

House Bill 595

By: Representatives Teper of the 42<sup>nd</sup>, Post 1, Watson of the 60<sup>th</sup>, Post 2, Henson of the 55<sup>th</sup>,  
Greene-Johnson of the 60<sup>th</sup>, Post 3 and Stephenson of the 60<sup>th</sup>, Post 1

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,  
2 so as provide a short title; to provide a statement of constitutional authority and intent; to  
3 define certain terms; to create in each county a public safety and judicial facilities authority;  
4 to provide for activation; to provide for joint authorities; to provide for the appointment and  
5 terms of members of the board of directors; to provide for officers, compensation, the  
6 adoption of bylaws and regulations, and delegation of powers; to provide for a quorum and  
7 majority vote; to provide for powers of the authority; to provide for obligation of the  
8 authority, the use of proceeds, the status as revenue obligations, subsequent series of bonds  
9 or notes, bond anticipation notes, and interest rates; to provide for validation; to provide for  
10 construction; to provide for matters relative to the foregoing; to repeal conflicting laws; and  
11 for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
15 by inserting immediately following Chapter 22 a new chapter to read as follows:

16 style="text-align:center">"CHAPTER 23

17 36-23-1.

18 This Act shall be known and may be cited as the 'War on Terrorism Local Assistance Act.'

19 36-23-2

20 This chapter is enacted pursuant to authority granted to the General Assembly by the  
21 Constitution of Georgia. Each authority created by this chapter is created for nonprofit and  
22 public purposes; and it is found, determined, and declared that the creation of each such  
23 authority and the carrying out of its corporate purposes is in all respects for the benefit of

1 the people of this state and that the authority is an institution of purely public charity and  
2 will be performing an essential governmental function in the exercise of the power  
3 conferred upon it by this chapter. For such reasons, the state covenants the holders of the  
4 bonds issued under this chapter that such authority shall be required to pay no taxes or  
5 assessments imposed by the state or any of its counties, municipal corporations, political  
6 subdivisions, or taxing districts upon any property acquired by the authority or under its  
7 jurisdiction, control, possession, or supervision or leased by it to others; or upon its  
8 activities in the operation or maintenance of any such property or on any income derived  
9 by the authority in the form of fees, recording fees, rentals, charges, purchase price,  
10 installments, or otherwise; and that the bonds of such authority, their transfer, and the  
11 income therefrom shall at all times be exempt from taxation within the state. The tax  
12 exemption provided in this Code section shall not include any exemption from sales and  
13 use tax on property purchased by the authority or for use by the authority.

14 36-23-3.

15 As used in this chapter, the term:

16 (1) 'Authority' means each public corporation created pursuant to this chapter.

17 (2) 'Cost of project' means all costs of site preparation and other start-up costs; all costs  
18 of construction; all costs of real and personal property required for the purposes of the  
19 project and facilities related thereto, including land and any rights or undivided interest  
20 therein, easements, franchises, fees, permits, approvals, licenses, and certificates and the  
21 securing of such permits, approvals, licenses, and certificates, and all machinery and  
22 equipment, including motor vehicles which are used for project functions; financing  
23 charges and interest prior to and during construction and during such additional period  
24 as the authority may reasonably determine to be necessary for the placing of the project  
25 in operation; costs of engineering, architectural, and legal services; cost of plans and  
26 specifications and all expenses necessary or incident to determining the feasibility or  
27 practicability of the project; administrative expenses; and such other expenses as may be  
28 necessary or incidental to the financing authorized in this chapter. The costs of any  
29 project may also include funds for the creation of a debt service reserve, a renewal and  
30 replacement reserve, and such other reserves as may be reasonably required by the  
31 authority for the operation of its projects and as may be authorized by any bond  
32 resolution or trust agreement or indenture pursuant to the provisions of which the  
33 issuance of any such bonds may be authorized. Any obligation or expense incurred for  
34 any of the foregoing purposes shall be regarded as a part of the cost of the project and  
35 may be paid or reimbursed as such out of the proceeds of revenue bonds or notes issued  
36 under this chapter for such project.

1 (3) 'County' means any county of this state or a governmental entity formed by the  
2 consolidation of a county and one or more municipal corporations.

3 (4) 'Governing body' means the elected or duly appointed officials constituting the  
4 governing body of each county in the state.

5 (5) 'Project' means the acquisition, construction, equipping, operation, maintenance, and  
6 repairing of county justice, juvenile justice, or public safety facilities.

7 36-23-4.

