

House Bill 1811 (AS PASSED HOUSE AND SENATE)

By: Representatives Morris of the 120th, Parrish of the 102nd, DeLoach of the 127th, Barnard of the 121st, Post 1, and Oliver of the 121st, Post 2

A BILL TO BE ENTITLED
AN ACT

1 To create the Candler County Public 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 provide a short title; to provide for construction; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Short title.

16 This Act shall be known and may be cited as the "Candler County Public Building Authority
17 Act."

18 **SECTION 2.**

19 Candler County Public Building Authority.

20 (a) There is created a public body corporate and politic to be known as the "Candler County
21 Public Building Authority," which shall be deemed to be a political subdivision of the state
22 and a public corporation, and by that name, style, and title the body may contract and be

1 contracted with, sue and be sued, implead and be impleaded, and complain and defend in all
2 courts of law and equity. The authority shall have perpetual existence.

3 (b) The authority shall consist of five members who shall be appointed by the governing
4 authority of Candler County. No more than one member of the authority may be a member
5 of the board of commissioners of Candler County. Any member of the authority who is a
6 member of the board of commissioners shall serve for a term of office concurrent with such
7 person's then current term of office as a member of the board of commissioners determined
8 at the time of his or her appointment to the authority. Each member of the authority who is
9 not a member of the board of commissioners shall serve for a term of office of three years,
10 except that the initial terms of office of those members first appointed to the authority shall
11 be as follows: two members shall be appointed for a term of three years; two members shall
12 be appointed for a term of two years; and if no such member is a member of the board of
13 commissioners, one member shall be appointed for a term of one year. After such initial
14 terms, those members who are not members of the board of commissioners shall serve for
15 terms of office of three years each. Members of the authority shall serve for the terms of
16 office so specified and until the appointment and qualification of their respective successors.
17 Vacancies on the authority shall be filled by the board of commissioners for the remainder
18 of the unexpired term and until the appointment and qualification of a successor.
19 Immediately after such appointments, the members of the authority shall enter upon their
20 duties. To be eligible for appointment as a member of the authority, a person shall be at least
21 21 years of age and a resident of Candler County, Georgia, on the date of his or her
22 appointment and shall not have been convicted of a felony. Any member of the authority may
23 be selected and appointed to succeed himself or herself.

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

28 (d) The members of the authority shall elect one of their number as chairperson and another
29 as vice chairperson. The members of the authority shall also elect a secretary, who need not
30 be a member of the authority, and may also elect a treasurer, who need not be a member of
31 the authority. The secretary may also serve as treasurer. If the secretary or treasurer is not a
32 member of the authority, such officer shall have no voting rights. Each of such officers shall
33 serve for a period of one year and until their successors are duly elected and qualified.

34 (e) Three members of the authority shall constitute a quorum. No vacancy on the authority
35 shall impair the right of the quorum to exercise all of the rights and perform all of the duties
36 of the authority.

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, 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 money is deposited in trust to pay and redeem the fair value of such lien or encumbrance;
- (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, agreements, and instruments necessary or convenient in connection with the acquisition, construction, addition, extension, improvement, equipping, operation, or maintenance of the project; and any and all persons, firms, corporations, Candler County, Georgia, the Candler County School District, and any other political subdivision or municipality of the State of Georgia located in Candler County, Georgia, are authorized to enter into contracts, leases, agreements, or instruments with the authority upon such terms and for such purposes as they may deem advisable and as they are authorized to enter into by law;
- (6) To acquire, construct, add to, extend, improve, equip, operate, and maintain projects;
- (7) To pay the costs of the project with the proceeds of revenue bonds or other obligations issued by the authority or from any grant or contribution from the United States of America or any agency or instrumentality thereof or from the state or any agency or

1 instrumentality or other political subdivision thereof or from any other source
2 whatsoever;

3 (8) To accept loans or grants of money or materials or property of any kind from the
4 United States of America or any agency or instrumentality thereof upon such terms and
5 conditions as the United States of America or such agency or instrumentality may
6 require;

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

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

13 (11) To invest funds of the authority and proceeds of its revenue bonds and of bond
14 anticipation notes in any investments in which funds of Candler County may lawfully be
15 invested;

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

19 (13) To do all things necessary or convenient to carry out the powers expressly given in
20 this Act.

