

House Bill 938 (AS PASSED HOUSE AND SENATE)

By: Representatives Smith of the 76th and Douglas of the 73rd

A BILL TO BE ENTITLED
AN ACT

1 To create the Oconee County Public Facilities Authority and to provide for the appointment
2 of members of the Authority; to confer powers upon the Authority; to authorize the issuance
3 of revenue bonds of the Authority payable from the revenues, tolls, fees, charges, and
4 earnings of the Authority, contract payments to the Authority, and from other moneys
5 pledged therefor and to authorize the collection and pledging of the revenues, tolls, fees,
6 charges, earnings, and contract payments of the Authority for the payment of such revenue
7 bonds; to authorize the execution of resolutions and trust indentures to secure the payment
8 of the revenue bonds of the Authority and to define the rights of the holders of such
9 obligations; to make the revenue bonds of the Authority exempt from taxation; to fix and
10 provide the venue and jurisdiction of actions relating to any provisions of this Act; to provide
11 for the validation of bonds; to provide for construction; to provide for automatic repeal and
12 disposition of property; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Short title.

16 This Act shall be known and may be cited as the "Oconee County Public Facilities Authority
17 Act."

18 **SECTION 2.**

19 Oconee County Public Facilities Authority.

20 (a) There is hereby created a public body corporate and politic to be known as the "Oconee
21 County Public Facilities Authority," which shall be deemed to be a political subdivision of
22 the state and a public corporation, and by that name, style, and title said body may contract

1 and be contracted with, sue and be sued, implead and be impleaded, and complain and defend
2 in all courts of law and equity.

3 (b) The Authority shall consist of five members who shall be appointed by the Oconee
4 County Board of Education. With respect to the initial appointment, two members shall be
5 appointed for a term of three years; two members shall be appointed for a term of two years;
6 and one member shall be appointed for a term of one year. Thereafter, all appointments shall
7 be made for terms of three years and until successors are appointed and qualified.
8 Immediately after such appointments, the members of the Authority shall enter upon their
9 duties. To be eligible for appointment as a member of the Authority, a person shall be at
10 least 21 years of age and a resident of Oconee County, Georgia, for at least two years prior
11 to the date of his or her appointment and shall not have been convicted of a felony. Any
12 member of the Authority may be selected and appointed to succeed himself or herself.

13 (c) The Oconee County Board of Education may provide by resolution for compensation for
14 the services of the members of the Authority in such amounts as it may deem appropriate and
15 such members shall be reimbursed for their actual expenses necessarily incurred in the
16 performance of their duties.

17 (d) The members of the Authority shall elect one of their number as chairperson and another
18 as vice chairperson. The members of the Authority shall also elect a secretary, who need
19 not be a member of the Authority, and may also elect a treasurer, who need not be a member
20 of the Authority. The secretary may also serve as treasurer. If the secretary or treasurer are
21 not members of the Authority, such officers shall have no voting rights. Each of such
22 officers shall serve for a period of one year and until their successors are duly elected and
23 qualified.

24 (e) Three members of the Authority shall constitute a quorum. No vacancy on the Authority
25 shall impair the right of the quorum to exercise all of the rights and perform all of the duties
26 of the Authority.

27 **SECTION 3.**

28 Definitions.

29 As used in this Act, the term:

30 (1) "Authority" means the Oconee County Public Facilities Authority created by this Act.

31 (2) "Costs of the project" means and embraces the cost of construction; the cost of all
32 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and
33 equipment; financing charges; interest prior to and during construction and for six months
34 after completion of construction; the cost of engineering, architectural, fiscal agents'
35 expenses, legal expenses, plans and specifications, and other expenses necessary or

1 incidental to determining the feasibility or practicability of the project; administrative
 2 expenses and such other expenses as may be necessary or incident to the financing
 3 authorized in this Act; working capital; and all other costs necessary to acquire, construct,
 4 add to, extend, improve, equip, operate, and maintain the project.

5 (3) "Project" means:

6 (A) All buildings, facilities, and equipment necessary or convenient for the efficient
 7 operation of the Oconee County School District; and

8 (B) Any "undertaking" permitted by the Revenue Bond Law.

