

House Bill 1611

By: Representatives Roberts of the 162nd and Dukes of the 161st

A BILL TO BE ENTITLED
AN ACT

1 To create the City of Albany and Albany State University Stadium Authority; to provide for
2 the composition, organization, duties, and powers of the authority; to authorize the authority
3 to own and operate, or operate under contract, a multi-use stadium for the joint use of the
4 City of Albany and Albany State University; to provide for methods of financing authorized
5 undertakings by the issuance of revenue bonds and otherwise and to finance authorized
6 projects from such proceeds and from any grant or contribution from the United States of
7 America, the State of Georgia, or any agency or instrumentality thereof, or any private
8 individual or entity; to authorize the authority to own, operate, maintain, lease, and sell
9 property and facilities, to contract, to sue and be sued, to borrow money and pledge its assets,
10 to collect and disburse money, to own and operate recreational facilities, and to do all things
11 necessary or incident thereto; to have all the rights and privileges of corporations generally
12 and to be a body politic; to authorize the authority and other agencies and political
13 subdivisions to enter into contracts pertaining to uses of such facilities, which contracts and
14 leases shall obligate the lessees to make payment for the use of such facilities for the term
15 thereof and to pledge to that purpose revenues derived from taxation; to provide that no debt
16 of the State of Georgia, Dougherty County, or the City of Albany shall be incurred by
17 exercise of the powers granted; to make the property of the authority exempt from taxation
18 and assessment; to grant the authority and its members certain immunities; to authorize the
19 issuance of refunding bonds or obligations; to fix the venue or jurisdiction of actions; to
20 provide for related matters; to provide for activation of the authority; to provide an effective
21 date; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 This Act shall be known and may be cited as the "City of Albany and Albany State
25 University Stadium Authority Act."

SECTION 2.

1

2 (a) There is created a body corporate and politic to be known as the City of Albany and
 3 Albany State University Stadium Authority, which shall be deemed to be a political
 4 subdivision of the State of Georgia and a public corporation. By that name, style, and title,
 5 said body may contract and be contracted with, sue and be sued, implead and be impleaded,
 6 and complain and defend in all courts of law and equity, except that the authority or the
 7 trustee acting under the trust indenture shall in no event be liable for any torts committed by
 8 any of the officers, agents, and employees. The authority shall not be a state institution nor
 9 a department or agency of the state but shall be an instrumentality of the state, a mere
 10 creation of the state, having a distinct corporate entity and being exempt from the provisions
 11 of Article 2 of Chapter 17 of Title 50 of the O.C.G.A., the "Georgia State Financing and
 12 Investment Commission Act." The authority shall have its principal office in the City of
 13 Albany and its legal situs or residence for the purposes of this Act shall be Dougherty
 14 County. The authority is granted the same exemptions and exclusions from taxes as are now
 15 granted to cities and counties for the operation of facilities similar to facilities to be operated
 16 by the authority as provided under the provisions of this Act.

17 (b) The authority shall consist of a number of members equal to the number of members of
 18 the board of city commissioners of the City of Albany, currently seven members. The mayor
 19 of the City of Albany shall appoint one member of the authority; and each other member of
 20 the board of city commissioners of the City of Albany shall appoint one member of the
 21 authority. The term of each member of the authority shall run concurrently with the term of
 22 the member of the board of city commissioners by whom such member of the authority was
 23 appointed, except that the initial terms of office of members of the authority shall commence
 24 July 1, 2002. Members of the authority may be appointed to succeed themselves in office.

25 (c) The members of the authority shall enter upon their duties immediately upon the next
 26 scheduled meeting following their appointment.

27 (d)(1) Any vacancy on the authority shall be filled in the same manner as was the original
 28 appointment of the member whose termination of membership resulted in such vacancy,
 29 and the person so selected and appointed shall serve for the remainder of the unexpired
 30 term.