21 **SECTION 5.**

22 Revenue bonds.

23 The authority shall have power and is authorized to provide by resolution for the issuance
24 of revenue bonds of the authority for the purpose of paying all or any part of the costs of the
25 project and for the purpose of refunding revenue bonds or other obligations previously
26 issued. The principal of and interest on such revenue bonds shall be payable solely from the
27 special fund provided for such payment. The revenue bonds of each issue shall be dated,
28 shall bear interest at such rate or rates per annum payable at such time or times, shall mature
29 at such time or times not exceeding 40 years from their date or dates, shall be payable in such
30 medium of payment as to both principal and interest as may be determined by the authority,
31 and may be redeemable before maturity, at the option of the authority, at such price or prices
32 and under such terms and conditions as may be fixed by the authority in the resolution for
33 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 registered or unregistered 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, which may be at any bank or trust company within or outside the state.

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 or secretary-treasurer of the authority, and the official seal of the authority shall be impressed or imprinted thereon. Any revenue bonds may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such revenue bonds shall be duly authorized or hold the proper office, although at the date of issuance of such revenue bonds such persons may not have been so authorized or shall not have held such office. In case any officer whose signature shall appear on any revenue bond shall cease to be such officer before the delivery of such revenue bond, such signature shall nevertheless be valid and sufficient for all purposes in the same manner as if that person had remained in office until such delivery.

SECTION 8.

Same; negotiability; exemption from taxation.

All revenue bonds and their transfer and the income therefrom shall be exempt from all taxation within the state.

SECTION 9.

Same; sale; price; proceeds.

The authority may sell revenue bonds in such manner and for such price as it may determine to be in the best interest of the authority. The proceeds derived from the sale of revenue

1 bonds shall be used solely for the purpose provided in the resolutions and proceedings
2 authorizing the issuance of such revenue bonds.

3 **SECTION 10.**

4 Same; interim receipts and certificates or temporary bonds.

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

8 **SECTION 11.**

9 Same; replacement of lost or mutilated bonds.

10 The authority may provide for the replacement of any revenue bonds or coupons which shall
11 become mutilated or be destroyed or lost.

12 **SECTION 12.**

13 Same; conditions precedent to issuance.

14 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the
15 resolution, the authority shall determine that the project financed with the proceeds of the
16 revenue bonds is self-liquidating. Revenue bonds may be issued without any other
17 proceedings or the happening of any other conditions or things other than those proceedings,
18 conditions, and things which are specified or required by this Act. Any resolution providing
19 for the issuance of revenue bonds under the provisions of this Act shall become effective
20 immediately upon its passage and need not be published or posted, and any such resolution
21 may be passed at any regular or special or adjourned meeting of the authority by a majority
22 of its members.

23 **SECTION 13.**

24 Credit not pledged.

25 Revenue bonds of the authority shall not be deemed to constitute a debt of Candler County,
26 Georgia, nor a pledge of the faith and credit of the county, but such revenue bonds shall be
27 payable solely from the fund hereinafter provided for. The issuance of such revenue bonds
28 shall not directly, indirectly, or contingently obligate the county to levy or to pledge any form
29 of taxation whatsoever for payment of such revenue bonds or to make any appropriation for

1 their payment, and all such revenue bonds shall contain recitals on their face covering
 2 substantially the foregoing provisions of this section. Notwithstanding the foregoing
 3 provisions, this Act shall not affect the ability of the authority and the county to enter into
 4 an intergovernmental contract pursuant to which the county agrees to pay amounts sufficient
 5 to pay operating charges and other costs of the authority or any project including, without
 6 limitation, the principal of and interest on revenue bonds in consideration for services or
 7 facilities of the authority.

8 **SECTION 14.**

9 Trust indenture as security.

10 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
 11 indenture by and between the authority and a corporate trustee, which may be any trust
 12 company or bank having the powers of a trust company within or outside the state. Either
 13 the resolution providing for the issuance of the revenue bonds or such trust indenture may
 14 contain such provisions for protecting and enforcing the rights and remedies of the
 15 bondholders as may be reasonable and proper and not in violation of law, including
 16 covenants setting forth the duties of the authority in relation to the acquisition and
 17 construction of the project, the maintenance, operation, repair, and insuring of the project,
 18 and the custody, safeguarding, and application of all moneys.