9 (4) "Revenue Bond Law" means the Revenue Bond Law of the State of Georgia, codified
 10 at O.C.G.A. Section 36-82-62 et seq., as amended, or any other similar law hereinafter
 11 enacted.

12 (5) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act.

13 (6) "Self-liquidating" means any project from which the revenues and earnings to be
 14 derived by the Authority therefrom, including but not limited to any contractual payments
 15 with governmental or private entities, and all properties used, leased, and sold in
 16 connection therewith, together with any grants, will be sufficient to pay the costs of
 17 operating, maintaining, and repairing the project and to pay the principal and interest on
 18 the revenue bonds or other obligations which may be issued for the purpose of paying the
 19 costs of the project.

20 (7) "State" means the State of Georgia.

21 **SECTION 4.**

22 Powers.

23 The Authority shall have the power:

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

25 (2) To acquire by purchase, lease, gift, condemnation, or otherwise and to hold, operate,
 26 maintain, lease, and dispose of real and personal property of every kind and character for
 27 its corporate purposes;

28 (3) To acquire in its own name by purchase on such terms and conditions and in such
 29 manner as it may deem proper or by condemnation in accordance with the provisions of
 30 any and all existing laws applicable to the condemnation of property for public use, real
 31 property, or rights or easements therein, or franchises necessary or convenient for its
 32 corporate purposes; to use the same so long as its corporate existence shall continue; to
 33 lease or make contracts with respect to the use of or disposal of the same in any manner
 34 it deems to the best advantage of the Authority. The Authority shall be under no
 35 obligation to accept and pay for any property condemned under this Act except from the

1 funds provided under the authority of this Act. In any proceedings to condemn, such
2 orders may be made by the court having jurisdiction of the suit, action, or proceedings
3 as may be just to the Authority and to the owners of the property to be condemned. No
4 property shall be acquired under the provisions of this Act upon which any lien or
5 encumbrance exists, unless, at the time such property is so acquired, a sufficient sum of
6 money is to be deposited in trust to pay and redeem the fair value of such lien or
7 encumbrance;

8 (4) To appoint, select, and employ officers, agents, and employees, including
9 engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix
10 their respective compensations;

11 (5) To execute contracts, leases, installment sale agreements and other agreements and
12 instruments necessary or convenient in connection with the acquisition, construction,
13 addition, extension, improvement, equipping, operation, or maintenance of a project; and
14 any and all persons, firms, corporations, and the Oconee County Board of Education are
15 hereby authorized to enter into contracts, leases, installment sale agreements, and other
16 agreements or instruments with the Authority upon such terms and for such purposes as
17 they deem advisable and as they are authorized by law;

18 (6) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease,
19 and dispose of projects;

20 (7) To pay the costs of the project with the proceeds of revenue bonds or other
21 obligations issued by the Authority or from any grant or contribution from the United
22 States or any agency or instrumentality thereof or from this state or any agency or
23 instrumentality or other political subdivision thereof or from any other source
24 whatsoever;

25 (8) To accept loans or grants of money or materials or property of any kind from the
26 United States or any agency or instrumentality thereof, upon such terms and conditions
27 as the United States or such agency or instrumentality may require;

28 (9) To accept loans or grants of money or materials or property of any kind from this
29 state or any agency or instrumentality or political subdivision thereof, upon such terms
30 and conditions as this state or such agency or instrumentality or political subdivision may
31 require;

32 (10) To borrow money for any of its corporate purposes, to issue revenue bonds, and to
33 provide for the payment of the same and for the rights of the holders thereof;

34 (11) To exercise any power usually possessed by private corporations performing similar
35 functions, including the power to incur short-term debt and to approve, execute, and
36 deliver appropriate evidence of any such indebtedness; and