31 (2) Any member of the authority may be removed from office by a majority vote of the
 32 appointing entity for failure to perform his or her duties as a member of the authority. Such
 33 failure shall include without limitation absence from four consecutive meetings of the
 34 authority, unless excused by reasonable grounds as determined by a majority of the
 35 members of the authority. Any office so vacated shall be filled within 60 days by
 36 appointment as provided in paragraph (1) of this subsection. The new appointee shall serve
 37 the remainder of the unexpired term to which he or she is appointed.

- 1 (e) Each July, the authority shall elect one of its members as chairperson, one of its members
2 as vice chairperson, and one of its members as secretary and treasurer. Such officers shall
3 serve terms of one year.
- 4 (f) The affirmative votes of a majority of the members shall be required for any action by
5 the authority. No vacancy on the authority shall impair the right of the authority to exercise
6 all the rights and perform all the duties of the authority.
- 7 (g) The authority shall make rules and regulations for its own government. It shall have
8 perpetual existence.
- 9 (h) No member or employee of the authority shall have, directly or indirectly, any financial
10 interest, profit, or benefit in any contract, work, or business of the authority nor in the sale,
11 lease, or purchase of any property to or from the authority.
- 12 (i) All meetings of the authority shall be open to the public as provided in Chapter 14 of
13 Title 50 of the O.C.G.A.

14 SECTION 3.

- 15 (a) As used in this Act, the term:
- 16 (1) "Authority" shall mean the City of Albany and Albany State University Stadium
17 Authority created in Section 2 of this Act.
- 18 (2) "Cost of the project" shall encompass the cost of all lands, properties, rights,
19 easements, and franchises acquired and the cost of all conveyances in fee simple of the
20 authority's title thereto and leases thereof; the cost of all machinery and equipment and
21 financing charges and interest prior to and during construction and for one year after
22 completion of construction; the cost of engineering, architectural, fiscal, and legal services
23 and plans and specifications and other expenses necessary or incident to determining the
24 feasibility or practicability of the project; the cost of administrative services and such other
25 expenses as may be necessary or incident to the financing authorized by this Act; and the
26 cost of the acquisition and construction of any project and the placing of such project into
27 operation. Any obligation or expense incurred for any of the foregoing purposes shall be
28 regarded as a part of the cost of the project and may be paid or reimbursed as such out of
29 the proceeds of revenue bonds issued under the provisions of this Act for such project.
- 30 (3) "Project" shall be deemed to mean and include the acquisition, construction, equipping,
31 maintenance, and operation of athletic stadium type facilities and the usual and convenient
32 facilities appertaining to such undertakings and extensions and improvements of such
33 facilities, including but not limited to facilities for the sale of food, refreshments, and other
34 items, facilities for exercise and dressing, and press boxes, suites, and clubrooms; the
35 acquisition of parking facilities or parking areas in connection therewith; the acquisition
36 of the necessary property thereof, both real and personal, and the lease and sale of any part

1 or all of such facilities, including real or personal property, so as to assure the efficient and
 2 proper development, maintenance, and operation of such stadium type facilities and areas
 3 deemed by the authority to be necessary, convenient, or desirable; and without limiting the
 4 generality of the foregoing, such term shall specifically include a multi-use stadium for the
 5 joint use of the City of Albany and Albany State University.

6 (4) "Revenue bonds," "bonds," and "obligations" mean revenue bonds as defined and
 7 provided for in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond
 8 Law," and which may be issued by the authority as authorized under the "Revenue Bond
 9 Law" and any amendments thereto and, in addition, shall mean obligations of the authority,
 10 the issuance of which are specifically provided for in this Act.

11 (b) Any project shall be deemed "self-liquidating" if, in the judgment of the authority, the
 12 revenues and earnings to be derived by the authority therefrom, including the anticipated
 13 revenues and earnings from the lease of any project, and all properties used, leased, and sold
 14 in connection therewith will be sufficient to pay the cost of acquiring, operating, maintaining,
 15 repairing, improving, and extending the project and to pay the principal of and interest on the
 16 revenue bonds which may be issued to finance, in whole or in part, the cost of such project
 17 or projects.

