

House Bill 1789

By: Representatives Hanner of the 133rd and Rynders of the 137th

A BILL TO BE ENTITLED
AN ACT

1 To create the Lee County Parks and Recreation Authority and to authorize such authority to
2 acquire, construct, equip, maintain, and operate golf courses and associated facilities and
3 athletic and recreational centers, facilities, and areas, including, but not limited to,
4 playgrounds, parks, swimming and wading pools, hiking, camping, and picnicking areas and
5 facilities, lakes, tennis courts, athletic fields and courts, club houses, gymnasiums,
6 auditoriums, youth centers, senior citizen centers, stadiums, related buildings, and the usual
7 and convenient facilities appertaining to such undertakings and extensions and improvements
8 of such facilities, to acquire parking facilities and parking areas in connection therewith, to
9 acquire the necessary property therefor, both real and personal, and to lease, buy, and sell any
10 or all of such facilities, including real property; to confer powers and to impose duties on the
11 authority, the execution of which shall be in the discretion of the Board of Commissioners
12 of Lee County; to provide for the membership and for the appointment of members of the
13 authority; to authorize the authority to contract with others pertaining to such recreational
14 facilities, to execute leases on such facilities, to convey title to real property of the authority,
15 and to do all things deemed necessary or convenient for the operation of such undertakings;
16 to authorize the authority and other political subdivisions to enter into contracts pertaining
17 to uses of such facilities, which contracts and leases shall obligate the lessees to make
18 payment for the use of such facilities for the term thereof and to pledge to that purpose
19 revenues derived from taxation; to provide that no debt of Lee County or other political
20 subdivisions, within the meaning of Article IX, Section III, Paragraph I of the Constitution
21 of the State of Georgia, shall be incurred by exercise of the powers granted; to authorize the
22 issuance of revenue bonds or obligations of the authority; to authorize the collection and
23 pledging of the revenues and earnings of the authority for the payment of such bonds or
24 obligations and to secure the payment thereof; to define the rights of the holders of such
25 bonds or obligations; to make the property of the authority exempt from taxation and
26 assessment; to grant the authority and its members certain immunities; to authorize the
27 issuance of refunding bonds or obligations; to fix the venue or jurisdiction of actions; to
28 provide that bonds be validated as authorized by Article 3 of Chapter 82 of Title 36 of the

1 O.C.G.A., the "Revenue Bond Law"; to provide for budgets and procedures in connection
 2 therewith; to provide for audits; to provide for funding; to provide for personnel; to provide
 3 for conveyance of property upon dissolution; to provide for bonding limitations; to provide
 4 for construction; to provide for related matters; to provide for activation of the authority; to
 5 provide an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Lee County Parks and Recreation
 9 Authority Act."

10 **SECTION 2.**

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

27 (b) The authority shall consist of five members appointed by a majority vote of the Board
 28 of Commissioners of Lee County, any of whom may be members of such governing
 29 authority, and the county manager of Lee County, who shall be an ex officio, nonvoting
 30 member of the authority. Members of the Lee County Parks and Recreation Authority shall
 31 be appointed for terms of two years, and members may succeed themselves in office. If a
 32 member of a governing authority is appointed as a member of the authority, his or her term
 33 shall terminate at the end of his or her term of office on the governing authority or upon his

1 or her ceasing to be a member of the governing authority. Such person may be reappointed
2 as a member of the authority.

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

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

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

16 (e) Each January, the authority shall elect one of its members as chairperson, one of its
17 members as vice chairperson, and one of its members as secretary and treasurer. Such
18 officers shall serve terms of one year.

19 (f) Three members of the authority shall constitute a quorum. No vacancy on the authority
20 shall impair the right of the quorum to exercise all the rights and perform all the duties of the
21 authority.

22 (g) The authority shall make rules and regulations for its own government according to
23 *Robert's Rules of Order*. It shall have perpetual existence.

24 (h) No member or employee of the authority shall have, directly or indirectly, any financial
25 interest, profit, or benefit in any contract, work, or business of the authority nor in the sale,
26 lease, or purchase of any property to or from the authority.

27 (i) All meetings of the authority shall be open to the public as provided in Chapter 14 of
28 Title 50 of the O.C.G.A.

29 **SECTION 3.**

30 (a) As used in this Act, the term:

31 (1) "Authority" shall mean the Lee County Parks and Recreation Authority created in
32 Section 2 of this Act.

