

Senate Bill 126

By: Senator Bulloch of the 11th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To create the Decatur County School Building Authority and to authorize such authority to
2 provide, acquire, construct, equip, maintain, and operate public service facilities, to acquire
3 the necessary property therefor, both real and personal, and to lease or sell any or all of such
4 facilities, including real and personal property; to confer powers and to impose duties on the
5 authority; to provide for the membership and for the appointment of members of the
6 authority and their term of tenure and compensation; to authorize the authority to contract
7 with the Decatur County School District pertaining to facilities and services, to execute
8 leases and contracts relating to such facilities and services, to convey title to property of the
9 authority in fee simple, and to do all things deemed necessary or convenient for the operation
10 of such undertakings; to authorize the authority and the Decatur County School District to
11 enter into contracts and leases pertaining to uses of such facilities and services, which
12 contracts and leases shall obligate the lessees to make payment for the use of such facilities
13 and services for the term thereof and to pledge for that purpose revenues derived from
14 taxation; to provide that no debt of the Decatur County School District or other political
15 subdivisions within the meaning set forth in Article IX, Section V, Paragraph I of the
16 Constitution of the State of Georgia, shall be incurred by exercise of the powers granted; to
17 authorize the issuance of revenue bonds or obligations of the authority, payable from the
18 revenues, tolls, fees, charges, and earnings of the authority, including, but not limited to,
19 earnings derived from contracts, leases, and income from conveyances of real or personal
20 property of the authority; to authorize the payment of the cost of such undertakings, to
21 authorize the collection and pledging of the revenues and earnings of the authority for the
22 payment of such bonds or obligations and to secure the payment thereof; to define the rights
23 of the holders of such bonds or obligations; to make the bonds or obligations of the authority
24 exempt from taxation; to make the property of the authority exempt from taxation and
25 assessment; to grant the authority and its members certain immunities; to authorize the
26 issuance of refunding bonds or obligations; to fix the venue or jurisdiction of actions relating
27 to any provisions of this Act; to provide that bonds or obligations be validated as authorized
28 by Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated, the

1 "Revenue Bond Law"; to provide for construction; to repeal conflicting laws; and for other
2 purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

4 **SECTION 1.**

5 Short title.

6 This Act shall be known and may be cited as the "Decatur County School Building Authority
7 Act."

8 **SECTION 2.**

9 Decatur County School Building Authority.

10 (a) There is hereby created a public body corporate and politic to be known as the "Decatur
11 County School Building Authority," which shall be deemed to be a political subdivision of
12 this state and a public corporation, and by that name, style, and title said body may contract
13 and be contracted with, sue and be sued, implead and be impleaded, and complain and defend
14 in all courts of law and equity except that the authority or the trustee acting under a trust
15 indenture shall in no event be liable for any torts committed by any of the officers, agents,
16 and employees of the authority. The authority shall not be a state institution, nor a
17 department or agency of the state, but shall be an instrumentality of the state having a distinct
18 corporate entity, exercising governmental powers, and being exempt from the provisions of
19 Article 2 of Chapter 17 of Title 50 of the Official Code of Georgia Annotated, the "Georgia
20 State Financing and Investment Commission Act." The authority is granted the same
21 exemptions and exclusions from taxes as are now granted to school districts for the operation
22 of facilities similar to facilities to be operated by the authority as provided under the
23 provisions of this Act. The authority shall have perpetual existence.

24 (b) The authority shall consist of three members who shall be appointed by the governing
25 authority of the Decatur County School District. With respect to the initial appointment by
26 the governing authority of the Decatur County School District, one member shall be
27 appointed for a term of three years; one member shall be appointed for a term of two years;
28 and one member shall be appointed for a term of one year. Thereafter, all appointments shall
29 be made for terms of three years and until successors are appointed and qualified.
30 Immediately after such appointments, the members of the authority shall enter upon their
31 duties. If at the end of any term of a member, a successor has not been appointed, such
32 member shall continue to be a member of the authority until a successor is so appointed. To

1 be eligible for appointment as a member of the authority, a person shall be at least 21 years
2 of age and a resident of Decatur County, Georgia, for at least two years prior to the date of
3 his or her appointment and shall not have been convicted of a felony. Any member of the
4 authority may be selected and appointed to succeed himself or herself.

