

House Bill 1777 (AS PASSED HOUSE AND SENATE)

By: Representatives Oliver of the 121st, Post 2, and Barnard of the 121st, Post 1

A BILL TO BE ENTITLED
AN ACT

1 To create the Jeff Davis County Public Facilities Authority; to provide for a short title; to
2 confer powers and impose duties on the authority; to provide for the membership and the
3 appointment of members of the authority and their terms of office, qualifications, duties,
4 powers, and compensation; to provide for vacancies, oaths, organization, meetings, and
5 expenses; to provide for definitions; to provide for revenue bonds and notes and their form,
6 signatures thereon, negotiability, sale, and use of proceeds from such sales; to provide for
7 interim documents and for lost or mutilated documents; to provide for conditions for
8 issuance; to limit investments; to prohibit the pledge of credit for the payment of bonds; to
9 provide for trust indentures and a sinking fund; to provide for payment of bond proceeds; to
10 provide for bondholder remedies and protection; to provide for refunding bonds; to provide
11 for bond validation; to provide for venue and jurisdiction; to provide for trust funds; to
12 provide for authority purpose; to provide for charges; to provide for rules and regulations;
13 to provide for tort immunity; to provide for tax exemptions; to provide for supplemental
14 powers; to provide for effect on other governments; to provide for perpetual existence; to
15 provide for liberal construction; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Short title.

19 This Act shall be known and may be cited as the "Jeff Davis County Public Facilities
20 Authority Act."

SECTION 2.**Jeff Davis County Public Facilities Authority.**

(a) There is hereby created a public body corporate and politic to be known as the "Jeff Davis County Public Facilities 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 a minimum of seven and a maximum of nine members. The members of the authority shall be the same persons who are members of the Joint Development Authority of Jeff Davis County, Hazlehurst and Denton, Georgia, hereafter referred to as the "joint authority." As a result, the members shall have been jointly appointed to that joint authority by the Board of Commissioners of Jeff Davis County and the mayors and commissioners and councilpersons of the Cities of Hazlehurst and Denton, and the terms of the initial members of the authority shall expire June 30, 2004, and upon the appointment and qualification of their respective successors. As of July 1, 2004, the four members appointed to the joint authority for a term of four years, to expire June 30, 2008, shall be members of this authority for the same terms, and the remaining three to five members appointed to the joint authority for a term of two years, to expire June 30, 2006, shall be members of this authority for the same terms. Thereafter, all appointments to the joint authority for staggered terms of four years shall be appointments to this authority for the same terms. Immediately after such appointments, the members of the authority shall enter upon their duties. All terms, except the initial terms, shall begin on July 1 in the year of appointment and end on June 30 in the last year of the appointed term and upon the appointment and qualification of a successor. To be eligible for appointment as a member of the authority, a person shall be at least 21 years of age and a resident of Jeff Davis County, Georgia, for at least two years prior to the date of his or her appointment and shall not have been convicted of a felony. Any member of the authority may be selected and appointed to succeed himself or herself and must take an oath of office for this authority in addition to any oath required for membership in the joint authority.

(c) Members of the authority shall serve without compensation, except 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 vice chairperson. The members of the authority shall also elect a secretary, who need not be a member of the authority, and may also elect a treasurer, who need not be a member of

1 the authority. The secretary may also serve as treasurer. If the secretary or treasurer is not
2 a member of the authority, such officer shall have no voting rights. Each of such officers
3 shall serve for a period of one year and until their successors are duly elected, qualified, and
4 take office.

5 (e) A majority of the members of the authority shall constitute a quorum. No vacancy on
6 the authority shall impair the right of the quorum to exercise all of the rights and perform all
7 of the duties of the authority. All vacancies shall be filled by the Board of Commissioners
8 of Jeff Davis County and the mayors and commissioners and councilpersons of the Cities of
9 Hazlehurst and Denton jointly filling such vacancies upon the joint authority. The authority
10 members may make recommendations to the appointing governing authorities of names of
11 persons to fill vacancies due to the expiration of an appointed term or otherwise. The
12 members of the authority may also adopt appropriate rules and bylaws for conducting
13 meetings and the business of the authority, election of officers, appointment of committees,
14 and other matters relating to the duties and activities of the authority which are not
15 inconsistent with this Act or any other laws.

16 **SECTION 3.**

17 **Definitions.**

18 As used in this Act, the term:

19 (1) "Authority" means the Jeff Davis County Public Facilities Authority created by this
20 Act.

21 (2) "Costs of the project" means and embraces the cost of construction; the cost of all
22 lands, properties, rights, easements, franchises, permits, approvals, licenses, certificates,
23 and water rights acquired; the cost of all buildings, machinery, fuel, supplies, and
24 equipment; financing charges; interest prior to and during construction and for 18 months
25 after completion of construction; working capital, insurance premiums, the fees and
26 expenses of engineers, architects, planners, interior designers, marketing agents, fiscal
27 agents, trustees, attorneys, financial advisers, consultants, underwriters, plans and
28 specifications, and other expenses necessary or incident to determining the feasibility or
29 practicability of the project; administrative expenses and such other expenses as may be
30 necessary or incident to the financing authorized in this Act; and all other costs necessary
31 to acquire, construct, add to, extend, improve, equip, operate, and maintain the project.
32 There may also be included as part of such costs of the project the creation of a debt
33 service reserve, a renewal and replacement reserve, and such other reserves as may be
34 reasonably required by the authority with respect to the financing and operation of its
35 projects and as may be authorized by any bond resolution or trust agreement.

(3) "Project" means all land, buildings, facilities, and equipment necessary or convenient for the efficient operation of any jail or prison by Jeff Davis County, Georgia, or any department, agency, division, or commission thereof, and in Jeff Davis County.

