authority or body which may succeed to the powers, duties, and
3 liabilities vested in the authority is authorized at one time, or from time to time, to provide
4 by resolution for the issuance of revenue bonds for the purpose of paying all or any part of
5 the cost, as defined in this part, of any one project or a combination of projects. The
6 principal and interest of such revenue bonds shall be payable solely from the special fund
7 provided in subsection (n) of this Code section for such payment. The bonds of each issue
8 shall be dated and shall mature at such times and bear interest at such rates as may be
9 determined by the authority, payable in such medium of payment as to both principal and
10 interest as may be determined by the authority, and may be made redeemable before
11 maturity, at the option of the authority, at such price or prices and under such terms and
12 conditions as may be fixed by the authority in the resolution providing for the issuance of
13 the bonds.

14 (b) The authority shall determine the form of the bonds, including any interest coupons to
15 be attached thereto, and shall fix the denomination or denominations of the bonds and the
16 place or places of payment of principal and interest thereof, which may be at any bank or
17 trust company inside or outside the state. The bonds may be issued in coupon or registered
18 form, or both, as the authority may determine, and provision may be made for the
19 registration of any coupon bond as to principal alone and also as to both principal and
20 interest.

21 (c) In case any officer whose signature appears on any bonds or whose facsimile signature
22 appears on any coupon ceases to be such officer before the delivery of such bonds, such
23 signature shall nevertheless be valid and sufficient for all purposes the same as if such
24 person had remained in office until such delivery. All such bonds shall be signed by the
25 chairperson or vice chairperson of the authority, and the official seal of the authority shall
26 be affixed thereto and attested by the secretary or assistant secretary of the authority; and
27 any coupons attached thereto shall bear the signature or facsimile signature of the
28 chairperson or vice chairperson of the authority. Any coupon may bear the facsimile
29 signature of such person, and any bond may be signed, sealed, and attested on behalf of the
30 authority by such persons as at the actual time of the execution of such bonds shall be duly
31 authorized or hold the proper office, although at the date of such bonds such persons may
32 not have been so authorized or shall not have held such office.

33 (d) All revenue bonds issued under this part shall have and are declared to have all the
34 qualities and incidents of negotiable instruments. Such bonds and the income therefrom
35 shall be exempt from all taxation within the state.

36 (e) The authority may sell bonds in such manner and for such price as it may determine
37 to be for the best interests of the authority.

1 (f) The proceeds of bonds shall be used solely for the payment of the cost of the project
2 and shall be disbursed upon requisition or order of the chairperson or vice chairperson of
3 the authority under such restrictions, if any, as provided by the resolution authorizing the
4 issuance of the bonds or by the trust indenture mentioned in subsection (k) of this Code
5 section.

6 (g) Prior to the preparation of definitive bonds, the authority may, under like restrictions,
7 issue interim receipts, interim certificates, or temporary bonds, with or without coupons,
8 exchangeable for definitive bonds upon the issuance of the latter.

9 (h) The authority may provide for the replacement of any bond which becomes mutilated
10 or is destroyed or lost.

11 (i) Revenue bonds may be issued without the conducting of any proceedings, the existence
12 of any conditions, or the happening of any events other than those proceedings, conditions,
13 and events which are specified or required by this part. In the discretion of the authority,
14 revenue bonds of a single issue may be issued for the purpose of paying the cost of any one
15 or more, including a combination of, projects at any one institution or any number of
16 institutions. Any resolution providing for the issuance of revenue bonds under this part
17 shall become effective immediately upon its passage and need not be published or posted.
18 Any such resolution may be passed at any regular, special, or adjourned meeting of the
19 authority by a majority of its members.

20 (j) Revenue bonds issued under this part shall not be deemed to constitute a debt of the
21 State of Georgia or a pledge of the faith and credit of the state. Such bonds shall be payable
22 solely from the fund provided for in subsections (m) through (p) of this Code section, and
23 the issuance of such revenue bonds shall not directly, indirectly, or contingently obligate
24 the state to levy or to pledge any form of taxation whatever therefor or to make any
25 appropriation for their payment. All such bonds shall contain recitals on their faces
26 covering substantially the foregoing provisions of this Code section. Anything in this Code
27 section to the contrary notwithstanding, such funds as may be received from state
28 appropriations or from any other source are declared to be available and may be used by
29 any department, board, commission, or agency of the State of Georgia for the performance
30 of any lease contract entered into by such department, board, commission, or agency with
31 the authority.

