

House Bill 1265 (AS PASSED HOUSE AND SENATE)

By: Representatives Beverly of the 139th, Randall of the 138th, Epps of the 140th, Dickey of the 136th, and Peake of the 137th

A BILL TO BE ENTITLED
AN ACT

To create the Macon-Bibb County Community Enhancement Authority; to provide a statement of legislative findings; to define certain terms; to provide for a board of trustees, appointment of members, and meetings; to provide for powers and duties; to authorize the issuance of revenue bonds of the authority and to authorize the collection for the payment of such revenue bonds; to make the revenue bonds of the authority exempt from taxation; to fix and provide the venue and jurisdiction of actions relating to any provisions of this Act; to provide for the validation of bonds; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Short title.

This Act shall be known and may be cited as the "Macon-Bibb County Community Enhancement Authority Act."

SECTION 2.
Legislative findings.

- (1) The General Assembly finds that pockets of extreme poverty exist throughout the state, and these pockets are surrounded areas that are in some cases areas of only slightly less severe poverty and in other cases areas of relative prosperity or even great wealth.
- (2) While agencies and programs now exist for the purposes of commercial development, elimination of blight, community improvement, and alleviation of poverty, none of those programs are designed to provide a holistic approach to the myriad problems found in these pockets of poverty which act in concert to defeat anything other than a concentrated program flexible enough to address the problems unique to certain areas.

(3) It is the intent of the General Assembly in creating the Macon-Bibb County Community Enhancement Authority to establish an entity capable of identifying and targeting the specific elements which are causing intractable poverty in these pockets of severe poverty and develop programs to address them as a unit.

SECTION 3.

Macon-Bibb County Community Enhancement Authority.

(a) There is created a public body corporate and politic to be known as the "Macon-Bibb County Community Enhancement 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 be governed by a board of trustees consisting of a chairperson and four members. The chairperson shall be selected by majority vote of the Bibb County Delegation to the General Assembly of Georgia. Two members shall be appointed by the chairperson. One member each shall be appointed by the governing authorities of Bibb County and the City of Macon. Members shall serve terms of four years.

SECTION 4.

Definitions.

As used in this Act, the term:

(1) "Authority" means the Macon-Bibb County Community Enhancement Authority created by this Act.

(2) "Board" means the board of trustees of the Macon-Bibb County Community Enhancement Authority.

(3) "Category IV poverty area" means an area designated by the federal Department of Commerce as a census block in which the poverty level is 40 percent or higher.

(4) "Community development project" means a project developed by the authority to improve the business, commercial, and residential infrastructure of a category IV poverty area. Such project shall be designed according to the specific problems and needs of the area addressed and may, without limitation, be designed to eliminate blight, encourage the establishment or growth of commercial endeavors, or improve the quality of life in such area through the creation of affordable housing, parks, and recreation facilities and programs.

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

(6) "Project" means any undertaking permitted by the revenue bond law.

(7) "Revenue bond law" means the revenue bond laws of the State of Georgia found at Article 3 of Chapter 82 of Title 36 of the O.C.G.A. or any other similar law hereinafter enacted.

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

(9) "Self-liquidating" means any project 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.

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

SECTION 5.

Powers.

The authority shall have the power:

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

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

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

(4) To accept loans or grants of money or materials or property of any kind from private corporations, individuals, and entities, upon such terms and conditions as such private corporations, individuals, and entities may require;

(5) To administer funds under its control so as to engage in community development projects in category IV poverty areas; provided, however, that when an area improves to the point that it is no longer classified as a category IV poverty area, the authority shall phase out involvement in such area and turn over projects to local authorities over the period of one year following the redesignation of the area;

(6) 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;

(7) To coordinate the activities of federal, state, local, and private entities to pursue community development projects;

(8) To contract for the construction of buildings and facilities and to use, sell, or lease such buildings and facilities to accomplish the purposes of the authority;

(9) 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, and to use the same so long as its corporate existence shall continue, and to lease or make contracts with respect to the use of or dispose of the same in any manner it deems to the best advantage of the authority, the authority being 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, and 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, and 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 to be deposited in trust to pay and redeem the fair value of such lien or encumbrances;

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

(11) To execute contracts, leases, installment sale agreements, and other agreements and instruments necessary or convenient in connection with the acquisition, construction, addition, extension, improvement, equipping, operation, or maintenance of a project; and any and all persons, firms and corporations, Bibb County, and the City of Macon,

Georgia, and Payne City are authorized to enter into contracts, leases, installment sale agreements, and other agreements or instruments with the authority upon such terms and for such purposes as they deem advisable and as they are authorized by law;

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

(13) 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 instrumentality or other political subdivision thereof or from any other source whatsoever;

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

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

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

SECTION 6.

Meetings and public hearings.

The board shall meet at the call of the chairperson. In addition, the board shall hold public hearings in each category IV poverty area within which it operates or anticipates operating a community development project to receive public comments relating to the needs of the community and possible ways to address such needs. The board shall consider, but shall not be bound by, such comments and suggestions.

SECTION 7.