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

3 **SECTION 5.**

4 Revenue bonds.

5 The Authority, or any authority or body which has or which may in the future succeed to the
6 powers, duties, and liabilities vested in the Authority created by this Act, shall have power
7 and is authorized to provide by resolution for the issuance of revenue bonds of the Authority
8 for the purpose of paying all or any part of the costs of the project and for the purpose of
9 refunding revenue bonds or other obligations previously issued. The principal of and interest
10 on such revenue bonds shall be payable solely from the special fund hereby provided for
11 such payment. The revenue bonds of each issue shall be dated, shall bear interest at such rate
12 or rates per annum payable at such time or times, shall mature at such time or times not
13 exceeding 40 years from their date or dates, shall be payable in such medium of payment as
14 to both principal and interest as may be determined by the Authority, and may be redeemable
15 before maturity, at the option of the Authority, at such price or prices and under such terms
16 and conditions as may be fixed by the Authority in the resolution for the issuance of such
17 revenue bonds.

18 **SECTION 6.**

19 Same; form; denomination; registration; place of payment.

20 The Authority shall determine the form of the revenue bonds and shall fix the denomination
21 or denominations of the revenue bonds. The revenue bonds may be issued in coupon or
22 registered form, or both, as the Authority may determine, and provision may be made for
23 registration and exchangeability privileges. The Authority shall fix the place or places of
24 payment of principal and interest thereon.

25 **SECTION 7.**

26 Same; signatures; seal.

27 All such revenue bonds shall bear the manual or facsimile signature of the chairperson or
28 vice chairperson of the Authority and the attesting manual or facsimile signature of the
29 secretary, assistant secretary, or secretary-treasurer of the Authority, and the official seal of
30 the Authority shall be impressed or imprinted thereon. Any coupons attached thereto shall
31 bear the manual or facsimile signatures of the chairperson or vice chairperson and the

1 secretary, assistant secretary, or secretary-treasurer of the Authority. Any revenue bonds or
2 coupons attached thereto may bear the manual or facsimile signatures of such persons as at
3 the actual time of the execution of such revenue bonds or coupons shall be duly authorized
4 or hold the proper office, although at the date of issuance of such revenue bonds such person
5 may not have been so authorized or shall not have held such office. In case any officer
6 whose signature shall appear on any revenue bond or any coupon shall cease to be such
7 officer before the delivery of such revenue bond, such signature shall nevertheless be valid
8 and sufficient for all purposes in the same manner as if that person had remained in office
9 until such delivery.

10 **SECTION 8.**

11 Same; negotiability; exemption from taxation.

12 All revenue bonds shall have and are hereby declared to have all the qualities and incidents
13 of negotiable instruments under the laws of this state. All revenue bonds and their transfer
14 and the income therefrom shall be exempt from all taxation within this state.

15 **SECTION 9.**

16 Same; sale; price; proceeds.

17 The Authority may sell revenue bonds in such manner and for such price as it may determine
18 to be in the best interest of the Authority. The proceeds derived from the sale of revenue
19 bonds shall be used solely for the purpose and purposes provided in the resolutions and
20 proceedings authorizing the issuance of such revenue bonds.

21 **SECTION 10.**

22 Same; interim receipts and certificates or temporary bonds.

23 Prior to the preparation of any definitive revenue bonds, the Authority may, under like
24 restrictions, issue interim receipts, interim certificates, or temporary revenue bonds, with or
25 without coupons, exchangeable for definitive revenue bonds upon the issuance of the latter.

26 **SECTION 11.**

27 Same; replacement of lost or mutilated bonds.

28 The Authority may provide for the replacement of any revenue bonds or coupons which shall
29 become mutilated or be destroyed or lost.

SECTION 12.

Same; conditions precedent to issuance.

The Authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the resolution, the Authority shall determine that the project financed with the proceeds of the revenue bonds is self-liquidating. Revenue bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, and things which are specified or required by this Act. Any resolution providing for the issuance of revenue bonds under the provisions of this Act shall become effective immediately upon its passage and need not be published or posted, and any such resolution may be passed at any regular or special or adjourned meeting of the Authority by a majority of its members.

SECTION 13.

Credit not pledged.