32 (k)(1) In the discretion of the authority, any issue of revenue bonds may be secured by
33 a trust indenture by and between the authority and a corporate trustee, which may be any
34 trust company or bank having the powers of a trust company inside or outside of the state.
35 Such trust indenture may pledge or assign rents, revenues, and earnings to be received by
36 the authority.

1 (2) Either the resolution providing for the issuance of revenue bonds or the trust
2 indenture may contain such provisions for protecting and enforcing the rights and
3 remedies of the bondholders as may be reasonable and proper and not in violation of law,
4 including covenants setting forth the duties of the authority in relation to the acquisition
5 of property, the construction of the project, the maintenance, operation, repair, and
6 insurance of the project, and the custody, safeguarding, and application of all moneys.
7 The resolution or indenture may also provide that any project shall be constructed and
8 paid for under the supervision and approval of consulting engineers or architects
9 employed or designated by the authority and satisfactory to the original purchasers of the
10 bonds issued therefor. The resolution or indenture may also require that the security given
11 by contractors and by any depository of the proceeds of the bonds or revenues or other
12 moneys be satisfactory to such purchasers and may also contain provisions concerning
13 the conditions, if any, upon which additional revenue bonds may be issued.

14 (3) The indenture may set forth the rights and remedies of the bondholders and of the
15 trustee and may restrict the individual right of action of bondholders as is customary in
16 trust indentures securing bonds and debentures of corporations. In addition to the
17 foregoing provisions of this Code section, the trust indenture may contain such other
18 provisions as the authority may deem reasonable and proper for the security of the
19 bondholders.

20 (4) It shall be lawful for any bank or trust company incorporated under the laws of this
21 state to act as such depository and to furnish such indemnifying bonds or pledge such
22 securities as may be required by the authority.

23 (5) All expenses incurred in carrying out the trust indenture may be treated as a part of
24 the cost of maintenance, operation, and repair of the project and of the cost of the project
25 affected by such indenture.

26 (l) The authority shall, in the resolution providing for issuance of revenue bonds or in the
27 trust indenture, provide for the payment of the proceeds of the sale of the bonds to any
28 officer or person who, or any agency, bank, or trust company which, shall act as trustee of
29 such funds and shall hold and apply the same to the purposes expressed in this part, subject
30 to such regulations as this part and such resolution or trust indenture may provide.

31 (m) Unless otherwise pledged and allocated, any and all revenues, rents, and earnings
32 received by the authority, regardless of whether or not such revenues, rents, and earnings
33 were produced by a particular project for which bonds have been issued, may be pledged
34 and allocated by the authority to the payment of the principal and interest on revenue bonds
35 of the authority as the trust indenture or the resolution authorizing the issuance of the bonds
36 may provide.

1 (n) Such funds so pledged from whatever source received, which pledge may include
2 funds received from one or more or all sources, shall be set aside at regular intervals, as
3 may be provided in the resolution or trust indenture, into a sinking fund which shall be
4 pledged to and charged with the payment of:

5 (1) The interest upon such revenue bonds as such interest shall fall due;

6 (2) The principal of the bonds as the same shall fall due;

7 (3) The necessary charges of paying agents for paying principal and interest; and

8 (4) Any premium upon bonds retired by call or purchase.

9 (o) The use and disposition of such sinking fund shall be subject to such regulations as
10 may be provided in the resolution authorizing the issuance of the revenue bonds or in the
11 trust indenture, but, except as may otherwise be provided in such resolution or trust
12 indenture, such sinking fund shall be a fund for the benefit of all revenue bonds without
13 distinction or priority of one over another.

14 (p) Subject to the provisions of the resolution authorizing the issuance of the bonds, or
15 subject to the trust indenture, surplus moneys in the sinking fund may be applied to the
16 purchasing or redemption of bonds, and any such bonds so purchased or redeemed shall
17 forthwith be canceled and shall not again be issued.

