

House Bill 1454 (AS PASSED HOUSE AND SENATE)

By: Representatives Knox of the 24th, Hamilton of the 23rd, and Amerson of the 9th

A BILL TO BE ENTITLED
AN ACT

1 To create the Forsyth County Public Facilities Authority; to provide for the appointment of
2 members of such 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 earnings
4 of the authority, contract payments to the authority and from other moneys pledged therefor
5 and to authorize the collection and pledging of the revenues, tolls, fees, charges, earnings and
6 contract payments of the authority for the payment of such revenue bonds; to authorize the
7 execution of resolutions and trust indentures to secure the payment of the revenue bonds of
8 the 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 for the separate enactment of each provision of this Act; to provide for an effective
12 date; to repeal conflicting laws; and for other 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 "Forsyth County Public Facilities Authority
17 Act."

18 **SECTION 2.**
19 Forsyth County Public Facilities Authority.

20 (a) There is created a public body corporate and politic to be known as the "Forsyth County
21 Public Facilities 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 said 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. The members of the board of
4 commissioners shall each appoint one member whose term on the authority shall correspond
5 with the term of the commissioner on the board of commissioners who appointed such
6 member.

7 (c) The members of the authority shall not be compensated for their services; provided,
8 however, that such members shall be reimbursed for their actual expenses necessarily
9 incurred in the performance of their duties.

10 (d) The members of the authority shall elect one of their number as chairperson and another
11 as a vice-chairperson. The members of the authority shall also elect a secretary, who need
12 not be a member of the authority, and may also elect a treasurer, who need not be a member
13 of the authority. The secretary may also serve as treasurer. If the secretary or treasurer are
14 not members of the authority, such officers shall have no voting rights. Such officers shall
15 serve for a period of one year and until their successors are duly elected and qualified.

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

19 **SECTION 3.**

20 **Definitions.**

21 As used in this Act, the term:

22 (1) "Authority" means the Forsyth County Public Facilities Authority created by this Act.

23 (2) "Board of commissioners" means the board of commissioners of Forsyth County,
24 Georgia or similar body or person managing the affairs of the county.

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

34 (4) "County" means Forsyth County, Georgia, and its successors.

1 (5) "Project" means all buildings, facilities, equipment, roads, bridges, and sidewalks
 2 necessary or beneficial for the efficient operation of the county or any department, agency
 3 division or commission thereof; and any undertaking of the county permitted pursuant to
 4 the Revenue Bond Law.

5 (6) "Revenue Bond Law" means the state's Revenue Bond Law as enacted in Article 3
 6 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated.

7 (7) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act
 8 and the Revenue Bond Law.

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

16 (9) "State" means the State of Georgia.

17 **SECTION 4.**

18 **Powers.**

19 The Authority shall have the power:

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

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

24 (3) To acquire in its own name by purchase, on such terms and conditions and in such
 25 manner as it may deem proper, real property or rights or easements therein, or franchises
 26 necessary or convenient for its corporate purposes, and to use the same so long as its
 27 corporate existence shall continue, and to lease or make contracts with respect to the use
 28 of or dispose of the same in any manner it deems to the best advantage of the authority;
 29 provided, however, no property shall be acquired under the provisions of this Act upon
 30 which any lien or encumbrance exists, unless at the time such property is so acquired a
 31 sufficient sum of money is to be deposited in trust to pay and redeem the fair value of
 32 such lien or encumbrance;

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

1 (5) To execute contracts, leases, installment sale agreements and other agreements and
2 instruments necessary or convenient in connection with the acquisition, construction,
3 addition, extension, improvement, equipping, operation or maintenance of a project; and
4 any and all persons, firms and corporations, the county, the Forsyth County school district
5 and any other political subdivision or municipality of the county are hereby authorized
6 to enter into contracts, leases, installment sale agreements and other agreements or
7 instruments with the authority upon such terms and for such purposes as they deem
8 advisable and as they are authorized by law;

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

11 (7) Subject to the limitations contained in Section 5 of this Act, to pay the costs of the
12 project with the proceeds of revenue bonds or other obligations issued by the authority
13 or from any grant or contribution from the United States of America or any agency or
14 instrumentality thereof or from the state or any agency or instrumentality or other
15 political subdivision thereof or from any other source whatsoever;

16 (8) To accept loans or grants of money or materials or property of any kind from the
17 United States of America or any agency or instrumentality thereof, upon such terms and
18 conditions as the United States of America or such agency or instrumentality may
19 require;

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

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

26 (11) To exercise any power usually possessed by private corporations performing similar
27 functions, including the power to incur short-term debt and to approve, execute, and
28 deliver appropriate evidence of any such indebtedness and the power to enter into interest
29 rate swaps, forward purchase agreements, repurchase agreements and other similar
30 agreements; and

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

SECTION 5.

Revenue bonds.