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 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 provided for such payment. The revenue bonds of each issue shall be dated, shall bear interest at such rate or

161 rates per annum, payable at such time or times, shall mature at such time or times not
162 exceeding 40 years from their date or dates, shall be payable in such medium of payment as
163 to both principal and interest as may be determined by the authority, and may be redeemable
164 before maturity, at the option of the authority, at such price or prices and under such terms
165 and conditions as may be fixed by the authority in the resolution for the issuance of such
166 revenue bonds.

167 **SECTION 8.**

168 Same, form, denomination, registration, place of payment.

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

174 **SECTION 9.**

175 Same, signatures, seal.

176 All such revenue bonds shall bear the manual or facsimile signature of the chairperson or
177 vice chairperson of the authority and the attesting manual or facsimile signature of the
178 secretary, assistant secretary, or secretary-treasurer of the authority, and the official seal of
179 the authority shall be impressed or imprinted thereon. Any coupons attached thereto shall
180 bear the manual or facsimile signatures of the chairperson or vice chairperson and the
181 secretary, assistant secretary or secretary-treasurer of the authority. Any revenue bonds or
182 coupons attached thereto may bear the manual or facsimile signature of such persons as at
183 the actual time of the execution of such revenue bonds or coupons shall be duly authorized
184 or hold the proper office, although at the date of issuance of such revenue bonds such person
185 may not have been so authorized or shall not have held such office. In case any officer
186 whose signature shall appear on any revenue bond or any coupon shall cease to be such
187 officer before the delivery of such revenue bond, such signature shall nevertheless be valid
188 and sufficient for all purposes, the same as if that person had remained in office until such
189 delivery.

SECTION 10.

Same, negotiability, exemption from taxation.

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

SECTION 11.

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

SECTION 12.

Same, interim receipts and certificates or temporary bonds.

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

SECTION 13.

Same, replacement of lost or mutilated bonds.

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

SECTION 14.

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

218 immediately upon its passage and need not be published or posted, and any such resolution
219 may be passed at any regular or special or adjourned meeting of the authority by a majority
220 of its members.

221 **SECTION 15.**

222 Credit not pledged.

223 Revenue bonds shall not be deemed to constitute a debt of Bibb County or the City of
224 Macon, Georgia, nor a pledge of the faith and credit of the county or city, but such revenue
225 bonds shall be payable solely from the fund provided for in this Act. The issuance of such
226 revenue bonds shall not directly, indirectly, or contingently obligate the county or city to levy
227 or to pledge any form of taxation whatsoever for payment of such revenue bonds or to make
228 any appropriation for their payment, and all such revenue bonds shall contain recitals on their
229 face covering substantially the foregoing provisions of this section. Notwithstanding the
230 foregoing provisions, this Act shall not affect the ability of the authority and any political
231 subdivision or municipality to enter into an intergovernmental contract pursuant to which the
232 political subdivision or municipality agrees to pay amounts sufficient to pay operating
233 charges and other costs of the authority or any project including, without limitation, the
234 principal of and interest on revenue bonds in consideration for services or facilities of the
235 authority.

236 **SECTION 16.**

237 Trust indenture as security.

238 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
239 indenture by and between the authority and a corporate trustee, which may be any trust
240 company or bank having the powers of a trust company inside or outside the state. Either the
241 resolution providing for the issuance of the revenue bonds or such trust indenture may
242 contain such provisions for protecting and enforcing the rights and remedies of the
243 bondholders as may be reasonable and proper and not in violation of law, including
244 covenants setting forth the duties of the authority in relation to the acquisition and
245 construction of the project, the maintenance, operation, repair, and insuring of the project,
246 and the custody, safeguarding, and application of all moneys.

SECTION 17.

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 18.

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 sinking fund shall be pledged to and charged with the payment of:

- (1) The interest upon such revenue bonds as such interest shall fall due;
- (2) The principal or purchase price of such revenue bonds as the same shall fall due;
- (3) Any premium upon such revenue bonds as the same shall fall due;
- (4) The purchase of such revenue bonds in the open market; and
- (5) The necessary charges of the paying agent for paying principal and interest.

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

SECTION 19.

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 herein given 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 the state, including specifically but without limitation the revenue bond law, or granted hereunder 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 20.

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 a party defendant to such action the state; any institution, department, or other agency thereof; and any county, municipality, school district, or other political subdivision or authority of the 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, and 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 21.

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 Bibb 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 22.

Interest of bondholders protected.

While any of the revenue bonds issued by the authority remain outstanding, the powers, duties, or existence of the 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 23.

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 24.

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 eliminating Category IV poverty.

SECTION 25.

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 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 26.

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 27.

Tort immunity.

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

SECTION 28.

Tax-exempt status of the 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 29.

Effect on other governments.

This Act shall not and does not in any way take from Bibb County or the City of Macon, Georgia, 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.

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SECTION 30.

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Liberal construction of Act.

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This Act, being for the welfare of various political subdivisions and municipalities of the

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state and its inhabitants, shall be liberally construed to effect the purposes hereof.

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SECTION 31.

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Effective date.

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This Act shall become effective upon its approval by the Governor or upon its becoming law

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without such approval.

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SECTION 32.

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Repealer.

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