33 (2) "Cost of the project" shall encompass the cost of all lands, properties, rights,
34 easements, and franchises acquired and the cost of all conveyances in fee simple of the
35 authority's title thereto and leases thereof; the cost of all machinery and equipment and
36 financing charges and interest prior to and during construction and for one year after

1 completion of construction; the cost of engineering, architectural, fiscal, and legal
2 services and plans and specifications and other expenses necessary or incident to
3 determining the feasibility or practicability of the project; the cost of administrative
4 services and such other expenses as may be necessary or incident to the financing
5 authorized by this Act; and the cost of the acquisition and construction of any project and
6 the placing of such project into operation. Any obligation or expense incurred for any of
7 the foregoing purposes shall be regarded as a part of the cost of the project and may be
8 paid or reimbursed as such out of the proceeds of revenue bonds issued under the
9 provisions of this Act for such project.

10 (3) "Project" shall be deemed to mean and include the acquisition, construction,
11 equipping, maintenance, and operation of a golf course and related facilities and athletic
12 and recreation centers, facilities, and areas, including, but not limited to, playgrounds,
13 parks, swimming and wading pools, hiking, camping, and picnicking areas and facilities,
14 lakes, tennis courts, athletic fields and courts, club houses, gymnasiums, auditoriums,
15 youth centers, senior citizen centers, stadiums, related buildings, and the usual and
16 convenient facilities appertaining to such undertakings and extensions and improvements
17 of such facilities; the acquisition of parking facilities or parking areas in connection
18 therewith; the acquisition of the necessary property thereof, both real and personal, and
19 the lease and sale of any part or all of such facilities, including real or personal property,
20 so as to assure the efficient and proper development, maintenance, and operation of such
21 recreational facilities and areas deemed by the authority to be necessary, convenient, or
22 desirable.

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

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

SECTION 4.

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

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

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

6 (3) To acquire in its own name by purchase, on such terms and conditions and in such
7 manner as it may deem proper, real property or rights or easements therein or franchises
8 necessary or convenient for its corporate purposes, to use the same so long as its
9 corporate existence shall continue, to lease or make contracts with respect to the use of
10 the same, or to dispose of the same in any manner it deems to the best advantage of the
11 authority. If the authority shall deem it expedient to construct any project on any lands,
12 the title to which shall then be in the State of Georgia, the Governor is authorized to
13 convey for and in behalf of the state title to such lands to the authority upon the receipt
14 of such lawful consideration as may be determined by the parties to such conveyance.
15 If the authority shall deem it expedient to acquire and construct any project on any lands,
16 the title to which shall be in the name of the Board of Commissioners of Lee County or
17 any municipality incorporated in that county, such entity is authorized to convey title to
18 such lands to the authority upon the receipt of such lawful consideration as may be
19 determined by the parties of such conveyances or upon payment for the credit of the
20 general funds of such county or municipalities of the reasonable value of such lands, such
21 value to be determined by mutual consent of such county or municipality and the
22 authority or by an appraiser to be agreed upon by the governing authority or body of such
23 county or municipality and the chairperson of the authority;

24 (4) To make contracts and leases and to execute all instruments necessary or convenient,
25 including contracts for the acquisition and construction of projects and leases of projects
26 and contracts with respect to the use of projects which the authority causes to be erected
27 or acquired, including contracts for acquiring, constructing, renting, and leasing of its
28 projects for the use of Lee County or any municipality in Lee County, and to dispose by
29 conveyance of its title in fee simple of real and personal property of every kind and
30 character; any and all persons, firms, and corporations and the state and any and all
31 political subdivisions, departments, institutions, or agencies of the state are authorized to
32 enter into contracts, leases, or agreements with the authority upon such terms and for such
33 purposes as they deem advisable; and without limiting the generality of the above,
34 authorization is specifically granted to municipal corporations and counties and to the
35 authority to enter into contracts and lease and sublease agreements with the State of
36 Georgia or any agencies or departments thereof relative to parks and recreational centers,
37 areas, and facilities and relative to any property which such departments or agencies of