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

8 (d) Prior to assuming office as a member of the Authority, each member shall subscribe to
9 the following oath: "I do solemnly swear or affirm that I will diligently and honestly
10 administer the affairs of the Decatur County School Building Authority which have been
11 entrusted to me and that I will not knowingly violate or willingly permit to be violated any
12 law applicable to the Authority; that I am not the holder of any unaccounted for public
13 money due this state or any political subdivision thereof; that I am not the holder of any
14 office of trust under the government of the United States, any other state, or any foreign state
15 which I am, by the laws of the State of Georgia, prohibited from holding; that I am otherwise
16 qualified to hold said office according to the Constitution and laws of Georgia; and that I will
17 support the Constitution of the United States and of this State."

18 (e) The governing authority of the Decatur County School District may provide by
19 resolution that such members shall be reimbursed for their actual expenses necessarily
20 incurred in the performance of their duties.

21 (f) The members of the authority shall elect one of their number as chairperson and another
22 as vice chairperson. The members of the authority shall also elect a secretary, who need not
23 be a member of the authority, and may also elect a treasurer, who need not be a member of
24 the authority. The secretary may also serve as treasurer. If the secretary or treasurer are not
25 members of the authority, such officers shall have no voting rights. Each of such officers
26 shall serve for a period of one year and until their successors are duly elected and qualified.

27 (g) Two members of the authority shall constitute a quorum. No vacancy on the authority
28 shall impair the right of the quorum to exercise all of the rights and perform all of the duties
29 of the authority.

30 (h) The authority shall make rules and regulations for its own governance. Any change in
31 the name or composition of the authority shall in no way affect the vested rights of any
32 person under the provisions of this Act or impair the obligations of any contracts under this
33 Act.

1 the revenue bonds or other obligations which may be issued for the purpose of paying the
2 costs of the project.

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

4 SECTION 5.

5 Powers.

6 The authority shall have the power:

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

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

11 (3) To acquire in its own name by purchase on such terms and conditions and in such
12 manner as it may deem proper, real property or rights or easements therein or franchises
13 necessary or convenient for its corporate purposes, to use the same so long as its
14 corporate existence shall continue, to lease or make contracts with respect to the use of
15 the same, or to dispose of the same in any manner it deems to the best advantage of the
16 authority. No property shall be acquired under the provisions of this Act upon which any
17 lien or encumbrance exists, unless, at the time such property is so acquired, a sufficient
18 sum of money is to be deposited in trust to pay and redeem the fair value of such lien or
19 encumbrance. If the authority shall deem it expedient to construct any project on lands
20 which are subject to the control of the Decatur County School District, the school district
21 is authorized to convey such lands to the authority for such consideration as may be
22 agreed upon by the authority and the Decatur County School District, taking into
23 consideration the public benefit to be derived from such conveyance;

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

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

31 (6) To execute contracts, leases, agreements, and instruments necessary or convenient
32 in connection with the acquisition, construction, addition, extension, improvement,
33 equipping, operation, or maintenance of the project; and any and all persons, firms,
34 corporations, and the Decatur County School District, are authorized to enter into

1 contracts, leases, agreements, or instruments with the authority upon such terms and for
2 such purposes as they deem advisable and as they are authorized to enter into by law;

3 (7) To acquire, construct, add to, extend, improve, equip, operate, and maintain projects;

4 (8) To pay the costs of projects with the proceeds of revenue bonds or other obligations
5 issued by the authority or from any grant or contribution from the United States of
6 America or any agency or instrumentality thereof or from this state or any agency or
7 instrumentality or other political subdivision thereof or from any other source
8 whatsoever;

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

13 (10) To accept loans or grants of money or materials or property of any kind from this
14 state or any agency or instrumentality or political subdivision thereof upon such terms
15 and conditions as this state or such agency or instrumentality or political subdivision may
16 require;

17 (11) To borrow money for any of its corporate purposes, from any bank, banks or
18 lending institution; to execute notes or other evidences of such indebtedness; and to
19 secure the same by assigning all rights and pledging all funds to be received by the
20 authority from a contract or lease entered into by the authority and the Decatur County
21 School District;

22 (12) To issue revenue bonds, and to provide for the payment of the same and for the
23 rights of the holders thereof;

24 (13) To sell, lease, grant, exchange, or otherwise dispose of any surplus property, both
25 real and personal, or interest therein not required in the normal operation of and usable
26 in the furtherance of the purpose for which the authority was created;

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

30 (15) To do all things necessary or convenient to carry out the powers expressly given in
31 this Act.