18 **SECTION 4.**

19 (a) The authority shall have the following powers:

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

21 (2) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and
 22 personal property of every kind and character for its corporate purposes;

23 (3) To acquire in its own name by purchase, on such terms and conditions and in such
 24 manner as it may deem proper, real property or rights or easements therein or franchises
 25 necessary or convenient for its corporate purposes, to use the same so long as its corporate
 26 existence shall continue, to lease or make contracts with respect to the use of the same, or
 27 to dispose of the same in any manner it deems to the best advantage of the authority. If the
 28 authority shall deem it expedient to construct any project on any lands, the title to which
 29 shall then be in the State of Georgia, the Governor is authorized to convey for and in behalf
 30 of the state title to such lands to the authority upon the receipt of such lawful consideration
 31 as may be determined by the parties to such conveyance. If the authority shall deem it
 32 expedient to acquire and construct any project on any lands, the title to which shall be in
 33 the name of any county or municipality, such entity is authorized to convey title to such
 34 lands to the authority upon the receipt of such lawful consideration as may be determined
 35 by the parties of such conveyances or upon payment for the credit of the general funds of
 36 such county or municipalities of the reasonable value of such lands, such value to be

1 determined by mutual consent of such county or municipality and the authority or by an
2 appraiser to be agreed upon by the governing authority or body of such county or
3 municipality and the chairperson of the authority;

4 (4) To make contracts and leases and to execute all instruments necessary or convenient,
5 including contracts for the acquisition and construction of projects and leases of projects
6 and contracts with respect to the use of projects which the authority causes to be erected
7 or acquired, including contracts for acquiring, constructing, renting, and leasing of its
8 projects for the use of any entity of state or local government, and to dispose by
9 conveyance of its title in fee simple of real and personal property of every kind and
10 character; any and all persons, firms, and corporations and the state and any and all
11 political subdivisions, departments, institutions, or agencies of the state, specifically
12 including without limitation the Board of Regents of the University System of Georgia or
13 any unit of the university system, are authorized to enter into contracts, leases, or
14 agreements with the authority upon such terms and for such purposes as they deem
15 advisable; and also without limiting the generality of the above, authorization is
16 specifically granted to municipal corporations and counties and to the authority to enter
17 into contracts and lease and sublease agreements with the State of Georgia or any agencies
18 or departments thereof, and the authority is specifically authorized to convey title in fee
19 simple to any and all of its lands and any improvements thereon to any persons, firms,
20 corporations, municipalities, or the State of Georgia, or any agencies or departments
21 thereof, subject to the rights and interest of the holders of any of the bonds or obligations
22 authorized to be issued pursuant to this Act and by the resolution or trust indenture of the
23 authority authorizing the issuance of any of its bonds or obligations as provided in this Act;

24 (5) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve,
25 equip, operate, and manage projects as defined in this Act, the cost of any such project to
26 be paid in whole or in part from the proceeds of revenue bonds or other funds of the
27 authority or from such proceeds or other funds or any grant from the State of Georgia or
28 the United States of America or any agency or instrumentality thereof;

29 (6) To accept loans and grants of money, materials, or property of any kind from the
30 United States of America or any agency or instrumentality thereof, upon such terms and
31 conditions as the United States of America or such agency or instrumentality thereof may
32 impose;

33 (7) To accept loans and grants of money, materials, or property of any kind from the State
34 of Georgia or any agency, instrumentality, or political subdivision thereof, upon such terms
35 and conditions as the State of Georgia or such agency, instrumentality, or political
36 subdivision thereof may impose;

1 (8) To borrow money for any of its corporate purposes and to execute evidence of such
2 indebtedness and to secure the same and to issue negotiable revenue bonds payable solely
3 from the funds pledged for that purpose, and to provide for the payment of the same and
4 for the rights of the holders thereof;

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

7 (10) To borrow money for any of its corporate purposes from any bank, banks, or other
8 lending institutions and to execute evidence of such indebtedness and to secure the same
9 by assigning all rights to and pledging all funds to be received by the authority from a lease
10 or leases entered into by the authority as the lessor and any county or municipality as the
11 lessee; and

12 (11) To do all things necessary or convenient to carry out the powers expressly given in
13 this Act.