1 the State of Georgia have now or may hereafter obtain by lease from the United States
2 government or any agencies or departments thereof, and the authority is specifically
3 authorized to convey title in fee simple to any and all of its lands and any improvements
4 thereon to any persons, firms, corporations, municipalities, the State of Georgia or the
5 United States government, or any agencies or departments thereof, subject to the rights
6 and interest of the holders of any of the bonds or obligations authorized to be issued
7 pursuant to this Act and by the resolution or trust indenture of the authority authorizing
8 the issuance of any of its bonds or obligations as provided in this Act;

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

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

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

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

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

28 (10) To borrow money for any of its corporate purposes from any bank, banks, or other
29 lending institutions and to execute evidence of such indebtedness and to secure the same
30 by assigning all rights to and pledging all funds to be received by the authority from a
31 lease or leases entered into by the authority as the lessor and Lee County or a
32 municipality within it as the lessee;

33 (11) To do all things necessary or convenient to carry out the powers expressly given in
34 this Act; and

35 (12) To make recommendations to the Board of Commissioners of Lee County on land
36 acquisition, facilities development, and other matters relating to the provision of

1 recreation and recreational opportunities to the citizens of Lee County and the
2 municipalities within it.

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

7 (c) Notwithstanding any other provision of this Act to the contrary, any loan to the authority
8 exceeding \$10,000.00 shall be approved by a majority vote of the Board of Commissioners
9 of Lee County prior to such loan becoming effective.

10 **SECTION 5.**

11 The authority, or any authority or body which has or which may in the future succeed to the
12 powers, duties, and liabilities vested in the authority created by this Act, shall have power
13 and is authorized at one time or from time to time to provide by resolution for the issuance
14 of negotiable revenue bonds for the purpose of paying all or any part of the cost as defined
15 in this Act of any one or more projects. The principal of and interest on such revenue bonds
16 shall be payable solely from the special fund provided for in this Act for such payment. The
17 bonds of each issue shall be dated and shall bear interest at such rate or rates as determined
18 by the authority, payable on such dates as determined by the authority. Such revenue bonds
19 or obligations shall be issued pursuant to and in conformity with Article 3 of Chapter 82 of
20 Title 36 of the O.C.G.A., the "Revenue Bond Law," and all procedures pertaining to such
21 issuance and the conditions thereof shall be the same as those contained in the Revenue Bond
22 Law and any amendments thereto. The authority shall not issue any such revenue bonds
23 unless such issuance is first approved by majority vote of the Board of Commissioners of Lee
24 County; provided, however, that such approval shall not be construed to cause such political
25 subdivision to have any liability for the repayment of such bonds.

26 **SECTION 6.**

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

30 **SECTION 7.**

31 The authority may sell such revenue bonds in such manner and for such prices as it may
32 determine to be for the best interest of the authority, and the proceeds derived from the sale
33 of such bonds shall be used solely for the purpose provided in the proceedings authorizing
34 the issuance of such bonds.

SECTION 8.

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2 Such revenue bonds may be issued without any other proceedings or the happening of any
3 other conditions or things than those proceedings, conditions, and things which are specified
4 or required by this Act and Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue
5 Bond Law." Any resolution providing for the issuance of revenue bonds under the
6 provisions of this Act shall become effective immediately upon its passage and need not be
7 published or posted, and any such resolution may be passed at any regular, special, or
8 adjourned meeting of the authority by a majority of its members, subject to the provisions
9 of Chapter 14 of Title 50 of the O.C.G.A., governing open and public meetings. Before the
10 vote to issue any revenue bonds, the authority must advertise in a newspaper of general
11 circulation throughout Lee County at least once for three consecutive weeks the intent to vote
12 on the issuance of such bonds. The advertisements shall be a minimum of one-eighth of a
13 page in size and shall list all details of the proposed revenue bond issue, including the date,
14 time, and place of such vote.

SECTION 9.