32 **SECTION 6.**

33 Revenue bonds.

34 The authority, or any authority or body which has or which may in the future succeed to the
35 powers, duties, and liabilities vested in the authority created by this Act, shall have power

1 and is authorized to provide by resolution for the issuance of revenue bonds of the authority
2 for the purpose of paying all or any part of the costs of the project and for the purpose of
3 refunding revenue bonds or other obligations previously issued. The principal of and interest
4 on such revenue bonds shall be payable solely from the special fund provided for such
5 payment. The revenue bonds of each issue shall be dated, shall bear interest at such rate or
6 rates per annum payable at such time or times, shall mature at such time or times not
7 exceeding 40 years from their date or dates, shall be payable in such medium of payment as
8 to both principal and interest as may be determined by the authority, and may be redeemable
9 before maturity, at the option of the authority, at such price or prices and under such terms
10 and conditions as may be fixed by the authority in the resolution for the issuance of such
11 revenue bonds. Such revenue bonds or obligations shall be issued pursuant to and in
12 conformity with the Revenue Bond Law, and all procedures pertaining to such issuance and
13 the conditions thereof shall be the same as those contained in said article and any
14 amendments thereto.

15 **SECTION 7.**

16 Same; negotiability; exemption from taxation.

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

20 **SECTION 8.**

21 Same; sale; price; proceeds.

22 The authority may sell revenue bonds through negotiated or public sale in such manner and
23 for such price as it may determine to be in the best interest of the authority. The proceeds
24 derived from the sale of revenue bonds shall be used solely for the purpose provided in the
25 resolutions and proceedings authorizing the issuance of such revenue bonds.

26 **SECTION 9.**

27 Same; conditions precedent to issuance.

28 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the
29 resolution, the authority shall determine that the project financed with the proceeds of the
30 revenue bonds is self-liquidating. Revenue bonds may be issued without any other
31 proceedings or the happening of any other conditions or things other than those proceedings,

1 conditions, and things which are specified or required by this Act. Any resolution providing
2 for the issuance of revenue bonds under the provisions of this Act shall become effective
3 immediately upon its passage and need not be published or posted, and any such resolution
4 may be passed at any regular or special or adjourned meeting of the authority by a majority
5 of its members.

6 **SECTION 10.**

7 Credit not pledged.

8 Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a
9 debt of the State of Georgia or any political subdivision thereof, nor a pledge of the faith and
10 credit thereof; but such bonds shall be payable solely from the rentals, revenues, earnings,
11 and funds of the authority as provided in the resolution or trust agreement or indenture
12 authorizing the issuance and securing the payment of such bonds; and the issuance of such
13 revenue bonds shall not directly, indirectly, or contingently obligate this state or any political
14 subdivision thereof to levy or to pledge any form of taxation whatsoever therefor or to make
15 any appropriation for their payment, and all such bonds shall contain recitals on their face
16 covering substantially the foregoing provisions of this section. However, any other political
17 subdivision contracting with the authority may obligate itself to pay the amounts required
18 under any contract entered into with the authority from funds received from taxes to be
19 levied and collected for that purpose to the extent necessary to pay the obligations
20 contractually incurred under this section and from any other source. The obligation to make
21 such payments shall constitute a general obligation and a pledge of the full faith and credit
22 of the obligor but shall not constitute a debt of the obligor within the meaning of Article IX,
23 Section V, Paragraph I of the Constitution. When such obligation is made to make such
24 payments from taxes to be levied for that purpose, then the obligation shall be mandatory to
25 levy and collect such taxes from year to year in an amount sufficient to fulfill and fully
26 comply with the terms of such obligation.

27 **SECTION 11.**

28 Trust indenture as security.

29 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
30 indenture by and between the authority and a corporate trustee, which may be any trust
31 company or bank having the powers of a trust company within or outside this state. Either
32 the resolution providing for the issuance of the revenue bonds or such trust indenture may
33 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 12.**

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 13.**

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 the 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 14.

Remedies of bondholders.

Any holder of revenue bonds or any of the coupons appertaining thereto 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 this 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 15.

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 this state and any institution, department, or other agency of this state and any county, municipality, school district, or other political subdivision or authority of this 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 16.

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 Decatur 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 17.

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 interests and rights of the holders of such revenue bonds, nor shall this 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 18.

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 19.

Rates, charges, and revenues; use.

The authority is authorized to prescribe and fix rates and to revise the 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 20.

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 21.

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 Decatur County School District; 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 Decatur County School District in the performance of their public duties or work of the school district.

SECTION 22.

Property not subject to levy and sale.

The property of the authority shall not be subject to levy and sale under legal process.

SECTION 23.

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 this 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 this state or any political subdivision thereof.

SECTION 24.

Effect on other governments.

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

SECTION 25.

Liberal construction of Act.

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

- 1 **SECTION 26.**
- 2 General repealer.

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