

The Senate State and Local Governmental Operations Committee offered the following substitute to HB 1715:

A BILL TO BE ENTITLED  
AN ACT

To create the Western Area Regional Radio System Authority; to provide a short title; to provide a declaration of need; to provide for the membership, appointment of members, and terms of the members; to provide for a quorum; to define certain terms; to provide for the powers of the authority; to provide that obligations shall be exempt from taxation; to provide that indebtedness of the authority shall not constitute debt to the establishing local governments; to provide for venue of actions relating to any provisions of this Act; to provide for the purpose of the authority; to provide that the authority may establish rates and collect revenues for services; to provide for rules, regulations, and policies; to provide for tort immunity; to provide for exemptions from certain taxes; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Short title.

This Act shall be known and may be cited as the "Western Area Regional Radio System Authority Act."

**SECTION 2.**

Declaration of need.

It is declared that there exists a need for a Western Area Regional Radio System Authority to function without profit in developing and promoting for the public good certain communication facilities and services in order to provide an interoperable, high quality, and reliable and uninterrupted communication signal for public safety and public services and for the other purposes expressed in this Act.

**SECTION 3.****Western Area Regional Radio System Authority.**

(a) There is hereby created a public body corporate and politic to be known as the "Western Area Regional Radio System Authority," which shall be deemed to be a political subdivision of the state and a public corporation, and by that name, style, and title said body may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts of law and equity. The authority shall have perpetual existence.

(b) The authority shall consist of eight members who shall be appointed by the establishing local governments in the following manner: (1) Carroll County, Georgia, shall appoint two members to the authority, (2) the City of Douglasville, Georgia, shall appoint two members to the authority, (3) Haralson County, Georgia, shall appoint two members to the authority, and (4) Heard County, Georgia, shall appoint two members to the authority. Elected officials of the establishing local governments may be appointed as members of the authority. With respect to the initial appointments by the establishing local governments, the appointments shall be in the following manner: (1) Carroll County, Georgia, shall appoint its first member to a term of one year and shall appoint its second member to a term of four years, (2) the City of Douglasville, Georgia, shall appoint its first member to a term of two years and shall appoint its second member to a term of three years, (3) Haralson County, Georgia, shall appoint the first member to a term of one year and shall appoint its second member to a term of three years, and (4) Heard County, Georgia, shall appoint its first member to a term of two years and shall appoint its second member to a term of four years. Thereafter, all appointments shall be made for terms of four years and until successors are appointed and qualified. Immediately after such appointments, the members of the authority shall enter upon their duties. To be eligible for appointment as a member of the authority, a person shall be at least 21 years of age, shall have been a resident of the jurisdiction of the establishing local government which appointed him or her for at least two years prior to the date of his or her appointment and shall continue such residency during his or her term of office, and shall not have been convicted of a felony. Any member of the authority may be selected and appointed to succeed himself or herself.

(c) The authority may provide by resolution for compensation for the services of the members of the authority in such amounts as it may deem appropriate; provided, however, that such members shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

(d) The members of the authority shall elect one of their number as chairperson and another as a vice chairperson. The chairperson shall preside over the regular and special meetings of the authority and shall not cast a vote in any proceeding unless necessary to cast a vote in the

1 event of a tie vote. In the event that the chairperson is not in attendance, the vice chairperson  
2 shall preside and that presiding member shall not cast a vote in any proceeding unless  
3 necessary to cast a vote in the event of a tie vote. The members of the authority shall also  
4 elect a secretary, and may also elect a treasurer, who need not be members of the authority.  
5 The secretary and treasurer shall not be the chairperson or vice chairperson. The secretary  
6 may also serve as treasurer. If either the secretary or the treasurer is not a member of the  
7 authority, such officer shall have no voting rights. Each of such officers shall serve for a  
8 period of one year and until their successors are duly elected and qualified.

9 (e) Four members of the authority shall constitute a quorum. No vacancy on the authority  
10 shall impair the right of the quorum to exercise all of the rights and perform all of the duties  
11 of the authority.