8 (a) There is created in and for each county in this state a public body corporate and politic,  
9 to be known as the 'public safety and judicial facilities authority' of such county. No  
10 authority shall transact any business or exercise any powers under this chapter until the  
11 governing body of the county, by proper ordinance or resolution, declares that there is a  
12 need for an authority to function in the county.

13 (b) Any number of counties may jointly form an authority, to be known as the 'joint public  
14 safety and judicial facilities authority' for such counties. No authority shall transact any  
15 business or exercise any powers under this chapter until the governing authorities of the  
16 counties involved declare, by ordinance or resolution, that there is a need for an authority  
17 to function and until the governing authority of each county approves an agreement with  
18 the other counties for the activation of an authority and such agreement is executed.

19 (c) A copy of such ordinances, resolutions, and agreements shall be filed with the  
20 Secretary of State, who shall maintain a record of all authorities activated under this  
21 chapter.

22 36-23-5.

23 Control and management of the authority shall be vested in a board of five directors who  
24 shall be residents of the county and shall serve at the pleasure of the governing authority  
25 of the county. Directors shall be appointed, and may be reappointed, for terms of four  
26 years. In the case of a joint public safety and judicial facilities authority, each county  
27 participating in the authority shall appoint two members, with an additional member to be  
28 appointed by the directors themselves. The directors shall elect one of their members as  
29 chairperson and another as vice chairperson and shall also elect a secretary and a treasurer  
30 or a secretary-treasurer, either of whom may be a director. The directors shall receive no  
31 compensation for their services but shall be reimbursed for their actual expenses incurred  
32 in the performance of their duties. The directors may make bylaws and regulations for the  
33 governing of the authority and may delegate to one or more of the officers, agents, and  
34 employees of the authority such powers and duties as may be deemed necessary and  
35 proper.

1 36-23-6.

2 A majority of the directors shall constitute a quorum for the transaction of business of the  
3 authority. However, any action with respect to any project of the authority must be  
4 approved by the affirmative vote of a majority of the directors.

5 36-23-7.

6 Each authority shall have all of the powers necessary or convenient to carry out and  
7 effectuate the purposes and provisions of this chapter, including, but without limiting the  
8 generality of the foregoing, the power:

9 (1) To bring and defend actions;

10 (2) To adopt and amend a corporate seal;

11 (3) To acquire, construct, improve, or modify, to place into operation, and to operate or  
12 cause to be placed into operation, either as owner of all or of any part in common with  
13 others, a project or projects within the county in which the authority is activated and,  
14 subject to execution of agreements with the appropriate political subdivisions affected,  
15 within other counties, and to pay all or part of the cost of any such project or projects  
16 from the proceeds of revenue bonds of the authority or from any contribution or loans by  
17 persons, firms, or corporations or any other contribution, all of which the authority is  
18 authorized to receive, accept, and use;

19 (4) To acquire, in its own name, by purchase on such terms and conditions and in such  
20 manner as it may deem proper or by gift, grant, lease, or otherwise, real property or rights  
21 and easements therein and franchises and personal property necessary or convenient for  
22 its corporate purposes, which purposes shall include, but shall not be limited to, the  
23 constructing or acquiring of a project, the improving, extending, adding to,  
24 reconstructing, renovating, or remodeling of any project or part thereof already  
25 constructed or acquired, or demolition to make room for such project or any part thereof,  
26 and to insure the same against any and all risks as such insurance may, from time to time,  
27 be available; the authority may also use such property, rent or lease the same to or from  
28 others, make contracts with respect to the use thereof, or sell, lease, exchange, transfer,  
29 assign, pledge, or otherwise dispose of or grant options for any such property in any  
30 manner which the authority deems to the best advantage of itself and its purposes;  
31 provided, however, that the powers to acquire, use, and dispose of property as set forth  
32 in this paragraph shall include the power to acquire, use, and dispose of any interest in  
33 such property, whether divided or undivided, which acquisition may result in the  
34 ownership of such property or any part thereof in common with any other party or parties,  
35 public or private; and title to any such property of the authority, however, shall be held  
36 by the authority exclusively for the benefit of the public;

1 (5) To make contracts and leases and to execute all instruments necessary or convenient,  
2 including contracts for construction of projects and leases of projects or contracts with  
3 respect to the use of projects which it causes to be acquired or constructed; provided that  
4 all private persons, firms, and corporations, this state, and all political subdivisions,  
5 departments, instrumentalities, or agencies of the state or of local government are  
6 authorized to enter into contracts, leases, or agreements with the authority upon such  
7 terms and for such purposes as they deem advisable; and without limiting the generality  
8 of the above, authority is specifically granted to counties and to the authority to enter into  
9 contracts, lease agreements, or other undertakings relative to the furnishing of project  
10 activities and facilities or either of them by the authority to such counties and by such  
11 counties to the authority for a term not exceeding 50 years;

