

House Bill 1004 (AS PASSED HOUSE AND SENATE)

By: Representatives Williams of the 4th, Brock of the 5th, and Forster of the 3rd, Post 1

A BILL TO BE ENTITLED
AN ACT

1 To create the Northwest Georgia Trade & Convention Center Authority as a public body
2 corporate and politic, a political subdivision of the state, and a public corporation, to have
3 the responsibility and authority to promote tourism, conventions, and trade shows in Dalton
4 and Whitfield County, Georgia; to provide for the creation and organization of the authority;
5 to provide for the appointment of the membership of the authority and their terms of office,
6 compensation, and qualifications; to provide for meetings; to provide for legislative findings
7 and declaration of purpose; to provide for general powers; to provide for regulations; to
8 provide for other matters relative to the foregoing and relative to the general purposes of this
9 Act; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Short title.

13 This Act shall be known and may be cited as the "Northwest Georgia Trade & Convention
14 Center Authority Act."

15 **SECTION 2.**

16 Definitions and references.

17 As used in this Act, the term:

- 18 (1) "Area" means the entirety of the geographic area of Whitfield County, Georgia.
19 (2) "Authority" means the Northwest Georgia Trade & Convention Center Authority.
20 (3) "City" means the City of Dalton.
21 (4) "County" means Whitfield County, Georgia.
22 (5) "Special events" means events which, in the judgment of the authority, will promote
23 tourism in the area or privately contracted functions.

SECTION 3.

Creation of authority, status, tax exemption, and sovereign immunity.

(a) There is hereby created a body public and politic to be known as the Northwest Georgia Trade & Convention Center Authority. The authority shall be deemed to be a political subdivision of the state and a public corporation and, by that name, may contract and be contracted with, sue and be sued, implead and be impleaded, and bring and defend actions.

Said authority shall be a convention center and visitors bureau authority created by Act of the General Assembly, and is intended to be an agency and instrumentality of the city and county, and a governmental unit for purposes of Section 103, 141, and 150 of the Internal Revenue Code of 1986, as amended. The authority shall not be a state institution, nor a department or agency of the state, but shall be a creation of the state, having a distinct corporate identity.

(b) The authority shall have its principal office at the Northwest Georgia Trade & Convention Center, located within the city, and its legal situs or residence for the purposes of this Act shall be the county.

(c) The exercise of the powers conferred upon the authority in this Act shall constitute an essential governmental function for a public purpose. The properties of the authority, both real and personal, and the income of the authority are declared to be public properties and income used for the benefit and welfare of the people of Whitfield County and not for the purpose of private or corporate benefit, and such properties, to the extent of the authority's ownership thereof or other interest therein, and all income and obligations of the authority shall be exempt from all taxes and special assessments of the state or any city, county, or other political subdivision thereof. The authority shall have all of the exemptions and exclusions from taxes as are now granted to cities and counties for the operation of properties or facilities similar to the properties and facilities to be owned or operated, or both, by the authority.

(d) The authority shall have the same immunity and exemption from liability for torts and negligence as the state, and the officers, agents, and employees of the authority, when in performance of work of the authority, shall have the same immunity and exemption from liability for torts and negligence as officers, agents, and employees of the State of Georgia. The authority may be sued the same as private corporations on any contractual obligation of the authority. Any action to protect or to enforce any rights pursuant to the provisions of this Act or any suit or action against the authority shall be brought in the Superior Court of Whitfield County, Georgia, which shall have exclusive, original jurisdiction of such actions. The property of the authority shall not be subject to levy and sale under legal process. The records of the authority shall be public records which are subject to Article 4 of Chapter 18

1 of Title 50 of the O.C.G.A. Nothing in this Act shall be construed to abridge or change the
2 powers and duties of other authorities, departments, boards, and like agencies of the city or
3 county.

