

House Bill 710

By: Representatives Greene of the 149<sup>th</sup>, Powell of the 171<sup>st</sup>, and Dukes of the 150<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act creating the South Georgia Regional Information Technology Authority,  
2 approved May 29, 2007 (Ga. L. 2007, p. 4336), so as to change certain provisions relating  
3 to a definition; to change certain provisions relating to composition, terms, quorum, and  
4 voting; to change certain provisions relating to powers of the authority; to change certain  
5 provisions relating to bonds of the authority; to change certain provisions relating to rules  
6 and regulations; to change certain provisions relating to effects on powers of local  
7 governments; to change certain provisions relating to immunity; to repeal conflicting laws;  
8 and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 An Act creating the South Georgia Regional Information Technology Authority, approved  
12 May 29, 2007 (Ga. L. 2007, p. 4336), is amended by revising paragraph (3) of subsection (a)  
13 of Section 1 as follows:

14 "(3) 'Project' means and includes the planning, design, acquisition, construction, and  
15 equipping of information technologies, communication cables, sleeves, and systems for  
16 the distribution and sale of communication services to private and public users and  
17 consumers, including but not limited to broadband, Internet, cable television, other  
18 information technologies, and associated services to the state, counties, municipalities,  
19 and other entities within the territorial boundaries of Baker, Calhoun, Early, Miller,  
20 Mitchell, and Seminole counties, and additions and improvements to and extensions of  
21 such facilities and the operation and maintenance of same."

22 style="text-align:center">**SECTION 2.**

23 Said Act is further amended by revising subsections (b), (d), and (e) of Section 3 as follows:

24 "(b) The authority shall consist of 15 members as follows:

- 25 (1) Two residents of Baker County appointed by the governing authority of Baker  
 26 County;
- 27 (2) Two residents of Calhoun County appointed by the governing authority of Calhoun  
 28 County;
- 29 (3) Two residents of Early County appointed by the governing authority of Early County;
- 30 (4) Two residents of Miller County appointed by the governing authority of Miller  
 31 County;
- 32 (5) Two residents of Mitchell County appointed by the governing authority of Mitchell  
 33 County;
- 34 (5.1) Two residents of Seminole County appointed by the governing authority of  
 35 Seminole County;
- 36 (5.2) Two appointed by the governing body of the Flint River Soil and Water  
 37 Conservation District; and
- 38 (6) One appointed by the other members of the authority.

39 Each member shall serve for a four-year term and until a successor is appointed and  
 40 qualified, except for the members initially appointed as provided by this Act. The initial  
 41 members appointed under paragraphs (1), (3), and (5) of this subsection shall serve for  
 42 terms of four years each and until their successors are appointed and qualified. The initial  
 43 members appointed under paragraphs (5.1) and (5.2) of this subsection shall serve for terms  
 44 of four years each and until their successors are appointed and qualified. The initial  
 45 members appointed under paragraphs (2), (4), and (6) of this subsection shall serve for  
 46 terms of two years each and until their successors are appointed and qualified."

47 "(d) A majority of the authority shall constitute a quorum, and any action may be taken by  
 48 the authority upon the affirmative vote of a majority of a quorum of the members;  
 49 provided, however, that the approval for the matters set forth in subsection (e) of this  
 50 section shall require the affirmative vote of at least two-thirds of the members of the  
 51 authority. No vacancy on the authority shall impair the right of the quorum to exercise all  
 52 the rights and perform all the duties of the authority.

53 (e) The matters requiring the affirmative votes of two-thirds of the members for approval  
 54 are as follows:

- 55 (1) Amending the bylaws of the authority;
- 56 (2) The purchase, sale, lease, exchange, or other disposition of real property;
- 57 (3) Issuance of revenue obligations or revenue bonds; or
- 58 (4) Authorization of projects or undertakings as those terms are defined herein and in  
 59 Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the 'Revenue Bond Law.'"

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**SECTION 3.**

61 Said Act is further amended by revising paragraph (3) of Section 4 as follows:

62 "(3) To acquire in its own name by purchase on such terms and conditions and in such  
63 manner as it may deem proper, or by condemnation in accordance with the provisions of  
64 any and all existing laws applicable to the condemnation of property for public use, real  
65 property, rights, or easements therein or franchises necessary or convenient for its  
66 corporate purposes, to use the same so long as its corporate existence shall continue, and  
67 to lease or make contracts with respect to the use of or to dispose of the same in any  
68 manner deemed by the board to be to the best advantage of the authority, the authority  
69 being under no obligation to accept and pay for any property condemned under this Act  
70 except from the funds provided to the authority under this Act; and in any proceedings  
71 to condemn, such orders may be made by the court having jurisdiction of the suit, action,  
72 or proceedings as may be just to the authority and to the owners of the property to be  
73 condemned; and no property shall be acquired under the provisions of this Act upon  
74 which any lien or other encumbrance exists, unless at the time such property is so  
75 acquired a sufficient sum of money is deposited in trust to pay and redeem the fair value  
76 of such lien or encumbrance. If the authority shall deem it expedient to construct any  
77 project on any lands the title to which shall then be in Baker, Calhoun, Early, Miller,  
78 Mitchell, or Seminole County, in any municipality incorporated in any such county, or  
79 in the Flint River Soil and Water Conservation District, the governing authority or body  
80 of such county or of any of such municipality or of the conservation district is hereby  
81 authorized to convey title to such lands to the authority upon payment for the credit of the  
82 general funds of such county or municipality the reasonable value of such lands. The  
83 authority shall have the nonexclusive right, easement, and franchise of laying  
84 communication cables along the highways in Baker, Calhoun, Early, Miller, Mitchell, or  
85 Seminole County, or in the corporate limits of any municipality incorporated in any such  
86 county, without cost; provided, however, that the authority shall repair all damage done  
87 by the authority by reason thereof;"