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3 The authority, or any entity or body which has or which may in the future succeed to the
4 powers, duties and liabilities vested in the authority created hereby, shall have power and is
5 hereby authorized to provide by resolution for the issuance of revenue bonds of the authority
6 for the purpose of paying all or any part of the costs of the project and for the purpose of
7 refunding revenue bonds or other obligations previously issued. Revenue bonds shall not be
8 issued for any building that will be used as a courthouse, or a jail, or for any single building
9 the cost of which is anticipated at the commencement of construction to exceed \$20 million,
10 unless the voters approve the building in a referendum or the building is required to be
11 constructed by court order. The limitation set pursuant to this section shall be subject to
12 annual upward adjustments based upon the consumer price index. Such limitation shall not
13 prevent the issuance of revenue bonds to fund unanticipated cost over-runs for buildings that
14 were originally anticipated at the commencement of construction to be within such
15 limitation. The principal of and interest on such revenue bonds shall be payable solely from
16 the special fund hereby provided for such payment. The revenue bonds of each issue shall
17 be dated, shall bear interest at such rate or rates per annum, payable at such time or times,
18 shall mature at such time or times not exceeding 40 years from their date or dates, shall be
19 payable in such medium of payment as to both principal and interest as may be determined
20 by the authority and may be redeemable before maturity, at the option of the authority, at
21 such price or prices and under such terms and conditions as may be fixed by the authority in
22 the resolution for the issuance of such revenue bonds.

SECTION 6.

Revenue bonds; form; denomination; registration; place of payment.

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

SECTION 7.

Revenue bonds; signatures; seal.

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31 All revenue bonds shall bear the manual or facsimile signature of the chairperson or
32 vice-chairperson of the authority and the attesting manual or facsimile signature of the

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

10 **SECTION 8.**

11 Revenue bonds; negotiability; exemption from taxation.

12 All revenue bonds shall have and are hereby declared to have all the qualities and incidents
13 of negotiable instruments under the laws of the state. All revenue bonds, their transfer and
14 the income therefrom shall be exempt from all taxation within the state. The authority shall
15 be exempt from all taxation within the state in the same manner and to the same extent that
16 the county is exempt from such taxes.

17 **SECTION 9.**

18 Revenue bonds; sale; price; proceeds.

19 The authority may sell revenue bonds in such manner and for such price as it may determine
20 to be in the best interest of the authority. The proceeds derived from the sale of revenue
21 bonds shall be used solely for the purpose or purposes provided in the resolutions and
22 proceedings authorizing the issuance of such revenue bonds.

23 **SECTION 10.**

24 Revenue bonds; interim receipts and certificates or temporary bonds.

25 Prior to the preparation of any definitive revenue bonds, the authority may, under like
26 restrictions, issue interim receipts, interim certificates or temporary revenue bonds,
27 exchangeable for definitive revenue bonds upon the issuance of the latter.

SECTION 11.

Revenue bonds; replacement of lost or mutilated bonds.

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

SECTION 12.

Revenue bonds; 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 or refinanced with the proceeds of the revenue bonds is self-liquidating. Any resolution providing for the issuance of revenue bonds under the provisions of this Act shall become effective immediately upon its passage. Any such resolution may be passed by a majority of the authority's members at any regular or special meeting that is duly advertised by the authority pursuant to Chapter 14 of Title 50 of the Official Code of Georgia Annotated. However, no such resolution shall be adopted unless a public hearing has been held by the authority. At least 15 days prior to such public hearing a notice of such public hearing shall be published in a newspaper of general circulation in the county.

SECTION 13.

Credit not pledged.

Revenue bonds shall not be deemed to constitute a debt of the county nor a pledge of the faith and credit of the county, 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 the 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 any political subdivision or municipality to enter into an intergovernmental contract pursuant to which the political subdivision or municipality agrees to pay amounts sufficient to pay operating charges and other costs of the authority or any project including, without limitation, the principal of and interest on 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 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 monies.

SECTION 15.

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, or any agency, bank or trust company, who 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 16.

Sinking fund.

The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls, 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 in the trust indenture may provide, and 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 said sinking fund shall be pledged to and charged with the payment of the interest upon such revenue bonds as such interest shall fall due; the principal or purchase price of such revenue bonds as the same shall fall due; any premium upon such revenue bonds as the same shall fall due; the purchase of such revenue bonds in

1 the open market; and the necessary charges of the paying agent for paying principal and
2 interest. The use and disposition of such sinking fund shall be subject to such regulations as
3 may be provided in the resolution authorizing the issuance of the revenue bonds or in the
4 trust indenture, but, except as may otherwise be provided in such resolution or trust
5 indenture, such sinking fund shall be maintained as a trust account for the benefit of all
6 revenue bonds without distinction or priority of one over another.

7 **SECTION 17.**

8 Remedies of bondholders.

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

19 **SECTION 18.**

20 Validation.

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

SECTION 21.

Monies received considered trust funds.

All monies 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 public purpose of the authority is declared to be that of providing public buildings, facilities, equipment, roads, bridges, sidewalks and other public undertakings for the citizens in the county.

SECTION 23.

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 herein provided 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 or cause to be prescribed 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 county. 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 county when in the performance of their public duties or work of the county.

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, county, or the state and any political subdivision thereof.

SECTION 27.

Effect on other governments.

This Act shall not and does not in any way take from the county or any political subdivision 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.

Earnings and dissolution.

The earnings of the authority shall not inure to the benefit of private persons. Upon dissolution of the authority, title to all property of the authority shall revert to the county.

SECTION 29.

Liberal construction of Act.

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

SECTION 30.

Severability; effect of partial invalidity of Act.

The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 31.

Effective date.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 32.

Repealer.

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