18 (q) Except to the extent the rights given in this Code section may be restricted by
19 resolution passed before the issuance of bonds or by a trust indenture, any holder of
20 revenue bonds or interest coupons issued under this part, any receiver for such holders, or
21 any indenture trustee, if any, may either at law or in equity, by action, mandamus, or other
22 proceedings, protect and enforce any and all rights under the laws of the State of Georgia
23 or granted by this part or under such resolution or trust indenture. Such holder, receiver,
24 or trustee may enforce and compel performance of all duties required by this part, or by
25 resolution or trust indenture, to be performed by the authority or any officer thereof,
26 including the fixing, charging, and collecting of revenues, rents, and other charges for the
27 use of the project or projects. In the event of default of the authority upon the principal and
28 interest obligations of any revenue bond issue, such holder, receiver, or trustee shall be
29 subrogated to each and every right which the authority may possess and, in the pursuit of
30 remedies as subrogee, may proceed either at law or in equity, by action, mandamus, or
31 other proceedings to collect any sums by such proceedings due and owing to the authority
32 and pledged or partially pledged directly or indirectly to the benefit of the revenue bond
33 issue of which such holder, receiver, or trustee is representative. No holder, receiver, or
34 trustee shall have the right to compel any exercise of the taxing power of the state to pay
35 any such bond or the interest thereon, or to enforce the payment thereof against any
36 property of the state, nor shall any such bond constitute a charge, lien, or encumbrance,
37 legal or equitable, upon the property of the state.

1 (r) The authority is authorized to provide by resolution for the issuance of revenue
2 refunding bonds of the authority for the purpose of refunding any revenue bonds issued
3 under this part and then outstanding, together with accrued interest thereon. The issuance
4 of such revenue refunding bonds, the maturities, and all other details thereof, the rights of
5 the holders thereof, and the duties of the authority in respect to the same shall be governed
6 by the foregoing provisions of this part insofar as the same may be applicable.

7 (s) While any of the bonds issued by the authority remain outstanding, the powers, duties,
8 or existence of the authority, or of its officers, employees, or agents, or of any department,
9 board, commission, or agency of the state shall not be diminished or impaired in any
10 manner that will affect adversely the interests and rights of the holders of such bonds. This
11 part shall be for the benefit of the state, the authority, and the holders of any such bonds
12 and, upon the issuance of bonds under this part, shall constitute a contract with the holders
13 of such bonds.

14 (t) Bonds of the authority shall be confirmed and validated in accordance with the
15 procedure of Article 3 of Chapter 82 of Title 36. The petition for validation shall also make
16 party defendant to such action any authority, division, subdivision, instrumentality, or
17 agency of the State of Georgia which, or any person who, has contracted with the Oconee
18 River Greenway Authority for the use of any building, structure, or facilities for which
19 bonds have been issued and sought to be validated. Such authority, division, subdivision,
20 instrumentality, agency, or person shall be required to show cause, if any, why such
21 contract or contracts and the terms and conditions thereof should not be inquired into by
22 the court, the validity of the terms thereof determined, and the contract adjudicated as
23 security for the payment of any such bonds of the authority. The bonds when validated and
24 the judgment of validation shall be final and conclusive with respect to such bonds and
25 against the authority issuing the same and against any authority, division, subdivision,
26 instrumentality, department, agency, or person contracting with the authority.

27 (u) No bonds shall be issued by the authority under this part unless the issuance of such
28 bonds has been reviewed and approved by the Georgia State Financing and Investment
29 Commission.

30 (v) The bonds authorized by this part are made securities in which all public officers and
31 bodies of this state; all municipalities and all municipal subdivisions; all insurance
32 companies and associations and other persons carrying on an insurance business; all banks,
33 bankers, trust companies, savings banks, and savings associations, including savings and
34 loan associations, building and loan associations, investment companies, and other persons
35 carrying on a banking business; all administrators, guardians, executors, trustees, and other
36 fiduciaries; and all other persons whatsoever who are now or may hereafter be authorized
37 to invest in bonds or other obligations of the state may properly and legally invest funds,

1 including capital in their control or belonging to them. The bonds are also made securities
2 which may be deposited with and shall be received by all public officers and bodies of this
3 state and all municipalities and municipal subdivisions for any purpose for which the
4 deposit of the bonds or other obligations of this state is now or may hereafter be authorized.

5 12-3-414.

6 The Governor is authorized to convey to the authority on behalf of the state any real or
7 personal property or interest therein owned by the state in furtherance of this part. The
8 consideration for such conveyance shall be determined by the Governor and expressed in
9 the conveyance, provided that such consideration shall be nominal, the benefits going to
10 the state and its citizens constituting full and adequate consideration."

11 **SECTION 2.**

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