88

**SECTION 4.**

89 Said Act is further amended by revising Section 17 as follows:

90

**"SECTION 17.**

91 In the discretion of the authority, any issue of such revenue bonds may be secured by a  
92 resolution or a trust indenture by and between the authority and a corporate trustee, which  
93 may be any foreign or domestic trust company or bank having the powers of a trust company.  
94 Such resolution or trust indenture may pledge or assign fees, tolls, revenues, and earnings to  
95 be received by the authority. Either the resolution providing for the issuance of revenue

96 bonds or such trust indenture may contain such provisions for protecting and enforcing the  
 97 rights and remedies of the bondholders as may be reasonable and proper and not in violation  
 98 of law, including covenants setting forth the duties of the authority in relation to the  
 99 acquisition of property, the construction of the project, the maintenance, operation, repair,  
 100 and insurance of the project, and the custody, safeguarding, and application of all moneys  
 101 and may also provide that any project shall be constructed and paid for under the supervision  
 102 and approval of registered professional consulting engineers of the State of Georgia or  
 103 architects employed or designated by the authority and satisfactory to the original purchasers  
 104 of the bonds issued therefor and may also require that the security given by contractors and  
 105 by any depository of the proceeds of the bonds or revenues or other moneys be satisfactory  
 106 to such purchasers and may also contain provisions concerning the conditions, if any, upon  
 107 which additional revenue bonds may be issued. It shall be lawful for any bank or trust  
 108 company incorporated under the laws of this state to act as such depository and to furnish  
 109 such indemnifying bonds or pledge such securities as may be required by the board. Such  
 110 resolution or trust indenture may set forth the rights and remedies of the bondholders and of  
 111 the trustee and may restrict the individual right of action of bondholders as is customary in  
 112 resolution or trust indentures securing bonds and debentures of corporations. In addition to  
 113 the foregoing, such resolution or trust indenture may contain such other provisions as the  
 114 authority may deem reasonable and proper for the security of the bondholders. All expenses  
 115 incurred in carrying out such resolution or trust indenture may be treated as a part of the cost  
 116 of maintenance, operation, and repair of the project affected by such indenture."

117 **SECTION 5.**

118 Said Act is further amended by revising Section 23 as follows:

119 "SECTION 23.

120 Bonds of the authority shall be confirmed and validated in accordance with the procedure of  
 121 Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the 'Revenue Bond Law.' The petition  
 122 for validation shall also make a party defendant to such action any municipality, county,  
 123 public authority, political subdivision, or instrumentality of the State of Georgia which has  
 124 contracted with the authority for furnishing or receiving the services and facilities of the  
 125 project for which bonds are to be issued and sought to be validated, and such municipality,  
 126 county, public authority, political subdivision, or instrumentality shall be required to show  
 127 cause, if any, why such contract or contracts and the terms and conditions thereof should not  
 128 be inquired into by the court, the validity of the terms thereof be determined, and the contract  
 129 or contracts adjudicated as security for the payment of any such bonds of the authority. The  
 130 bonds, when validated, and the judgment of validation, shall be final and conclusive with

131 respect to such bonds against the authority issuing the same and any municipality, county,  
132 public authority, political subdivision, or instrumentality contracting with the authority."

133 **SECTION 6.**

134 Said Act is further amended by revising Section 27 as follows:

135 "SECTION 27.

136 It shall be the duty of the authority to prescribe rules and regulations for the operation of the  
137 project or projects constructed under the provisions of this Act, including the basis on which  
138 communication services and facilities shall be furnished."

139 **SECTION 7.**

140 Said Act is further amended by revising Section 31 as follows:

141 "SECTION 31.

142 This Act does not in any way take from Baker, Calhoun, Early, Miller, Mitchell, or Seminole  
143 County or any municipality located within any such county the power to own, operate, and  
144 maintain communications systems or issue revenue certificates as is provided by Article 3  
145 of Chapter 82 of Title 36 of the O.C.G.A., the 'Revenue Bond Law.'"

146 **SECTION 8.**

147 Said Act is further amended by revising Section 32 as follows:

148 "SECTION 32.

149 The authority shall be immune and exempt from liability for torts and negligence to the same  
150 extent as Baker, Calhoun, Early, Miller, Mitchell, and Seminole counties; and the officers,  
151 agents, and employees of the authority, when in the performance of the work of the authority,  
152 shall be immune and exempt from liability for torts and negligence to the same extent as  
153 employees of such counties."

154 **SECTION 9.**

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