Revenue bonds of the Authority shall not be deemed to constitute a debt of the Oconee County School District nor a pledge of the faith and credit of the Oconee County School District, but such revenue bonds shall be payable solely from the fund hereinafter provided for. The issuance of such revenue bonds shall not directly, indirectly, or contingently obligate the Oconee County School District to levy or to pledge any form of taxation whatsoever for payment of such revenue bonds or to make any appropriation for their payment, and all such revenue bonds shall contain recitals on their face covering substantially the foregoing provisions of this section. Notwithstanding the foregoing provisions, this Act shall not affect the ability of the Authority and the Oconee County Board of Education to enter into an intergovernmental contract pursuant to which the Oconee County Board of Education agrees to pay amounts sufficient to pay operating charges and other costs of the Authority or any project including, without limitation, the principal of and interest on revenue bonds in consideration for services or facilities of the Authority.

SECTION 14.

Trust indenture as security.

In the discretion of the Authority, any issuance of revenue bonds may be secured by a trust indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without this state. Either the resolution providing for the issuance of the revenue bonds or such trust indenture may

1 contain such provisions for protecting and enforcing the rights and remedies of the
 2 bondholders as may be reasonable and proper and not in violation of law, including
 3 covenants setting forth the duties of the Authority in relation to the acquisition and
 4 construction of the project, the maintenance, operation, repair, and insuring of the project,
 5 and the custody, safeguarding, and application of all moneys.

6 **SECTION 15.**

7 To whom proceeds of bonds shall be paid.

8 In the resolution providing for the issuance of revenue bonds or in the trust indenture, the
 9 Authority shall provide for the payment of the proceeds of the sale of the revenue bonds to
 10 any officer or person who, or any agency, bank, or trust company which shall act as trustee
 11 of such funds and shall hold and apply the same to the purposes thereof, subject to such
 12 regulations as this Act and such resolution or trust indenture may provide.

13 **SECTION 16.**

14 Sinking fund.

15 The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls,
 16 fines, charges, and earnings derived from any particular project or projects, regardless of
 17 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a
 18 particular project for which revenue bonds have been issued, unless otherwise pledged and
 19 allocated, may be pledged and allocated by the Authority to the payment of the principal and
 20 interest on revenue bonds of the Authority as the resolution authorizing the issuance of the
 21 revenue bonds or the trust indenture may provide. Such funds so pledged from whatever
 22 source received shall be set aside at regular intervals as may be provided in the resolution or
 23 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with
 24 the payment of:

- 25 (1) The interest upon such revenue bonds as the same shall fall due;
 26 (2) The principal or purchase price of such revenue bonds as the same shall fall due;
 27 (3) Any premium upon such revenue bonds as the same shall fall due;
 28 (4) The purchase of such revenue bonds in the open market; and
 29 (5) The necessary charges of the paying agent for paying principal and interest.

30 The use and disposition of such sinking fund shall be subject to such regulations as may be
 31 provided in the resolution authorizing the issuance of the revenue bonds or in the trust
 32 indenture, but, except as may otherwise be provided in such resolution or trust indenture,

1 such sinking fund shall be maintained as a trust account for the benefit of all revenue bonds
2 without distinction or priority of one over another.

3 **SECTION 17.**

4 Remedies of bondholders.

5 Any holder of revenue bonds or any of the coupons appertaining thereto and the trustee under
6 the trust indenture, if any, except to the extent the rights given in this Act, may be restricted
7 by resolution passed before the issuance of the revenue bonds or by the trust indenture, may,
8 either at law or in equity, by suit, action, mandamus, or other proceedings, protect and
9 enforce any and all rights under the laws of this state, including specifically but without
10 limitation, the Revenue Bond Law, or granted under this Act or under such resolution or trust
11 indenture, and may enforce and compel performance of all duties required by this Act or by
12 such resolution or trust indenture to be performed by the Authority or any officer thereof,
13 including the fixing, charging, and collecting of revenues, fees, tolls, fines, and other charges
14 for the use of the facilities and services furnished.