4 (e) The authority shall be authorized to become the fee simple owner of all real property
5 located at 2211 Dug Gap Battle Road, Dalton, Georgia, and known as the location of the
6 Northwest Georgia Trade & Convention Center, currently held by the City of Dalton
7 Building Authority. The Northwest Georgia Trade & Convention Center Authority shall be
8 deemed the legal successor to the City of Dalton Building Authority created and existing
9 under an amendment to the Constitution of the State of Georgia (Ga. Laws 1968, pp.
10 1466-1482) for the purposes of debt heretofore issued by the City of Dalton Building
11 Authority with respect to the Northwest Georgia Trade & Convention Center, including, but
12 not limited to, the City of Dalton Building Authority (Georgia) Revenue Bonds, Series 2002,
13 dated as of June 1, 2002, currently outstanding in the principal amount of \$7,770,000.00. All
14 other rights, powers, and obligations of the City of Dalton Building Authority are not
15 affected by this Act. The City of Dalton Building Authority has heretofore entered into a
16 contract by and between the city and the county, dated as of June 1, 2002, relating to the
17 Series 2002 Bonds, pursuant to which the city and the county each covenant and agree that
18 each will, to the extent necessary, levy an annual tax on all taxable property located within
19 the boundaries of the city or the county, at such rate or rates, within any limits now
20 prescribed or such higher limits as may hereafter be prescribed by law, as may be necessary
21 to make the payments to the City of Dalton Building Authority, pursuant to the Series 2002
22 Contract. The Series 2002 Contract is hereby transferred from the City of Dalton Building
23 Authority to the authority created hereunder.

24 **SECTION 4.**

25 **Members and meetings.**

26 (a) The authority shall consist of seven members, who shall be natural persons who shall be
27 at least 21 years of age and who shall be residents of the county. Both the mayor and council
28 of the city and the county board of commissioners shall appoint two members each, who may
29 or may not be a member of the respective council or board of commissioners and who shall
30 serve one-year terms. The four initial appointees shall make the additional three
31 appointments, subject to confirmation by the mayor and council of the city and the county
32 board of commissioners, as follows: one member shall represent the interests of the hotel and
33 motel industry within Whitfield County and may be a member in good standing of any
34 organized trade group organized to represent such interests, whose initial term shall be for
35 one year, with subsequent terms of two years; one member shall represent the interests of the

1 restaurant industry within Whitfield County and may be a member in good standing of any
2 organized trade group organized to represent such interests, whose initial and subsequent
3 terms shall be for two years; and one member shall represent the interests of local history or
4 local historic areas and may be a member in good standing of any locally designated
5 historical society or trade group dedicated to increasing historic tourism in Dalton and
6 Whitfield County, whose initial term shall be for three years, with subsequent terms of two
7 years. The staggered terms of members shall expire on the last day of January of the year
8 of expiration and appointments for the succeeding two-year term shall be made in January
9 with such appointments being effective as of the next February 1. Any member may resign
10 at any time by filing a written notice of resignation with the chairperson of the authority.
11 Members may be removed for cause by a majority vote of the members of the authority.
12 Both the city administrator and the county administrator shall sit on the authority as ex
13 officio, nonvoting members during their terms of employment in such capacity.

14 (b) The authority shall meet at such times as may be necessary to transact the business
15 coming before it, but not less often than monthly. Either the chairperson or any two other
16 members together may call a special called meeting of the authority. Meetings of the
17 authority shall be open to the public in accordance with the laws of the State of Georgia.
18 Written minutes of all meetings shall be kept, and within ten days following every meeting,
19 a copy of the minutes shall be furnished to the mayor and council of the city and to the
20 county board of commissioners. Meetings shall be conducted in accordance with the latest
21 version of *Robert's Rules of Order*.