12 (6) To exercise any one or more of the powers, rights, and privileges conferred by this  
13 Code section either alone or jointly or in common with one or more other public or  
14 private parties or public and private parties; in any such exercise of such powers, rights,  
15 and privileges jointly or in common with others with respect to the construction,  
16 operation, and maintenance of project facilities, the authority may own an undivided  
17 interest in such facilities with any other party with which it may jointly or in common  
18 exercise the rights and privileges conferred by this chapter; the authority may enter into  
19 an agreement or agreements with respect to any such project facility with the other party  
20 or parties participating therein; any such agreement may contain such terms, conditions,  
21 and provisions, consistent with this chapter, as the parties thereto shall deem to be in their  
22 best interests; any such agreement may include, but need not be limited to, provisions for  
23 the construction, operation, and maintenance of such project facility by any one or more  
24 party of the parties to such agreement, which party or parties shall be designated in or  
25 pursuant to such agreement as agent or agents on behalf of itself and one or more of the  
26 other parties thereto, or by such other means as may be determined by the parties thereto,  
27 and may include provisions for a method or methods of determining and allocating,  
28 among or between the parties, costs of construction, operation, maintenance, renewals,  
29 replacements, improvements, and disposals with respect to such facility; in carrying out  
30 its functions and activities as such agent with respect to construction, operation, and  
31 maintenance of such a facility, such agent shall be governed by the laws and regulations  
32 applicable to such agent as a separate legal entity and not by any laws or regulations  
33 which may be applicable to any of the other participating parties; provided, however, the  
34 agent shall act for the benefit of the public; notwithstanding anything contained in any  
35 other law to the contrary, pursuant to the terms of any such agreement, the authority may  
36 delegate its powers and duties with respect to the construction, operation, and  
37 maintenance of such facility to the party acting as agent; and all actions taken by such

1 agent in accordance with the provisions of such agreement may be binding upon the  
2 authority without further action or approval of the authority;

3 (7) To extend credit or make loans to any person, firm, corporation, or other industrial  
4 entity for the planning, design, construction, acquisition, or carrying out of any project,  
5 which credit or loans shall be secured by loan agreements, mortgages, security  
6 agreements, contracts, and all other instruments or fees or charges, upon such terms and  
7 conditions as the authority shall determine reasonable in connection with such loans,  
8 including provision for the establishment and maintenance of reserves and insurance  
9 funds, and in the exercise of powers granted by this Code section in connection with a  
10 project for such person, firm, corporation, or other industrial entity, to require the  
11 inclusion in any contract, loan agreement, security agreement, or other instrument of such  
12 provisions for guaranty, insurance, construction, use, operation, maintenance, and  
13 financing of a project as the authority may deem necessary or desirable;

14 (8) To acquire, accept, or retain equitable interests, security interests, or other interest in  
15 any property, real or personal, by mortgage, assignment, security agreement, pledge,  
16 conveyance, contract, lien, loan agreement, or other consensual transfer in order to secure  
17 the repayment of any moneys loaned or credit extended by the authority;

18 (9) To accept, receive, and administer gifts, grants, appropriations, and donations of  
19 money, materials, and property of any kind, including loans and grants from the United  
20 States of America, this state, or a unit of local government or any of their agencies,  
21 departments, authorities, or instrumentalities upon such terms and conditions as the  
22 United States of America, this state, or a unit of local government or any of their  
23 agencies, departments, authorities, or instrumentalities shall impose; to administer trusts;  
24 and to sell, lease, transfer, convey, appropriate, and pledge any and all of its property and  
25 assets;

26 (10) To invest any accumulation of its funds in any fund or reserve in any manner that  
27 public funds of this state or its political subdivisions may be invested;

28 (11) To do any and all things necessary or proper for the accomplishment of the  
29 objectives of this chapter and to exercise any power usually possessed by private  
30 corporations performing similar functions which is not in conflict with the Constitution  
31 and laws of this state, including the power to employ professional and administrative staff  
32 and personnel and to retain legal, engineering, fiscal, accounting, and other professional  
33 services; the power to purchase all kinds of insurance, including, without limitation,  
34 insurance against tort liability and against risks of damage to property; the power to  
35 borrow money for any of the corporate purposes of the authority; the power to indemnify  
36 and hold harmless any parties contracting with the authority or its agents from damage  
37 to persons or property; and the power to act as self-insurer with respect to any loss or

1 liability; provided, however, that obligations of the authority other than revenue bonds,  
 2 for which provision is made in this chapter, shall be payable from the general funds of  
 3 the authority and shall not be a charge against any special fund allocated to the payment  
 4 of revenue bonds;