## 12 **SECTION 4.**

### 13 Definitions.

14 As used in this Act, the term:

15 (1) "Authority" means the Western Area Regional Radio System Authority created by  
16 this Act.

17 (2) "Costs of the project" means and embraces the cost of construction; the cost of all  
18 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and  
19 equipment; financing charges; interest prior to and during construction and for six months  
20 after completion of construction; the cost of engineering, architectural, fiscal agents' and  
21 legal expenses, plans and specifications, licensing fees and costs, and other expenses  
22 necessary or incidental to determining the feasibility or practicability of the project;  
23 administrative expenses and such other expenses as may be necessary or incident to the  
24 financing herein authorized; working capital; and all other costs necessary to acquire,  
25 construct, add to, extend, improve, equip, operate, and maintain the project.

26 (3) "County" means any county created under the Constitution or laws of this state.

27 (4) "Establishing local governments" shall mean the board of commissioners of Carroll  
28 County, Georgia, the mayor and council of the City of Douglasville, Georgia, the  
29 commissioner of Haralson County, Georgia, and the board of commissioners of Heard  
30 County, Georgia.

31 (5) "Local government" or "local governing authority" means any municipal corporation  
32 or county or any state or local authority, board, or political subdivision created by the  
33 General Assembly or pursuant to the Constitution and laws of this state.

34 (6) "Obligation" means any indebtedness, including, without limitation, any note, lease,  
35 contract, or other evidence of indebtedness.

(7) "Project" means the acquisition, construction, installation, modification, renovation, repair, extension, renewal, replacement, or rehabilitation of land, interest in land, buildings, structures, facilities, or other improvements and the acquisition, installation, modification, renovation, repair, extension, renewal, replacement, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvement, all for the essential public purpose of providing facilities and services permitted by the obligation to meet radio communication needs and standards and to aid in the accomplishment of the purposes of the authority.

(6) "State" means the State of Georgia.

## **SECTION 5.**

### **Powers.**

The authority shall have the power:

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

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

(3) To acquire in its own name by purchase, on such terms and conditions and in such manner as it may deem proper, or by condemnation in accordance with the provisions of any and all existing laws applicable to the condemnation of property for public use, real property or rights or easements therein or franchises necessary or convenient for its corporate purposes, to use the same so long as its corporate existence shall continue, to lease or make contracts with respect to the use of the same, or to dispose of the same in any manner it deems to the best advantage of the authority;

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

(5) To execute contracts, leases, installment sale agreements, and other agreements and instruments necessary or convenient in connection with the acquisition, construction, addition, extension, improvement, equipping, operation, or maintenance of a project; and any and all persons, firms and corporations, local governments, and any other political subdivision or municipality of the state located within the operational capacity of the authority are hereby authorized to enter into contracts, leases, installment sale agreements, and other agreements or instruments with the authority upon such terms and for such purposes as they deem advisable and as they are authorized by law;