22 (c) At the first meeting of the authority, the members shall elect a chairperson and a vice
23 chairperson from its voting membership. Commencing in the year 2004, at the first meeting
24 of the authority in February of each year, the members shall elect a chairperson and a vice
25 chairperson from its voting membership. The chairperson shall preside at meetings of the
26 authority and shall vote on all matters coming before the authority except when an even
27 number of authority members is present and creates the possibility of a tie vote. In such
28 instance, the chairperson shall not vote except to break a tie vote. The vice chairperson shall
29 preside at meetings in the absence of the chairperson. In the absence of both the chairperson
30 and vice chairperson, the members present at a meeting shall elect a temporary chairperson
31 to preside at that meeting, so long as the chairperson and vice chairperson both remain absent
32 from the meeting. Four members shall constitute a quorum. Official action may be taken by
33 majority vote of those members voting on a matter if a quorum is present and voting on such
34 matter, except that the bylaws of the authority shall be initially adopted or subsequently
35 amended only by majority vote of all members. All members present at a meeting, including
36 the chairperson, vice chairperson, or any other member presiding at such meeting, shall be
37 entitled to vote on all matters which shall come before the authority. No vacancy on the

1 authority shall impair the right of a quorum of four to exercise all the rights and perform all
2 the duties of the authority.

3 (d) Members shall receive no compensation for their services as members of the authority
4 but may be reimbursed for their proper and reasonable expenses incurred in the performance
5 of their duties, subject to any limitations imposed by general law upon the reimbursement
6 of public officials and subject to any limitations which may be contained, from time to time,
7 in the bylaws of the authority.

8 (e)(1) As used in this subsection, the term "substantial interest or involvement" means any
9 interest or involvement which reasonably may be expected to result in a direct financial
10 benefit to a member, as determined by the authority members by vote, which determination
11 shall be final and not subject to review.

12 (2) The provisions of Code Section 45-10-3 of the O.C.G.A. shall apply to the members
13 of the authority, and a member of the authority shall not engage in any transaction with the
14 authority. The provisions of the immediately preceding sentence and the provisions of
15 paragraph (9) of such Code section shall be deemed to have been complied with and the
16 authority may purchase from, sell to, borrow from, loan to, contract with, or otherwise deal
17 with any member or any organization or person with which any member of the authority
18 is in any way interested or involved, provided that:

19 (A) Any interest or involvement by such member is disclosed in advance to the members
20 of the authority who will be voting on the matter or transaction and such disclosure is
21 recorded in the minutes of the authority;

22 (B) No member having such a substantial interest or involvement may be present at that
23 portion of any meeting of the authority during which discussion of such matter or
24 transaction is conducted; and

25 (C) No member having a substantial interest or involvement may participate in any
26 decision of the authority members relating to any such matter or transaction. A member
27 who has any such substantial interest or involvement shall be entitled to participate in
28 discussions of whether such interest or involvement is a substantial interest or
29 involvement but shall not be entitled to vote on the question.

30 (3) Nothing contained in this subsection or in Code Section 45-10-3 of the O.C.G.A. shall
31 be deemed to prohibit any member from providing legal services to the authority, being
32 paid for such services and related expenses, or participating in discussions relating to his
33 or her engagement, scope of services, compensation, or related matters or from voting on
34 such matters.

SECTION 5.

Purpose.

The purpose of the authority is to promote tourism, conventions, special events, and trade shows within the area in such manner and manners as the authority shall determine to be appropriate.

SECTION 6.

Duty of the authority.

It shall be the duty of the authority to promote tourism, conventions, special events, and trade shows within the area and to operate the authority and its facilities in a fiscally responsible manner.

SECTION 7.

Powers.

(a) The authority shall have all powers allowed by law and consistent with the provisions of this Act as are necessary or convenient to carry out its corporate purpose, including, without limitation, the power to:

(1) Adopt and alter a corporate seal;

(2) Purchase advertising promoting tourism, conventions, trade shows, and special events;

(3) Encourage, solicit, promote, procure, sponsor, co-sponsor, and service conventions, trade shows, and special events;

(4) Lend financial support through grants, contributions, or otherwise to other governmental entities in furtherance of its corporate purpose;

(5) Lend financial support through grants, contributions, or otherwise to private sector for profit and not for profit entities in furtherance of its corporate purpose, specifically provided that the authority determines that the residents of the area shall receive a substantial benefit therefrom and provided that it does so by written agreement;

(6) Conduct activities to foster better public understanding on the part of individuals and businesses of the importance of tourism and the convention and visitors industry to the economy of the city, of the county, and of the area;