5 (12) To mortgage, convey, pledge, or assign any properties, revenues, income, tolls,  
 6 charges, or fees owned or received by the authority;

7 (13) To borrow money and issue its revenue bonds and bond anticipation notes from  
 8 time to time and to use the proceeds thereof for the purpose of paying all or part of the  
 9 cost of any project, including the cost of extending, adding to, or improving such project,  
 10 or for the purpose of refunding any such bonds of the authority theretofore issued; and  
 11 to otherwise carry out the purposes of this chapter and to pay all other costs of the  
 12 authority incident to, or necessary and appropriate to, such purposes, including the  
 13 providing of funds to be paid into any fund or funds to secure such bonds and notes,  
 14 provided that all such bonds and notes shall be issued in accordance with the procedures  
 15 and subject to the limitations set forth in Code Section 36-63-9; and

16 (14) As security for repayment of authority obligations, to pledge, mortgage, convey,  
 17 assign, hypothecate, or otherwise encumber any property, real or personal, of such  
 18 authority and to execute any trust agreement, indenture, or security agreement containing  
 19 any provisions not in conflict with law, which trust agreement, indenture, or security  
 20 agreement may provide for foreclosure or forced sale of any property of the authority  
 21 upon default on such obligations either in payment of principal or interest or in the  
 22 performance of any term or condition contained in such agreement or indenture; this  
 23 state, on behalf of itself and each county, municipal corporation, political subdivision, or  
 24 taxing district therein waives any right which it or such county, municipal corporation,  
 25 political subdivision, or taxing district may have to prevent the forced sale or foreclosure  
 26 of any property of the authority so mortgaged or encumbered, and any such mortgage or  
 27 encumbrance may be foreclosed in accordance with law and the terms thereof.

28 36-23-8.

29 (a) Subject to the limitations and procedures provided by this Code section, the obligations  
 30 of any authority evidenced by bonds, bond anticipation notes, trust indentures, deeds to  
 31 secure obligations, security agreements, or mortgages executed in connection therewith  
 32 may contain such provisions not inconsistent with law as shall be determined by the board  
 33 of directors of the authority. The authority, in such instruments, may provide for the  
 34 pledging of all or any part of its revenues, income, or charges and for the mortgaging,  
 35 encumbering, or conveying of all or any part of its real or personal property; may covenant  
 36 against pledging any or all of its revenues, income, or charges; and may further provide for

1 the disposition of proceeds realized from the sale of any bonds and bond anticipation notes,  
2 for the replacement of lost, destroyed, stolen, or mutilated bonds and notes, and for the  
3 payment and redemption of such bonds and notes. Similarly, subject to the limitations and  
4 procedures of this Code section, undertakings of an authority may prescribe the procedure  
5 by which bondholders and noteholders may enforce rights against the authority and provide  
6 for rights upon breach of any covenant, condition, or obligation of the authority. Bonds,  
7 resolutions, trust indentures, mortgages, or deeds to secure obligations executed by an  
8 authority and bond anticipation notes executed by an authority may contain such provisions  
9 not otherwise contrary to law as the authority shall deem necessary or desirable.

10 (b) The proceeds derived from the sale of all bonds and bond anticipation notes issued by  
11 an authority shall be held and used for the ultimate purpose of paying, directly or indirectly  
12 as permitted in this chapter, all or part of the cost of any project, including the cost of  
13 extending, financing, adding to, or improving such project, or for the purpose of refunding  
14 any bond anticipation notes issued in accordance with this chapter or refunding any  
15 previously issued bonds of the authority.

16 (c) All bonds and bond anticipation notes issued by an authority shall be revenue  
17 obligations of such authority and may be made payable out of any revenues or other  
18 receipts, funds, or moneys of the authority, subject only to any agreements with the holders  
19 of other bonds or bond anticipation notes or to particular security agreements pledging any  
20 particular revenues, receipts, funds, or moneys.

21 (d) Issuance by an authority of one or more series of bonds or bond anticipation notes for  
22 one or more purposes shall not preclude it from issuing other bonds or notes in connection  
23 with the same project or with any other projects, but the proceeding wherein any  
24 subsequent bonds or bond anticipation notes shall be issued shall recognize and protect any  
25 prior pledge or mortgage made in any prior security agreement or made for any prior issue  
26 of bonds or bond anticipation notes, unless in the resolution authorizing such prior issue  
27 the right is expressly reserved to the authority to issue subsequent bonds or bond  
28 anticipation notes on a parity with such prior issue.