14 (b) The authority is specifically authorized from time to time to sell, lease, grant, exchange,
15 or otherwise dispose of any surplus property, both real and personal, or interest therein not
16 required in the normal operation of and usable in the furtherance of the purpose for which
17 the authority was created.

18 **SECTION 5.**

19 The authority, or any authority or body which has or which may in the future succeed to the
20 powers, duties, and liabilities vested in the authority created by this Act, shall have power
21 and is authorized at one time or from time to time to provide by resolution for the issuance
22 of negotiable revenue bonds for the purpose of paying all or any part of the cost as defined
23 in this Act of any one or more projects. The principal of and interest on such revenue bonds
24 shall be payable solely from the special fund provided for in this Act for such payment. The
25 bonds of each issue shall be dated and shall bear interest at such rate or rates as determined
26 by the authority, payable on such dates as determined by the authority. Such revenue bonds
27 or obligations shall be issued pursuant to and in conformity with Article 3 of Chapter 82 of
28 Title 36 of the O.C.G.A., the "Revenue Bond Law," and all procedures pertaining to such
29 issuance and the conditions thereof shall be the same as those contained in the Revenue Bond
30 Law and any amendments thereto.

31 **SECTION 6.**

32 All revenue bonds issued under the provisions of this Act are declared to be issued for an
33 essential public and governmental purpose, and such bonds and the income thereof shall be
34 exempt from all taxation by the state.

1 Article IX, Section V, Paragraph I of the Constitution of the State of Georgia. When such
2 obligation is made to make such payments from taxes to be levied for that purpose, then the
3 obligation shall be mandatory to levy and collect such taxes from year to year in an amount
4 sufficient to fulfill and fully comply with the terms of such obligation. Without limiting the
5 obligations of any political subdivision of the state contracting with the authority in
6 accordance with this Act, it shall be required that prior to entering into any such contract, the
7 authority or the political subdivision with which such contract will be executed shall prepare
8 or cause to be prepared a feasibility study including a projection of revenues for the project
9 which is the subject of such contract. The political subdivision entering into a contract with
10 the authority shall, prior to entering into the contract, properly advertise its intention and call
11 at least one public hearing on the subject at least three weeks prior to the date on which the
12 political subdivision plans to vote to approve the signing of the contract.

13

SECTION 10.

14 The revenues, rents, and earnings derived from any particular project or projects and any and
15 all revenue, rents, and earnings received by the authority, regardless of whether such
16 revenues, rents, and earnings were produced by a particular project for which bonds have
17 been issued, unless otherwise pledged, may be pledged by the authority to the payment of
18 the principal of and interest on revenue bonds of the authority as may be provided in any
19 resolution authorizing the issuance of such bonds or in any trust indenture pertaining to such
20 bonds. Such funds so pledged from whatever source received, which may include funds
21 received from one or more or all sources, may be set aside at regular intervals into sinking
22 funds for which provision may be made in any such resolution or trust indenture and which
23 may be pledged to and charged with the payment of the interest upon such revenue bonds as
24 such interest shall become due; the principal of the bonds as the same shall mature; the
25 necessary charges of any trustee or agent of paying such principal and interest; and any
26 premium upon bonds retired by call or purchase. The use and disposition of any sinking fund
27 may be subject to such regulation as may be provided for in the resolution authorizing the
28 issuance of the bonds or in the trust indenture securing the payment of the same.

29

SECTION 11.

30 The exercise of the powers conferred upon the authority in this Act shall constitute an
31 essential governmental function for a public purpose, and the authority shall be required to
32 pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction,
33 control, possession, or supervision or upon its activities in the operation and maintenance of
34 property acquired by it or of buildings erected or acquired by it or any fees, rentals, or other
35 charges for the use of such property or buildings or other income received by the authority.

