

House Bill 1763 (AS PASSED HOUSE AND SENATE)

By: Representatives Smith of the 13<sup>th</sup>, Post 2, Childers of the 13<sup>th</sup>, Post 1, and Reece of the 11<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the City of Rome School Building 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 other moneys pledged  
5 therefor and to authorize the collection and pledging of the revenues, tolls, fees, charges, and  
6 earnings of the authority for the payment of such revenue bonds; to authorize the execution  
7 of resolutions and trust indentures to secure the payment of the revenue bonds of the  
8 authority and to define the rights of the holders of such obligations; to make the revenue  
9 bonds of the authority exempt from taxation; to fix and provide the venue and jurisdiction  
10 of actions relating to any provisions of this Act; to provide for the validation of bonds; to  
11 repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Short title.

15 This Act shall be known and may be cited as the "City of Rome School Building Authority  
16 Act."

17 **SECTION 2.**

18 City of Rome School Building Authority.

19 (a) There is hereby created a public body corporate and politic to be known as the "City of  
20 Rome School Building Authority," which shall be deemed to be a political subdivision of the  
21 state and a public corporation, and by that name, style, and title said body may contract and  
22 be contracted with, sue and be sued, implead and be impleaded, and complain and defend in  
23 all courts of law and equity. Such corporation shall be separate and distinct from any public

1 corporation heretofore created by the General Assembly and shall be an instrumentality of  
2 the State of Georgia exercising governmental powers.

3 (b) The authority shall consist of three members who shall be the mayor of the City of  
4 Rome, the city manager of the City of Rome, and the superintendent of the City of Rome  
5 School System. Immediately upon the passage and approval of this Act, the members of the  
6 authority shall enter upon their duties.

7 (c) The members of the authority shall elect one of their number as chairperson and shall  
8 elect a secretary and treasurer who need not necessarily be a member of the authority. If the  
9 secretary and treasurer is not a member of the authority, such officer shall have no voting  
10 rights. Each of such officers shall serve for a period of one year and until their successors  
11 are duly elected and qualified.

12 (d) Two members of the authority shall constitute a quorum. No vacancy on the authority  
13 shall impair the right of the quorum to exercise all of the rights and perform all of the duties  
14 of the authority.

15 (e) The members of the authority shall not be entitled to compensation for their services but  
16 shall be entitled to and shall be reimbursed for their actual expenses necessarily incurred in  
17 the performance of their duties.

18 (f) The authority shall make rules and regulations for its own governance. It shall have  
19 perpetual existence. Any change in the name or composition of the authority shall in no way  
20 affect the vested rights of any person under the provisions of this Act or impair the  
21 obligations of any contracts under this Act.

### 22 **SECTION 3.**

#### 23 **Definitions.**

24 As used in this Act, the term:

25 (1) "Authority" means the City of Rome School Building Authority created by this Act.

26 (2) "Costs of the project" means and embraces the cost of construction; the cost of all  
27 lands, properties, rights, easements, and franchises acquired; the cost of all machinery and  
28 equipment; financing charges; interest prior to and during construction and for six months  
29 after completion of construction; the cost of engineering, architectural, fiscal agents'  
30 expenses, legal expenses, plans and specifications, and other expenses necessary or  
31 incidental to determining the feasibility or practicability of the project; administrative  
32 expenses and such other expenses as may be necessary or incident to the financing  
33 authorized in this Act; working capital; and all other costs necessary to acquire, construct,  
34 add to, extend, improve, equip, operate, and maintain the project.

1 (3) "Project" means the repair, renovation and improvement of Anna K. Davis  
 2 Elementary School, East Central Elementary School, Elm Street Elementary School,  
 3 Main Elementary School, North Heights Elementary School, Southeast Elementary  
 4 School, West Central Elementary School, Rome Middle School, and Rome High School  
 5 as authorized by the Georgia Department of Education pursuant to the Qualified Zone  
 6 Academy Bond (QZAB) Program.

7 (4) "Revenue Bond Law" means the Revenue Bond Law of the State of Georgia, codified  
 8 at Article 3 of Chapter 82 of Title 36 of the O.C.G.A., as amended, or any other similar  
 9 law hereinafter enacted.

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

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

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

#### 19 **SECTION 4.**

##### 20 Powers.

21 The authority shall have the power:

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

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

26 (3) To acquire in its own name by purchase, lease, gift or otherwise on such terms and  
 27 conditions and in such manner as it may deem proper, real property and personal property  
 28 or rights or easements therein or franchises necessary or convenient for its corporate  
 29 purposes, to use the same so long as its corporate existence shall continue, to lease or  
 30 make contracts with respect to the use of the same, or to dispose of the same in any  
 31 manner it deems to the best advantage of the authority. No property shall be acquired  
 32 under the provisions of this Act upon which any lien or encumbrance exists, unless, at the  
 33 time such property is so acquired, a sufficient sum of money is to be deposited in trust to  
 34 pay and redeem the fair value of such lien or encumbrance. If the authority shall deem  
 35 it expedient to construct any project on lands which are subject to the control of the City  
 36 of Rome School System, the City of Rome School System is authorized to convey such

1 lands to the authority for such consideration as may be agreed upon by the authority and  
2 the City of Rome School System, taking into consideration the public benefit to be  
3 derived from such conveyance;

4 (4) To exercise the powers conferred upon a "public corporation" or "public authority"  
5 by Article IX, Section III, Paragraph I of the Constitution of Georgia, such authority  
6 being hereby expressly declared to be a "public corporation" or "public authority" within  
7 the meaning of such provision of the Constitution of Georgia;