15 **SECTION 18.**

16 Validation.

17 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
18 the procedure of the Revenue Bond Law. The petition for validation shall make party
19 defendant to such action the Authority and shall also make party defendant to such action the
20 Oconee County Board of Education if such defendant has contracted with the Authority for
21 services or facilities relating to the project for which revenue bonds are to be issued and
22 sought to be validated, and such defendant shall be required to show cause, if any exists, why
23 such contract or contracts shall not be adjudicated as a part of the basis for the security for
24 the payment of any such revenue bonds. Such defendant shall be required to show cause, if
25 any exists, why such contract or contracts shall not be adjudicated as a part of the basis for
26 the security for the payment of any such revenue bonds. The revenue bonds, when validated,
27 and the judgment of validation shall be final and conclusive with respect to such revenue
28 bonds and the security for the payment thereof and interest thereon and against the Authority
29 and all other defendants.

SECTION 19.

Venue and jurisdiction.

Any action to protect or enforce any rights under the provisions of this Act or any suit or action against such Authority shall be brought in the Superior Court of Oconee County, Georgia, and any action pertaining to validation of any revenue bonds issued under the provisions of this Act shall likewise be brought in said court which shall have exclusive, original jurisdiction of such actions.

SECTION 20.

Interest of bondholders protected.

While any of the revenue bonds issued by the Authority remain outstanding, the powers, duties, or existence of said Authority or its officers, employees, or agents shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of such revenue bonds, and no other entity, department, agency, or authority shall be created which will compete with the Authority to such an extent as to affect adversely the interest and rights of the holders of such revenue bonds nor shall the state itself so compete with the Authority. The provisions of this Act shall be for the benefit of the Authority and the holders of any such revenue bonds, and upon the issuance of such revenue bonds under the provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

SECTION 21.

Moneys received considered trust funds.

All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of revenue bonds, as grants or other contributions, or as revenue, income, fees, and earnings, shall be deemed to be trust funds to be held and applied solely as provided in this Act.

SECTION 22.

Purpose of the Authority.

Without limiting the generality of any provision of this Act, the general purpose of the Authority is declared to be that of providing buildings, facilities, and services for the residents of the Oconee County School District.

SECTION 23.

Rates, charges and revenues; use.

The Authority is hereby authorized to prescribe and fix rates and to revise same from time to time and to collect revenues, tolls, fees, and charges for the services, facilities, and commodities furnished, and in anticipation of the collection of the revenues, to issue revenue bonds or other types of obligations as provided in this Act to finance, in whole or in part, the costs of the project, and to pledge to the punctual payment of said revenue bonds or other obligations all or any part of the revenues.

SECTION 24.

Rules, regulations, service policies, and procedures
for operation of projects.

It shall be the duty of the Authority to prescribe rules, regulations, service policies, and procedures for the operation of any project or projects constructed or acquired under the provisions of this Act. The Authority may adopt bylaws.

SECTION 25.

Tort immunity.

To the extent permitted by law, the Authority shall have the same immunity and exemption from liability for torts and negligence as the Oconee County School District; and the officers, agents, and employees of the Authority when in the performance of the work of the Authority shall have the same immunity and exemption from liability for torts and negligence as the officers, agents, and employees of the Oconee County School District when in the performance of their public duties or work of the Oconee County School District.

SECTION 26.

Tax-exempt status of Authority.

The properties of the Authority, both real and personal, are declared to be public properties used for the benefit and welfare of the people of this state and not for purposes of private or corporate benefit and income, and such properties and the Authority shall be exempt from all taxes and special assessments of any municipality or county or this state and any political subdivision thereof.

SECTION 27.

Effect on other governments.

This Act shall not and does not in any way take from the Oconee County School District the authority to own, operate, and maintain public facilities or to issue revenue bonds as provided by the Revenue Bond Law.

SECTION 28.

Liberal construction of Act.

This Act, being for the welfare of various political subdivisions of this state and its inhabitants, shall be liberally construed to effect the purposes hereof.

SECTION 29.

Automatic repeal; disposition of property.

This Act shall stand repealed on December 31, 2010, and all property of the Oconee County Public Facilities Authority shall then vest immediately in the Oconee County School District.

SECTION 30.

General repealer.

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