15
16 Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a
17 debt of the State of Georgia or Lee County or a pledge of the faith and credit thereof; but
18 such bonds shall be payable solely from the rentals, revenues, earnings, and funds of the
19 authority as provided in the resolution or trust agreement or indenture authorizing the
20 issuance and securing the payment of such bonds. The issuance of such revenue bonds shall
21 not directly, indirectly, or contingently obligate the state or any political subdivision thereof,
22 including Lee County to levy or to pledge any form of taxation whatever therefor or to make
23 any appropriation for their payment, and all such bonds shall contain recitals on their face
24 covering substantially the foregoing provisions of this section. However, Lee County or any
25 other political subdivision of the state contracting with the authority may obligate itself to
26 pay the amounts required under any contract entered into with the authority from funds
27 received from taxes to be levied and collected for that purpose to the extent necessary to pay
28 the obligations contractually incurred under this section and from any other source; and the
29 obligation to make such payments shall constitute a general obligation and a pledge of the
30 full faith and credit of the obligor but shall not constitute a debt of the obligor within the
31 meaning of Article IX, Section V, Paragraph I of the Constitution of the State of Georgia.
32 When such obligation is made to make such payments from taxes to be levied for that
33 purpose, then the obligation shall be mandatory to levy and collect such taxes from year to
34 year in an amount sufficient to fulfill and fully comply with the terms of such obligation.
35 Without limiting the obligations of any political subdivision of the state contracting with the
36 authority in accordance with this Act, it shall be required that prior to entering into any such

1 contract, the authority or the political subdivision with which such contract will be executed
2 shall prepare or cause to be prepared a feasibility study including a projection of revenues
3 for the project which is the subject of such contract. The political subdivision entering into
4 a contract with the authority shall, prior to entering into the contract, properly advertise its
5 intention and call at least one public hearing on the subject at least three weeks prior to the
6 date on which the political subdivision plans to vote to approve the signing of the contract.

7 **SECTION 10.**

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

23 **SECTION 11.**

24 The exercise of the powers conferred upon the authority in this Act shall constitute an
25 essential governmental function for a public purpose, and the authority shall be required to
26 pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction,
27 control, possession, or supervision or upon its activities in the operation and maintenance of
28 property acquired by it or of buildings erected or acquired by it or any fees, rentals, or other
29 charges for the use of such property or buildings or other income received by the authority.
30 The tax exemption provided in this Act shall not include an exemption from sales and use
31 tax on property purchased by or for the use of the authority.

32 **SECTION 12.**

33 The authority shall have the same immunity and exemption from liability for torts and
34 negligence as the State of Georgia, and the officers, agents, and employees of the authority,

1 when in performance of the work of the authority, shall have the same immunity from
2 liability for torts and negligence as officers, agents, and employees of the State of Georgia.
3 The authority may be sued the same as private corporations on any contractual obligation of
4 the authority. The property of the authority shall not be subject to levy and sale under legal
5 process.

6 **SECTION 13.**

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

12 **SECTION 14.**

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

30 **SECTION 15.**

31 While any of the bonds issued by the authority remain outstanding, the powers, duties, or
32 existence of the authority or of its officers, employees, or agents shall not be diminished or
33 impaired in any manner that will affect adversely the interest and rights of the holders of such
34 bonds, and no other entity, department, agency, or authority will be created which will

1 compete with the authority to such an extent as to affect adversely the interest and rights of
2 the holders of such bonds, nor will the state itself so compete with the authority. The
3 provisions of this Act shall be for the benefit of the authority and the holders of any such
4 bonds and upon the issuance of bonds under the provisions of this Act shall constitute a
5 contract with the holders of such bonds.

6 **SECTION 16.**

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

13 **SECTION 17.**

14 (a) The authority shall prepare a budget for each operating year. Funding for the authority
15 shall be provided by the Board of Commissioners of Lee County.

16 (b) The Lee County Parks and Recreation Authority shall develop a financial and program
17 work plan for both capital and operational requirements for the authority's activities for each
18 fiscal year. Such plan shall be known as the "Annual Operating and Capital Budget of the
19 Lee County Parks and Recreation Authority." The plan shall be adopted on or before June
20 30 of any given year, with an effective date of July 1. All projected revenues and estimated
21 expenditures shall be clearly outlined as to source and expenditure classification and purpose.
22 The proposed budget shall not become effective until it has been approved by the Board of
23 Commissioners of Lee County. The authority shall make no expenditure in excess of
24 \$10,000.00 unless such expenditure is itemized in an approved budget or is otherwise
25 approved by such governing authority. The authority shall balance its budget at the end of
26 each fiscal year.

27 (c) Each year the Lee County Parks and Recreation Authority shall have made an
28 independent audit and examination of the authority's financial records and transactions. Said
29 audit shall be made in accordance with established national audit and accounting standards.
30 Copies of said audit shall be available for public review and provided to each participating
31 jurisdiction.