(7) Conduct activities to encourage and to assist the cooperation between the businesses and industries servicing tourists, conventions, trade shows, and special events;

(8) Engage in fundraising activities in furtherance of its corporate purpose;

1 (9) Subject to formal pre-approval by city and county, acquire by purchase, lease, or
2 otherwise and to hold, lease, and dispose of real and personal property of every kind and
3 character for its corporate purposes;

4 (10) Acquire in its own name by purchase, upon such terms and conditions and in such
5 manner as it may deem proper, real property or rights of easements therein or franchises
6 necessary or convenient for its corporate purpose, to use the same so long as its corporate
7 existence shall continue, to lease or make contracts with respect to the use of the same, or
8 to dispose of personal property in its discretion, or to dispose of real property upon the
9 concurrence of the city and county. If the authority shall deem it expedient to acquire and
10 construct any such facility on any lands, the title to which shall then be held by the city, the
11 county, or any other municipality incorporated in said county, the governing authority or
12 body of the city, the county, or any of the said municipalities is authorized to convey title
13 to such lands to the authority upon the receipt of such lawful consideration as may be
14 determined by the parties to such conveyance or upon payment for the credit of the general
15 funds of said county or municipalities of the reasonable value of such lands, such value to
16 be determined by mutual consent of said county or municipality and the chairperson of the
17 authority;

18 (11) Appoint, select, and employ an executive director, officers, agents, and employees,
19 and independent consultants including but not limited to engineering, architectural, and
20 construction experts, fiscal agents, auditors, economists, and attorneys and fix their
21 respective compensations; and to delegate to the executive director the authority and
22 responsibility necessary to administer properly the day-to-day business of the authority
23 within policies set by the authority and subject to its review. The powers delegated to the
24 executive director may, at the election of the authority, include the making of
25 recommendations as to the hiring and termination of other employees and their
26 compensation, the management of the authority's offices and properties, the making of
27 budget recommendations, and the hiring of independent consultants;

28 (12) Appoint an advisory committee and other committees of persons from the public and
29 private sectors without regard to their place of residence;

30 (13) Make contracts of every kind and character, and, without limitation, any and all
31 persons, firms, and corporations and the state and any and all political subdivisions,
32 departments, institutions, or agencies of the state, including, but not limited to, the county
33 and the city, are authorized to enter into contracts, leases, or agreements with the authority
34 upon such terms and for such purposes as they deem advisable; and, without limiting the
35 generality of the above, the authority shall be permitted to enter into the following: (A)
36 contracts under which the authority purchases administrative and financial management
37 services from the city or county to be performed by personnel at the city or county's cost,

1 which shall include the costs of payroll, employee benefits, supplies, and overhead
 2 reasonably allocable to the performance of such services, and (B) lease contracts relating
 3 to leases of real property, personal property, or both real and personal property;

4 (14) Accept loans and grants of money or materials or property of any kind from the
 5 United States of America or any agency or instrumentality thereof, upon such terms and
 6 conditions as the United States of America or such agency or instrumentality may impose;

7 (15) Accept loans and grants of money or materials or property of any kind from the State
 8 of Georgia or any agency or instrumentality or political division thereof, upon such terms
 9 and conditions as the State of Georgia or such agency or instrumentality or political
 10 subdivision may impose;

11 (16) Sell, lease, grant, exchange, or otherwise dispose of any personal property or interest
 12 therein;

13 (17) Sue and be sued in contract and in tort and to complain and defend in all courts;

14 (18) Advise and recommend plans to other public and private sector entities for the
 15 promotion of tourism, conventions, trade shows, and special events;

16 (19) Conduct studies and develop plans for improving tourism in the area;

17 (20) Allow use for a fee of the Trade Center, or a portion thereof, for private seminars,
 18 functions, parties, receptions, and the like;

19 (21) Receive and disburse public funds appropriated by the city and county and to receive
 20 and disburse funds from private sources and other revenues which may be received from
 21 time to time which would assist in the accomplishment of its corporate purpose; and

22 (22) Do all things necessary or convenient to accomplish its corporate purpose and to
 23 exercise any power permitted by the laws of the state to be exercised by private
 24 corporations which will further the authority's ability to accomplish such purpose, so long
 25 as the exercise of such power is not in conflict with the Constitution or laws of this state.