- 1 (6) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease,  
2 and dispose of projects;
- 3 (7) To pay the costs of the project with the proceeds of any grant or contribution from  
4 the United States of America or any agency or instrumentality thereof or from the state  
5 or any agency or instrumentality or other political subdivision thereof or from any other  
6 source whatsoever;
- 7 (8) To finance projects and facilities of the authority for the furtherance of the purposes  
8 of the authority within the geographic area over which the authority has operational  
9 capability by loan, loan guarantee, grant, lease, or otherwise and to pay the cost of such  
10 from any funds of the authority or from any contributions or loans by persons,  
11 corporations, partnerships, whether limited or general, or other entities, all of which the  
12 authority is authorized to receive, accept, and use;
- 13 (9) To sell or pledge any obligation acquired by it whenever it is determined by the  
14 authority that the sale thereof is desirable;
- 15 (10) To accept loans and grants of money or materials or property of any kind from the  
16 United States of America or any agency or instrumentality thereof, upon such terms and  
17 conditions as the United States of America or such agency or instrumentality may  
18 require;
- 19 (11) To accept loans and grants of money or materials or property of any kind from the  
20 state or any agency or instrumentality or political subdivision thereof, upon such terms  
21 and conditions as, the state or such agency or instrumentality or political subdivision may  
22 require;
- 23 (12) To borrow money for any of its corporate purposes and to provide for the payment  
24 of the same and for the rights of the holders thereof;
- 25 (13) To exercise any power granted by the laws of this state to public or private  
26 corporations which is not in conflict with the public purpose of the authority, including  
27 the power to incur short-term debt and to approve, execute, and deliver appropriate  
28 evidence of any such indebtedness;
- 29 (14) To acquire by the exercise of the power of eminent domain any real property or  
30 rights in property which it may deem necessary for its purposes under this Act pursuant  
31 to the procedures set forth under the laws of this state and to purchase, exchange, sell,  
32 lease, or otherwise acquire or dispose of any property or any rights or interests therein,  
33 or for any projects or activities incident thereto; and
- 34 (15) To do all things necessary or convenient to carry out the powers expressly given in  
35 this Act.

**SECTION 6.**

Exemption from taxation.

Obligations of the authority shall be exempt from all taxation within the state.

**SECTION 7.**

Credit not pledged.

Obligations of the authority shall not be deemed to constitute a debt of the establishing local governments nor a pledge of the faith and credit of said establishing local governments. The issuance of such obligations shall not directly, indirectly, or contingently obligate said establishing local governments to levy or to pledge any form of taxation whatsoever for payment of such obligations or to make any appropriation for their payment, and all such obligations 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 any political subdivision or municipality to enter into an intergovernmental contract pursuant to which the political subdivision or municipality 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 obligations in consideration for services or facilities of the authority.

**SECTION 8.**

Venue.

Any action to protect or enforce any rights under the provisions of this Act or any suit or action against the authority shall be brought in the Superior Court of Carroll County, Georgia.

**SECTION 9.**

Moneys received considered trust funds.

All moneys received pursuant to the authority of this Act, whether 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 10.**

## 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 for the development of a regional communication system for public safety and public service use to guarantee interoperability, high quality, and reliable and uninterrupted communication signals through facilities, equipment, and services for the establishing local governments by contract, including other persons, entities, and local governments who may hereinafter contract and agree for services from the authority. The general purposes of the authority shall not restrict the authority from developing and servicing any persons, entities, or local governments who may contract for the authority to develop communication services or facilities, or both, in other areas where operational capacity is deemed necessary or desirable.

**SECTION 11.**

## 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 incur indebtedness as herein provided to finance, in whole or in part, the costs of the project.

**SECTION 12.**

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

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

**SECTION 13.**

## Tort immunity.

To the extent permitted by law, the authority shall have the same immunity and exemption from liability for torts and negligence as a political subdivision of the state; 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

1 officers, agents, and employees of a political subdivision of the state when in the  
2 performance of their public duties or work for a political subdivision of this state.

3 **SECTION 14.**

4 Tax-exempt status of authority.

5 The properties of the authority, both real and personal, are declared to be public properties  
6 used for the benefit and welfare of the people of the state and not for purposes of private or  
7 corporate benefit and income, and such properties and the authority shall be exempt from all  
8 taxes and special assessments of any municipality, county, or the state or any political  
9 subdivision thereof to the extent allowed by general law.

10 **SECTION 15.**

11 Effect on other governments.

12 This Act shall not and does not in any way take from the establishing local governments or  
13 any political subdivision or municipality the authority to own, operate, and maintain public  
14 facilities or to issue obligations.

15 **SECTION 16.**

16 Liberal construction of Act.

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

19 **SECTION 17.**

20 Effective date.

21 This Act shall become effective as of the earlier of August 1, 2004, or the adoption of a  
22 resolution by the establishing local governments that makes initial appointments of members  
23 to constitute a quorum of the authority.

24 **SECTION 18.**

25 Repealer.

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