19 **SECTION 15.**

20 To whom proceeds of bonds shall be paid.

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

26 **SECTION 16.**

27 Sinking fund.

28 The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls,
 29 fines, charges, and earnings derived from any particular project or projects, regardless of
 30 whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a
 31 particular project for which revenue bonds have been issued, unless otherwise pledged and

1 allocated, may be pledged and allocated by the authority to the payment of the principal and
 2 interest on revenue bonds of the authority as the resolution authorizing the issuance of the
 3 revenue bonds or the trust indenture may provide. Such funds so pledged from whatever
 4 source received shall be set aside at regular intervals as may be provided in the resolution or
 5 trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with
 6 the payment of:

- 7 (1) The interest upon such revenue bonds as the same shall fall due;
- 8 (2) The principal or purchase price of such revenue bonds as the same shall fall due;
- 9 (3) Any premium upon such revenue bonds as the same shall fall due;
- 10 (4) The purchase of such revenue bonds in the open market;
- 11 (5) The necessary charges of the paying agent for paying principal and interest; and
- 12 (6) Any payments required by any credit enhancement facility.

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

18 **SECTION 17.**

19 Remedies of bondholders.

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

30 **SECTION 18.**

31 Validation and bond anticipation notes.

32 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
 33 the procedure of the Revenue Bond Law. The petition for validation shall also make party

1 defendant to such action the state and any institution, department, or other agency of the state
2 and any county, municipality, school district, or other political subdivision or authority of the
3 state which has contracted with the authority for services or facilities relating to the project
4 for which revenue bonds are to be issued and sought to be validated. Such defendant shall
5 be required to show cause, if any exists, why such contract or contracts shall not be
6 adjudicated as a part of the basis for the security for the payment of any such revenue bonds.
7 The revenue bonds, when validated, and the judgment of validation shall be final and
8 conclusive with respect to such revenue bonds and the security for the payment thereof and
9 interest thereon and against the authority and all other defendants. Once any revenue bonds
10 have been validated the authority may issue bond anticipation notes in anticipation of the
11 issuance of such revenue bonds, as provided by law.

12 **SECTION 19.**

13 Venue and jurisdiction.

14 Any action to protect or enforce any rights under the provisions of this Act or any suit or
15 action against such authority shall be brought in the Superior Court of Candler County,
16 Georgia, and any action pertaining to validation of any revenue bonds issued under the
17 provisions of this Act shall likewise be brought in the court which shall have exclusive,
18 original jurisdiction of such actions.

19 **SECTION 20.**

20 Interest of bondholders protected.

21 While any of the revenue bonds issued by the authority remain outstanding, the powers,
22 duties, or existence of the authority or its officers, employees, or agents shall not be
23 diminished or impaired in any manner that will affect adversely the interests and rights of the
24 holders of such revenue bonds, and no other entity, department, agency, or authority shall be
25 created which will compete with the authority to such an extent as to affect adversely the
26 interest and rights of the holders of such revenue bonds nor shall the state itself so compete
27 with the authority. The provisions of this Act shall be for the benefit of the authority and the
28 holders of any such revenue bonds and, upon the issuance of such revenue bonds under the
29 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 buildings, facilities, and services for the citizens in Candler County, Georgia.

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 the 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, including the basis upon which recreational services and facilities and other public services and facilities shall be furnished. 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 Candler County, Georgia; and the officers, agents,

1 and employees of the authority when in the performance of the work of the authority shall
2 have the same immunity and exemption from liability for torts and negligence as the officers,
3 agents, and employees of Candler County, Georgia, when in the performance of their public
4 duties or work of the county.

5 **SECTION 26.**

6 Tax-exempt status of authority.

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

12 **SECTION 27.**

13 Effect on other governments.

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

17 **SECTION 28.**

18 Liberal construction of Act.

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

21 **SECTION 29.**

22 General repealer.

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