8 (5) 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 (6) To execute contracts, leases, agreements, and instruments necessary or convenient  
12 in connection with the acquisition, construction, addition, extension, improvement,  
13 equipping, operation, or maintenance of the project; and any and all persons, firms,  
14 corporations, and the City of Rome School System are authorized to enter into contracts,  
15 leases, agreements, or instruments with the authority upon such terms and for such  
16 purposes as they may deem advisable and as they are authorized to enter into by law;

17 (7) To acquire, construct, add to, extend, improve, equip, operate, and maintain the  
18 project;

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

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

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

32 (11) 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 (12) 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 (13) 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 provided for such  
11 payment. The revenue bonds of each issue shall be dated, shall bear interest at such rate or  
12 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, which may be at any bank or trust company within  
25 or outside the state.

26 **SECTION 7.**

27 Same; signatures; seal.

28 All such revenue bonds shall bear the manual or facsimile signature of the chairperson and  
29 the attesting manual or facsimile signature of the secretary, of the authority, and the official  
30 seal of the authority shall be impressed or imprinted thereon. Any revenue bonds may bear  
31 the manual or facsimile signatures of such persons as at the actual time of the execution of

1 such revenue bonds or coupons shall be duly authorized or hold the proper office, although  
2 at the date of issuance of such revenue bonds such persons may not have been so authorized  
3 or shall not have held such office. In case any officer whose signature shall appear on any  
4 revenue bond shall cease to be such officer before the delivery of such revenue bond, such  
5 signature shall nevertheless be valid and sufficient for all purposes in the same manner as if  
6 that person had remained in office until such delivery.

7 **SECTION 8.**

8 Same; negotiability; exemption from taxation.

9 All revenue bonds shall have and are declared to have all the qualities and incidents of  
10 negotiable instruments under the laws of the state. All revenue bonds and their transfer and  
11 the income therefrom shall be exempt from all taxation within the state.

12 **SECTION 9.**

13 Same; sale; price; proceeds.

14 The authority may sell revenue bonds in such manner and for such price as it may determine  
15 to be in the best interest of the authority. The proceeds derived from the sale of revenue  
16 bonds shall be used solely for the purpose provided in the resolutions and proceedings  
17 authorizing the issuance of such revenue bonds.

18 **SECTION 10.**

19 Same; interim receipts and certificates or temporary bonds.

20 Prior to the preparation of any definitive revenue bonds, the authority may, under like  
21 restrictions, issue interim receipts, interim certificates, or temporary revenue bonds, with or  
22 without coupons, exchangeable for definitive revenue bonds upon the issuance of the latter.

23 **SECTION 11.**

24 Same; replacement of lost or mutilated bonds.

25 The authority may provide for the replacement of any revenue bonds or coupons which shall  
26 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 City of Rome, Georgia, or the City of Rome School District, nor a pledge of the faith and credit of said city or 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 said city 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 said city to enter into an intergovernmental contract pursuant to which said city 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 outside the state. Either the resolution providing for the issuance of the revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the

1 bondholders as may be reasonable and proper and not in violation of law, including  
 2 covenants setting forth the duties of the authority in relation to the acquisition and  
 3 construction of the project, the maintenance, operation, repair, and insuring of the project,  
 4 and the custody, safeguarding, and application of all moneys.

5 **SECTION 15.**

6 To whom proceeds of bonds shall be paid.

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

12 **SECTION 16.**

13 Sinking fund.

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

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

29 The use and disposition of such sinking fund shall be subject to such regulations as may be  
 30 provided in the resolution authorizing the issuance of the revenue bonds or in the trust  
 31 indenture, but, except as may otherwise be provided in such resolution or trust indenture,  
 32 such sinking fund shall be maintained as a trust account for the benefit of all revenue bonds  
 33 without distinction or priority of one over another.

**SECTION 17.**

## Remedies of bondholders.

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

**SECTION 18.**

## Validation.

Revenue bonds and the security therefor shall be confirmed and validated in accordance with the procedure of the Revenue Bond Law. The petition for validation shall also make party defendant to such action the state and any institution, department, or other agency of the state and any county, municipality, school district, or other political subdivision or authority of the state which has contracted with the authority for services or facilities relating to the project for which revenue bonds are to be issued and sought to be validated. Such defendant shall be required to show cause, if any exists, why such contract or contracts shall not be adjudicated as a part of the basis for the security for the payment of any such revenue bonds. The revenue bonds, when validated, and the judgment of validation shall be final and conclusive with respect to such revenue bonds and the security for the payment thereof and interest thereon and against the authority 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 Floyd 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 school buildings, facilities, and services for the citizens in the City of Rome School District.

**SECTION 23.**

Rates, charges, and revenues; use.

The authority is 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 City of Rome, Georgia; 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 City of Rome, Georgia, when in the performance of their public duties or work of the city.

**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 the 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 the state or any political subdivision thereof.

**SECTION 27.**

Effect on other governments.

This Act shall not and does not in any way take from the City of Rome, Georgia, or any county or municipality the authority to own, operate, and maintain 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 the state and its inhabitants, shall be liberally construed to effect the purposes hereof.

**SECTION 29.**

Repeal of the authority.

Upon the final payment of principal and interest on any revenue bonds issued in connection with undertaking the project, the authority shall then cease to exist and shall stand repealed as of the June 30 following such final payment of principal and interest.

**SECTION 30.**

General repealer.

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