29 (e) An authority shall have the power and is authorized, whenever revenue bonds of the  
30 authority have been validated as provided in this chapter, to issue, from time to time, its  
31 notes in anticipation of the issuance of such bonds as validated and to renew from time to  
32 time any such notes by the issuance of new notes, whether the notes to be renewed have  
33 or have not matured. The authority may issue notes only to provide funds which would  
34 otherwise be provided by the issuance of the bonds as validated. The notes may be  
35 authorized, sold, executed, and delivered in the same manner as bonds. As with its bonds,  
36 the authority may sell such notes at public or private sale. Any resolution or resolutions  
37 authorizing notes of the authority or any issue thereof may contain any provisions which

1 the authority is authorized to include in any such resolution or resolutions; and the  
2 authority may include in any notes any terms, covenants, or conditions which it is  
3 authorized to include in any bonds. Validation of such bonds shall be a condition  
4 precedent to the issuance of the notes, but it shall not be required that such notes be  
5 judicially validated. Bond anticipation notes shall not be issued in an amount exceeding  
6 the par value of the bonds in anticipation of which they are to be issued.

7 (f) The interest rate on or rates to be borne by any bonds, notes, or other obligations issued  
8 by the authority shall be fixed by the board of directors of the authority. Any limitations  
9 with respect to interest rates found in Article 3 of Chapter 82 of this title or in the usury  
10 laws of this state shall not apply to obligations issued under this chapter.

11 (g) All revenue bonds issued by an authority under this chapter shall be issued and  
12 validated under and in accordance with Article 3 of Chapter 82 of this title, except as  
13 provided in subsection (f) of this Code section and except as specifically set forth below  
14 in this subsection:

15 (1) Revenue bonds issued by an authority may be in such form, either coupon or fully  
16 registered, or both coupon and fully registered, and may be subject to such  
17 exchangeability and transferability provisions as the bond resolution authorizing the  
18 issuance of such bonds or any indenture or trust agreement may provide;

19 (2) Revenue bonds shall bear a certificate of validation. The signature of the clerk of the  
20 superior court of the judicial circuit in which the issuing authority is located may be made  
21 on the certificate of validation of such bonds by facsimile or by manual execution, stating  
22 the date on which such bonds were validated; and such entry shall be original evidence  
23 of the fact of judgment and shall be received as original evidence in any court in this  
24 state;

25 (3) In lieu of specifying the rate or rates of interest which revenue bonds to be issued by  
26 an authority are to bear, the notice to the district attorney or the Attorney General and the  
27 notice to the public of the time, place, and date of the validation hearing may state that  
28 the bonds, when issued, will bear interest at a rate not exceeding a minimum per annum  
29 rate of interest specified in such notices or, in the event the bonds are to bear different  
30 rates of interest for different maturity dates, that none of such rates will exceed the  
31 maximum rate specified in the notices; provided, however, that nothing contained in this  
32 paragraph shall be construed as prohibiting or restricting the right of the authority to sell  
33 such bonds at a discount, even if in so doing the effective interest cost resulting therefrom  
34 would exceed the maximum per annum interest rate specified in such notices; and

35 (4) The term 'cost of project' shall have the meaning prescribed in paragraph (2) of Code  
36 Section 36-23-3 whenever referred to in bond resolutions of an authority, bonds and

1 bond anticipation notes issued by an authority, or notices and proceedings to validate  
2 such bonds.

3 36-23-9.

4 No bonds or other obligations of and no indebtedness incurred by any authority shall  
5 constitute an indebtedness or obligation of the State of Georgia or of any county, municipal  
6 corporation, or political subdivision thereof, nor shall any act of any authority in any  
7 manner constitute or result in the creation of an indebtedness of this state or of any such  
8 county, municipal corporation, or political subdivision. All such bonds and obligations  
9 shall be payable solely from the revenues therein pledged to such payment, including  
10 pledged rentals, sales proceeds, insurance proceeds, and condemnation awards; and no  
11 holder or holders of any such bonds or obligations shall ever have the right to compel any  
12 exercise of the taxing power of this state or of any county, municipal corporation, or  
13 political subdivision thereof, nor to enforce the payment thereof against any property of the  
14 state or of any such county, municipal corporation, or political subdivision.

15 36-23-10.

16 This chapter shall be liberally construed to effect the purposes hereof. Sale or issuance of  
17 bonds by any authority shall not be subject to regulation under Chapter 5 of Title 10, the  
18 'Georgia Securities Law,' or any other law. No proceeding or publication not required in  
19 this chapter shall be necessary to the performance of any act authorized in this chapter, nor  
20 shall any such act be subject to referendum."

21 **SECTION 2.**

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