26 (b) The powers enumerated in each paragraph of subsection (a) of this section are
 27 cumulative of and in addition to those powers enumerated in the other paragraphs of
 28 subsection (a) of this section and any other powers elsewhere in this Act or which may
 29 reasonably be inferred from the provisions of this Act. This Act shall be liberally construed
 30 to effect the described purposes, and in interpreting this Act, the courts are not to apply
 31 "Dillon's Rule."

32 **SECTION 8.**

33 Budget and finances.

34 On or before April 30 of each year, the authority shall receive its verified audit for the prior
 35 year. Prior to October 1 of each year, the chairperson of the authority shall appoint one

1 member of the authority to confer jointly with the city administrator and with the county
2 administrator and to act as liaison with regard to a proposed budget for the authority for the
3 ensuing year. Such three persons shall annually be known as the Budget Committee. The
4 Budget Committee shall produce a proposed budget for approval by the authority and
5 submission, by October 1 of each year, to the mayor and council of the city and to the county
6 board of commissioners. If the Budget Committee does not unanimously present a proposed
7 budget to the authority for approval and submission, then the authority shall submit a
8 continuation budget not greater than the total approved budget for the current year. The
9 continuation budget shall include any upward or downward adjustment necessary to meet all
10 debt service requirements and any downward adjustment necessary to apportion out budget
11 funds exclusively applicable to conventions and visitors bureau operations should such
12 operation become separate from the authority in the future. If either the city or county, or
13 both, shall fail or refuse to approve the budget as submitted by the authority by December
14 31, then the continuation budget, as set forth above, shall become automatically effective in
15 order to ensure operational continuity of the authority. Commencing Fiscal Year 2003, the
16 city and county shall each be required to fund one-half of any deficit of operations, capital
17 improvements, or debt service, or any combination thereof, of the authority. The
18 continuation budget as set forth above shall remain in effect until the next budget cycle. In
19 the event of a failure to reach budget agreement at that time or in subsequent years, then a
20 percentage increase shall automatically apply to all line items of the budget equivalent to the
21 percentage increase for the relevant time period as determined by the Blue Book CPI index
22 for all consumer goods.

23 **SECTION 9.**

24 Bylaws.

25 The authority may, by affirmative vote of a majority of all members, adopt bylaws to govern
26 the authority, its employees, and operation and may, by affirmative vote of all members,
27 repeal, replace, or amend such bylaws.

28 **SECTION 10.**

29 Liability limited.

30 Neither the members of the authority nor any person executing notes, leases, or other
31 agreements or obligations on behalf of the authority shall be personally liable thereon by
32 reason of such execution.

SECTION 11.

Neither city nor county bound.

The authority shall have no power or authority to bind the city or the county by any contract, agreement, financial obligation, indebtedness, or otherwise; and no contract, agreement, financial obligation, or indebtedness incurred by the authority shall ever be a claim or charge against the city or county, provided that both the authority and the city or county shall be bound to each other by contracts, agreements, financial obligations, or indebtedness between themselves.

SECTION 12.

Oversight.

Either the mayor and council of the city or the county board of commissioners, or the designees of either, shall be authorized to inspect at their pleasure the state and condition of the authority, its properties, and all books and records pertaining to the authority and its affairs and the authority shall give and furnish them with assistance in making such inspections.

SECTION 13.

Dissolution.

Should the authority, for any reason, be dissolved after full payment of all indebtedness previously incurred, both as to principal and interest, title to all property of any kind and nature, real and personal, held by the authority at the time of such dissolution shall be conveyed to the city and to the county as tenants in common or title to any such property may be conveyed prior to such dissolution in accordance with provisions which may be made therefor in any resolution or trust instrument relating to such property, subject to any liens, leases, or other encumbrances outstanding against or in respect to such property at the time of such conveyance.

SECTION 14.

Repealer.

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