1 The tax exemption provided in this Act shall not include an exemption from sales and use
2 tax on property purchased by or for the use of the authority.

3 **SECTION 12.**

4 Any action to protect or enforce any rights under the provisions of the Act or any suit or
5 action against such authority shall be brought in the Superior Court of Dougherty County,
6 and any action pertaining to the validation of any bonds issued under the provisions of this
7 Act shall likewise be brought in that court which shall have exclusive original jurisdiction
8 of such actions.

9 **SECTION 13.**

10 Bonds issued by the authority shall be confirmed and validated in accordance with the
11 procedure of Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law."
12 The petition for validation shall also make party defendant to such action the State of
13 Georgia or any municipality, county, authority, political subdivision, or instrumentality of
14 the State of Georgia or the United States government or any department or agency of the
15 United States government, if subject to being sued and if consenting to same, which has
16 contracted with the authority for the services and facilities of the project for which bonds are
17 to be issued and sought to be validated, and the state or such municipality, county, authority,
18 political subdivision, or instrumentality shall be required to show cause, if any, why such
19 contract or contracts and the terms and conditions thereof should not be inquired into by the
20 court and the validity of the terms thereof be determined and the contract or contracts
21 adjudicated as part of the basis of the security for the payment of any such bonds of the
22 authority. The bonds, when validated, and the judgment of validation shall be final and
23 conclusive with respect to such bonds and the security for the payment thereof and interest
24 thereon and against the authority issuing the same, the state and any municipality, county,
25 authority, political subdivision, or instrumentality, if a party to the validation proceedings,
26 contracting with the authority.

27 **SECTION 14.**

28 While any of the bonds issued by the authority remain outstanding, the powers, duties, or
29 existence of the authority or of its officers, employees, or agents shall not be diminished or
30 impaired in any manner that will affect adversely the interest and rights of the holders of such
31 bonds, and no other entity, department, agency, or authority will be created which will
32 compete with the authority to such an extent as to affect adversely the interest and rights of
33 the holders of such bonds, nor will the state itself so compete with the authority. The
34 provisions of this Act shall be for the benefit of the authority and the holders of any such

1 bonds and upon the issuance of bonds under the provisions of this Act shall constitute a
2 contract with the holders of such bonds.

3 **SECTION 15.**

4 All funds received pursuant to the authority of this Act, whether as proceeds from the sale
5 of revenue bonds or as loans, revenue, rents, fees, charges, or other earnings or as grants,
6 gifts, or other contributions shall be deemed to be trust funds to be held and applied by the
7 authority solely as provided in this Act, and the bondholders entitled to receive the benefits
8 of such funds shall have a lien on all such funds until the same are applied as provided for
9 in any such resolution or trust indenture of the authority.

10 **SECTION 16.**

11 The authority is authorized to appoint, select, and employ officers, agents, and employees
12 and adopt rules and regulations governing their services and fix their respective
13 compensations and terms of employment.

14 **SECTION 17.**

15 This Act and any other law enacted with reference to the authority shall be liberally
16 construed for the accomplishment of the purposes of the authority.

17 **SECTION 18.**

18 When the authority for any reason is dissolved after full payment of all bonded indebtedness
19 incurred under the provisions of this Act, both as to principal and interest, title to all property
20 of any kind and nature, real and personal, held by the authority at the time of such dissolution
21 shall be conveyed to the City of Albany; or title to any such property may be conveyed prior
22 to such dissolution in accordance with provisions which may be made therefor in any
23 resolution or trust indenture relating to such property, subject to any liens, leases, or other
24 encumbrances outstanding against or in respect to said property at the time of such
25 conveyance.

26 **SECTION 19.**

27 The authority shall become active when the governing authority of the City of Albany
28 appoints all members of the authority.

29 **SECTION 20.**

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

1

SECTION 21.

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