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

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

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

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

SECTION 4.

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. The authority shall be under no obligation to accept and pay for any property condemned under this Act except from the funds provided under the authority of this Act. In any proceedings to condemn, such orders may be made by the court having jurisdiction of the suit, action, or proceedings as may be just to the authority and to the owners of the property to be condemned. No property shall be acquired under the provisions of this Act upon which any lien or encumbrance exists, unless, at the time such property is so acquired, a sufficient sum of

1 money is to be deposited in trust to pay and redeem the fair value of such lien or
2 encumbrance;

3 (4) To appoint, select, and employ officers, agents, and employees of every kind,
4 including, but not limited to, engineering, architectural, interior design and construction
5 experts, fiscal agents, underwriters, attorneys, developers, and consultants and to fix their
6 respective compensations;

7 (5) To execute contracts, leases, agreements, and instruments necessary or convenient
8 in connection with the acquisition, construction, development, addition, extension,
9 improvement, equipping, operation, financing, or maintenance of a project; and any and
10 all persons, firms, corporations, the State of Georgia, Jeff Davis County, Georgia, and
11 any other political subdivision or municipality of the State of Georgia located in Jeff
12 Davis County, Georgia, are hereby authorized to enter into contracts, leases, agreements,
13 or instruments with the authority upon such terms and for such purposes as they deem
14 advisable and as they are authorized to enter into by law;

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

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

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

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

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

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

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

SECTION 5.

Revenue bonds.

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

SECTION 6.

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

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

SECTION 7.

Same; signatures; seal.

All such revenue bonds shall bear the manual or facsimile signature of the chairperson or vice chairperson of the authority and the attesting manual or facsimile signature of the secretary, assistant secretary, or secretary-treasurer of the authority, and the official seal of the authority shall be impressed or imprinted thereon. Any coupons attached thereto shall bear the manual or facsimile signatures of the chairperson or vice chairperson and the secretary, assistant secretary, or secretary-treasurer of the authority. Any revenue bonds or coupons attached thereto may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such revenue bonds or coupons shall be duly authorized

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

7 **SECTION 8.**

8 Same; negotiability; exemption from taxation.

9 All revenue bonds shall have and are hereby declared to have all the qualities and incidents
10 of negotiable instruments under the laws of this state. All revenue bonds and their transfer
11 and the income therefrom shall be exempt from all taxation within this 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 and purposes provided in the resolutions and
17 proceedings 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, bond anticipation notes, or temporary
22 revenue bonds, with or without coupons, exchangeable for definitive revenue bonds upon the
23 issuance of the latter.

24 **SECTION 11.**

25 Same; replacement of lost or mutilated bonds.

26 The authority may provide for the replacement of any revenue bonds or coupons which shall
27 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.

Same; investment of bond proceeds and other moneys.

The authority shall invest the proceeds of any of its bonds, notes, or other obligations and any other moneys of the authority in only those investments in which such proceeds and moneys are authorized to be invested pursuant to Code Section 36-82-7 of the O.C.G.A. or any other general law applicable thereto.

SECTION 14.

Credit not pledged.

Revenue bonds of the authority shall not be deemed to constitute a debt of Jeff Davis County, Georgia, nor a pledge of the faith and credit of said county, or any other political subdivision within Jeff Davis County, Georgia, 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 county 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 county to enter into an intergovernmental contract pursuant to which said county 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 15.

Trust indenture as security.

In the discretion of the authority, any issuance of revenue bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without this state. Either the resolution providing for the issuance of the revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition and construction of the project, the maintenance, operation, repair, and insuring of the project, and the custody, safeguarding, and application of all moneys.

SECTION 16.

To whom proceeds of bonds shall be paid.

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

SECTION 17.

Sinking fund.

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

(1) The interest upon such revenue bonds as the same shall fall due;

(2) The principal or purchase price of such revenue bonds as the same shall fall due;

1 (3) Any premium upon such revenue bonds as the same shall fall due;

2 (4) The purchase of such revenue bonds in the open market; and

3 (5) The necessary charges of the paying agent for paying principal and interest.

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

9 **SECTION 18.**

10 Remedies of bondholders.

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

21 **SECTION 19.**

22 Validation.

23 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
24 the procedure of the Revenue Bond Law. The petition for validation shall also make party
25 defendant to such action the state and any institution, department, or other agency of this
26 state, and any county, municipality, school district, or other political subdivision or authority
27 of this state which has contracted with the authority for services or facilities relating to the
28 project for which revenue bonds are to be issued and sought to be validated. Such defendant
29 shall be required to show cause, if any exists, why such contract or contracts shall not be
30 adjudicated as a part of the basis for the security for the payment of any such revenue bonds.
31 The revenue bonds, when validated, and the judgment of validation shall be final and
32 conclusive with respect to such revenue bonds and the security for the payment thereof and
33 interest thereon and against the authority and all other defendants.

SECTION 20.

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 Jeff Davis 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 21.

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 22.

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, or earnings, shall be deemed to be trust funds to be held and applied solely as provided in this Act.

SECTION 23.

Purpose of the authority.

Without limiting the generality of any provision of this Act, the general purpose of the authority is declared to be that of providing buildings, facilities, and services benefiting the residents of Jeff Davis County, Georgia.

SECTION 24.

Rates, charges, and revenues; use.

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

SECTION 25.

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 26.

Tort immunity.

To the extent permitted by law, the authority shall have the same immunity and exemption from liability for torts and negligence as Jeff Davis County, 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 Jeff Davis County, Georgia, when in the performance of their public duties or work of the county.

SECTION 27.

Effect on other governments.

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

SECTION 28.

Liberal construction of Act.

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

SECTION 29.

Repealer.

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